

APPENDIX D

TO AMEND THE ORGANIC ACT OF GUAM

HEARING
BEFORE THE
SUBCOMMITTEE ON
INSULAR AND INTERNATIONAL AFFAIRS
OF THE
COMMITTEE ON
INTERIOR AND INSULAR AFFAIRS
HOUSE OF REPRESENTATIVES

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

ON

H.R. 2024

TO AMEND THE ORGANIC ACT OF GUAM, AND FOR OTHER PURPOSES

HEARING HELD IN WASHINGTON, DC
JULY 27, 1989

Serial No. 101-20

Printed for the use of the Committee on Interior and Insular Affairs



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Twentieth Guam Legislature

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MARILYN D. A. MANIBUSAN
SENATOR

July 27, 1989

The Honorable Ron de Lugo
Chairman
House Subcommittee on Insular Affairs
Washington, D. C. 20515-5501

Re: Testimony in support of H. R. 2024 - Guam war reparations.

Dear Mr. Chairman:

Enclosed please find my testimony in support of H. R. 2024, relative to Guam war reparations.

Thank you for giving me this opportunity of submitting a written statement for the record on this vital matter.

Sincerely,
Marilyn D. Manibusan
MARILYN D. A. MANIBUSAN

**STATEMENT OF
SENATOR MARILYN D. A. MANIBUSAN
IN SUPPORT OF H. R. 2024
BEFORE
THE HOUSE SUBCOMMITTEE ON INSULAR
AFFAIRS**

JULY 27, 1989

Thank you for giving me this opportunity to write in support of H. R. 2024. Although I am a member of the Guam War Reparations Commission created by Executive Order of Governor Joseph Ada, I am not testifying on behalf of that body because my support of H. R. 2024 runs contrary to its position requesting certain amendments. Instead, my statement is based on Resolution 162 which was unanimously passed by the 20th Guam Legislature, and therefore represents the will of the people of Guam (see Exhibit "A" attached).

Mr. Chairman, last year I was privileged to appear before two House Subcommittees in support of H. R. 3191, an Act to establish a Federal War Claims Commission for Guam. A paper drafted by Senator George Bamba and myself was submitted for the record. In the interests of time, I will not reiterate the positions contained therein, but will confine my testimony to two issues: subrogation of Guam's right to claims relief from Japan, and, justification for compensatory amounts contained in H. R. 2024 as introduced.

Subrogation of Guam's right to seek claims relief from the Government of Japan

Following World War II, lawmakers recognized that American claims were likely to be of an unprecedented magnitude. Faced with enacting remedial legislation for years to come, Congress wisely passed the War Claims Act of 1948 (80-896) creating a War Claims Commission to document potential claims and recommend comprehensive legislation. The Commission's initial report was submitted to Congress on May 3, 1950 as House Document 580 (81st Congress, 2nd Session). However, because of time limitations and uncertainty regarding the status of various treaties, the Commission was instructed to submit a more detailed report at a later time.

Meanwhile, in 1951, the Japanese peace treaty came up for ratification. This document waived the rights of most American nationals to claims relief and was greeted with outrage by claimants in the Philippines, China and the Pacific. Under fire, the U. S. State Department successfully argued that the Japanese economy was in ruins and would never recover if made to pay for war damages. Secondly, chilly relations between the Soviet Union and the United States had turned into a cold war. In order to establish a buffer against communism in the east, the cooperation of the people of Japan was deemed essential.

Uncertain about the waiver of American rights in the treaty, members of Congress asked the State Department for clarification. In a January 31, 1952 memorandum, Secretary of State John Foster Dulles informed the Senate Foreign Affairs Committee:

"Allied Powers in whose territory United States nationals sustained property losses may make such United States nationals eligible to receive such compensation as they are able to provide for war losses. It does not appear, however, that American nationals who sustained losses in the territories of any of the Allied Powers can expect to receive compensation commensurate with their losses. Accordingly, United States nationals whose claims are not covered by the treaty provisions or by the legislation of other Allied Powers, must look for relief to the Congress of the United States."

(emphasis added)

Therefore, the Commission (established by the War Claims Act of 1948) recommended that Congress provide such restitution. Seven years later, U. S. Public Law 87-846 was enacted, compensating virtually every American national and citizen whose rights were waived under the treaty "except the island of Guam".

Mr. Chairman, it is not known why Guam was excluded. According to a November 12, 1982 memorandum from Associate Solicitor, Division of Law, Department of Interior, William Satterfield:

"There is no explanation in the congressional reports or in the floor debates in Congress as to why the exception was made for Guam. However, in reviewing congressional action in previous years, it is apparent that Congress meant to compensate United States citizens for World War II losses who had not previously been compensated, and that Congress believed that the claims of Guamanians had been satisfied under the Guam Relief Act." (emphasis added)¹

In fact, House Document 67 (83rd Congress, 1st Session) - the Commission's supplemental report, implied that all claims had been settled by the Guam Meritorious Claims Act.

Congress was misinformed. A problem continues to exist.

¹ See Exhibit "A", pp. 8-9, contained in the Bamba/Manibusan August 1988 position paper.

As early as 1951, Baltazar J. Bordallo (the "Father" of the Organic Act) succeeded in passing Resolution 23 "Relative to the payment of reparations to certain Guamanians and others forced into slave labor at the time of the occupation of Guam by a foreign power". This Resolution was duly adopted by the 1st Guam Legislature on August 10, 1951, and copies transmitted were to the President of the United States, the Speaker of the House and the President of the Senate on August 29, 1951.²

Again, on November 30, 1954 (eight years prior to enactment of 87-846), members of the Special House Subcommittee on Territories and Insular Affairs visited Guam to discuss, among other things, potential amendments to the War Claims Act of 1948. The delegation included the Honorable A. L. Miller (Nebraska), the Honorable Wayne N. Aspinall (Colorado), the Honorable E. Y. Berry (South Dakota), and the Honorable Gracie Post (Idaho), as well as Deputy Director, Office of Territories, Department of Interior, A. T. Lausi, and J. L. Taylor, the subcommittee's consultant. On December 1, 1954, Guam Senator-elect Vicente C. Reyes was to testify:

"Again, one more item is the fact that on December 7, 1941 - it was December 8 in Guam - the Japanese forces captured the entire people of Guam, the children of the United States were adopted at the time but not legally. They were made legal children by the organic act but they were not accorded the privileges of the War Claims Act of 1948. I ask you, gentlemen, to intercede for us and to amend or to see that Public Law 896, 80th Congress, chapter 8-26, second session, House of Representatives bill 4040 be amended to include these Americans who were captured and really captured by the Japanese."³ Nevertheless, Guam was excluded.

Mr. Chairman, as mentioned earlier, last year a Guam lawmaker appeared before the House Subcommittee on Administrative Law on August 4th. A transcript of that hearing reflects the U. S. Justice Department was apparently unaware of the Dulles memorandum and

²See Exhibits "U" and "V" contained in the Bamaga/Manibusan August 1988 position paper.

³See Committee Print No. 3, 84th Congress, 1st Session "Report of a special subcommittee on Territorial and Insular Affairs of the Committee on Interior and Insular Affairs" pursuant to H. Res. 89, p. 49.

the waiver provisions contained in the treaty. Asked by Chairman Barney Frank to comment on these issues, the Justice Department asked to defer until it could study the matter. To date, to my knowledge, no response has been forthcoming. Therefore, on September 8, 1988, Chairman Frank wrote Secretary of State George Shultz:

"Is it the position of the Department of State that because the United States government waived the claims of Guam to reparations from Japan in the Peace Treaty of 1952 the United States has become responsible for the losses of the Guamanians? If this is not the position of the Department of State in this matter, will you assist the Guam Legislature in presenting its claims to the government of Japan?"

(see Exhibit "B" attached)

In effect conceding Guam's right to claims relief was waived by the treaty (since the U. S. Government did not seize or dispose of Japanese assets on behalf of the island), Assistant Secretary, Legislative Affairs, Department of State, J. Edward Fox erroneously responded:

"All US claims, including those of Guam and Guamanians, against Japan for its conduct during World War II were settled by the Treaty of Peace with Japan of September 8, 1951. Japan gave each of the Allied powers, including the United States, the right to seize and dispose of Japanese assets located in each ally's territory in order to satisfy its war claims as well as those of its citizens and nationals. In return, the Allied powers waived any right to reparation or to further claims."

"Although the Treaty waived all further claims against Japan, United States nationals, including Guamanians, were able to turn to the US Government for compensation."

(see Exhibit "C" attached)

Pointing out the State Department "is not in a position to assert claims against the Government of Japan on behalf of Guam" and that "Now as then, Congress must decide whether to provide further compensation", Fox concluded that as a matter of law "the U.S. Government is not required to provide further compensation to those persons whose claims were terminated by the 1951 Peace Treaty."

Although Guam's rights were clearly subrogated by the treaty, H. R. 2024 is nevertheless very careful not to assert a legal claim on the part of the United States. Rather, it asserts a moral obligation and requests ex gratia consideration.

Finally, Mr. Fox notes that "Congress passed several measures to provide compensation, such as the Guam Relief Act of 1945 and the War Claims Act of 1948 as amended". As can be seen, Guam was specifically exempted from 87-846 - while the Guam Meritorious Claims Act provided insufficient relief in that an estimated 3,000 to 5,000 victims were unable to meet a one-year deadline due to disruption of the island and a language-barrier following the war. Ironically, passage of 87-846 in 1962 granted relief to Filipino claimants who failed to meet a similar deadline 16 years before.

Unfortunately, the people of Guam were not afforded the same treatment.

Justification for compensatory amounts contained in H. R. 2024 as Introduced

Guam has been seeking reparation relief from the Federal Government since 1951. Bills to establish war claims commissions have been introduced into the United States Congress in 1983, 1986 and 1987.

Because of our concern for Guamanian survivors (18 have passed away in the last year alone), Congressman Ben Blaz, Senator George Bamba and I began seeking alternatives to the Commission approach. Providing specific eligibility criteria and set damage awards appeared to be the best solution to expediting payment. However, it was obvious that compensable injury amounts needed to be based on a recognized formula or economic yardstick.

The question then becomes one of placing a value on human life. Recognizing that no amount of money can ever compensate for the death, personal injury, internment, forced march or forced labor of a loved one, we looked to actual claims legislation for a precedent. Since Congress had to pass on all awards for death and personal injury under provisions of the 1946 Guam Meritorious Claims Act, we analyzed approved amounts to determine values Congress and the Secretary of the Navy placed on these injuries.

The \$20,000 for death provided in H. R. 2024 was computed on the basis of awards contained in the Guam Meritorious Claims Act. Since a majority of awards were actually paid out in 1948, we were then able to equate the value of a dollar in 1948 to its purchasing power in 1986. Utilizing U. S. Bureau of Labor statistics contained in the 1988 Statistical Abstract of the United States, the formula for death worked out as follows: in 1948, a dollar was worth \$1.387 (weighted against 1967). That same dollar was worth .304 cents in 1986. Dividing \$1.387 by .307 cents resulted in a factor of 4,5625. The single largest individual award approved by Congress under the Guam Meritorious Claims Act for death amounted to \$4,000. $4,5625 \times \$4,000 = \$18,250$. Since inflation has continued to rise between 1986 and the present, and Guam's consumer price index has historically been slightly higher than the national, the figure of \$18,250 was rounded off to \$20,000, i.e., \$20,000 today was worth approximately \$4,000 in 1948 - the amount actually authorized by Congress for payment of death awards under the Guam Meritorious Claims Act.

The same formula was utilized to compute the personal injury amount contained in H. R. 2024. However, because awards ranged between \$45 and \$4,245.90 under the Guam Meritorious Claims Act, we used a high average - as opposed to the largest amount approved - \$800. $4,5625 \times \$800 = \$3,650$ - or rounded off to \$5,000 (taking into consideration rising inflation between 1986 and the present, etc.). Therefore, \$5,000 today was worth roughly \$800 in 1948 - approximately the same amount actually authorized (as a high average) for payment of personal injury awards under the Guam Meritorious Claims Act.

In the case of the forced march, forced labor and internment figure contained in H. R. 2024, a variation of the same formula was utilized. Since these injuries were not provided for in the Guam Meritorious Claims Act, we had to look to other claims legislation. Secondly, we had to take into consideration the fact that a majority of eligible survivors under H. R. 2024 suffered two or more injuries in this category. Admittedly arbitrary, the figure of \$3,000 was calculated on the basis of \$150 per injury $\times 3 = \$450 \times 4,5625 = \$2,053$ - or \$3,000 (again taking into consideration inflation between 1986 and the present, etc.). Therefore, \$3,000 today was worth approximately \$450 in 1948 - for a majority of claimants

who each suffered forced labor, forced march and internment at the same time.

Mr. Chairman, having come up with what we considered to be a workable, reasonable and acceptable formula, we then surveyed known survivors in order to receive their direction. Overwhelmingly, they opted for the set damage approach and their willingness to accept a single payment for one of three categories (death; personal injury; or forced march, forced labor and internment) in the amounts of \$20,000, \$5,000 and \$3,000 respectively. By April 1989, survivors were voting nearly 5 to 1 for this approach. Therefore, I introduced Resolution 162, which was, as stated previously, unanimously passed by the 20th Guam Legislature to give Congressman Blaz local authority to introduce H.R. 2024 in the amounts specified.

I might add that after H. R. 2024 was introduced on April 18, 1989, Senator Bamba and I again surveyed known survivors. Out of 814 responses, 718 opted for H. R. 2024 as introduced, versus 69 who indicated their opposition to the Bill, and 27 who were undecided. These results also reflect 46 changes in votes between the first survey and the second. The 46 break down as follows: 2 changed to being dissatisfied with H. R. 2024; 4 changed to undecided; and 40 changed to support the Bill as written.

In conclusion, Mr. Chairman, I believe that H. R. 2024 as introduced not only provides a workable framework for resolving a 40-year old inequity, but it represents the will of the surviving Guamanian victims of the Japanese occupation.

I am therefore hopeful that this Subcommittee will give compassionate and expeditious consideration of H. R. 2024.

I thank you.

APPENDIX

THURSDAY, JULY 27, 1989

ADDITIONAL MATERIAL SUBMITTED FOR THE HEARING RECORD

STATEMENT BY

THE HONORABLE ROBERT J. LAGOMARINO

H.R. 2024

JULY 27, 1989

MR. CHAIRMAN:

WE HAVE AN OPPORTUNITY/TODAY TO EXAMINE AN EXTREMELY

IMPORTANT MATTER WHICH AFFECTED MEMBERS OF OUR AMERICAN FAMILY TO A DEGREE UNKNOWN BY MOST OF THE CITIZENRY OF THIS COUNTRY. WORLD WAR II REMAINS ONLY AS A PAGE OUT OF HISTORY FOR MOST, A DISTANT

MEMORY FOR SOME, BUT A VIVID UNFORGETTABLE EPISODE FOR OTHERS. AS 50 PERCENT OF OUR TERRITORY WAS INVADDED OR ATTACKED IN HAWAII, ALASKA, THE PHILIPPINES, GUAM, WAKE, AND MIDWAY AND EVEN AS FAR

SOUTH IN THE PACIFIC AS AMERICAN SAMOA. IT HAS BEEN SAID THAT AN ENEMY FIGHTER PLANE MADE A BRIEF FORAY IN AMERICAN SAMOA, THE ISLANDS WE CALLED EASTERN SAMOA AT THE TIME, AND MANAGED TO HIT, BUT NOT SIGNIFICANTLY DAMAGE, THE STORE OWNED BY THE ONLY AMERICAN SAMOAN OF JAPANESE ANCESTRY ON THE ISLAND! MOST OF THE OTHER TERRITORIES WERE NOT SO FORTUNATE. THE DEVASTATION SUFFERED IN THE ISLANDS HAS BEEN WELL-DOCUMENTED. THE UNITED STATES TERRITORY OF GUAM TOOK THE BRUNT OF THE FIERCE FIGHTING, WITH A TERENCEOUS TOLL IN LIVES, PROPERTY AND DESPOILED TERRAIN.

FORTUNATELY FOR US, GUAM WAS LIBERATED BY U.S. FORCES ON 1944. I SAY FORTUNATELY FOR US BECAUSE OUR ~~REPEATED~~ ^{REPEATED} COLLAPSE AND MY GOOD FRIEND, BEN BLAZ, WAS LIBERATED THAT DAY WITH THOUSANDS OF OTHER AMERICANS. THE ACHIEVEMENTS OF GENERAL BLAZ STAND OUT TO ME AS ONE OF THE GREATEST SUCCESS TALES OF OUR AMERICAN HISTORY. OTHER ERAS HAVE HAD THEIR ANDREW JACKSONS, DAVY CROCKETTS, AND TEDDY ROOSEVELTS; WE HAVE OUR OWN BEN BLAZ -- A TESTIMONY THAT THE AMERICAN DREAM LIVES ON.

I WANT TO COMMEND THE GENTLEMEN FROM GUAM FOR HIS INITIATIVE AND COURAGE FOR BRINGING THIS MATTER BEFORE THE UNITED STATES GOVERNMENT. BOTH THE ADMINISTRATION AND THE CONGRESS MUST ADDRESS THIS ISSUE NO MATTER HOW DISTANT, COSTLY, OR POLITICALLY UNEVENTFUL IT MAY SEEM. THIS IS GOING TO BE A DIFFICULT PIECE OF LEGISLATION TO ENACT REGARDLESS OF ITS MERITS. WE HAVE BUDGETARY PRESSURES AND NUMEROUS CONSTITUENT-DRIVEN MATTERS TO DEAL WITH. ALTHOUGH SOME MAY EXPECT MORE THAN THE \$20 MILLION AUTHORIZED IN H.R. 2024, I WOULD CAUTION ANYONE WHO BELIEVES A HIGHER AMOUNT COULD BE OBTAINED. FROM MY EXPERIENCE IN CONGRESS, ~~THE~~ ^{STIMULUS} FIGURES TEND TO ELIMINATE SUPPORT VERY QUICKLY.

HOWEVER, I BELIEVE THIS ISSUE DESERVES ATTENTION AND I HOPE THAT THE SUBCOMMITTEE, FULL COMMITTEE, HOUSE, SENATE AND THE ADMINISTRATION WILL SERIOUSLY AND EXPEDITIOUSLY CONSIDER H.R. 2024.

MORRIS K. UDALL, ARIZONA, CHAIRMAN

GEORGE MILLER, CALIFORNIA
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COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

April 23, 1990

STANLEY SCOVILLE
 STAFF DIRECTOR
 AND COUNSEL

ROY JONES
 ASSOCIATE STAFF DIRECTOR
 AND COUNSEL

LEE MCELVAIN
 GENERAL COUNSEL

RICHARD AGNEW
 CHIEF MINORITY COUNSEL

The Honorable Joe T. San Agustin
 Speaker of the Legislature of Guam
 Post Office Box CB-1
 Agana, Guam 96910

Dear Speaker San Agustin:

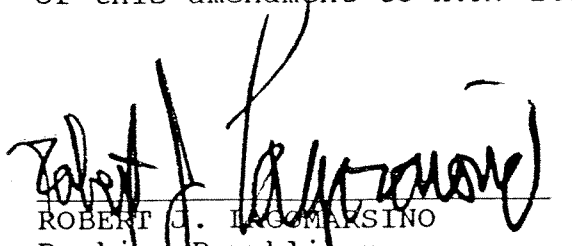
As we hope the Subcommittee's hearing on Delegate Blaz's bill to pay claims of Guamanians related to World War Two made clear, we feel very strongly that the federal government has a long-overdue responsibility to compensate the many people of the territory suffered because of enemy occupation of the island but who have never been compensated for their suffering.

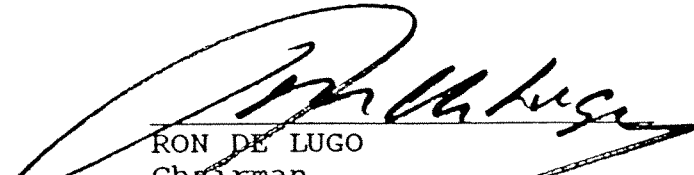
As you may know, we have been working since the hearing with your congressman and Interior Secretary Lujan to try to overcome Bush Administration objections to the bill, H.R. 2024.

We (along with Senator Inouye) have had staff draft amendments to the bill in an effort to enable it to be approved. The enclosed amendment in the nature of a substitute attempts to meet the Nation's responsibility in this matter to the greatest extent that appears to be possible. We are considering sponsoring it, depending upon the support it receives from Guam.

Please inform us whether the Legislature would support enactment of this amendment to H.R. 2024 at your earliest convenience.

Sincerely,


 ROBERT J. LAGOMARSINO
 Ranking Republican
 Subcommittee on Insular and
 International Affairs


 RON DE LUGO
 Chairman
 Subcommittee on Insular and
 International Affairs

Enclosure

cc: The Honorable Ben Garrido Blaz
 The Honorable Daniel K. Inouye
 The Honorable Manuel Lujan, Jr.
 The Honorable George Bamba

4/23/90
AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 2024

A BILL

To amend the Organic Act of Guam, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT TO THE ORGANIC ACT OF GUAM.

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

"SEC. 36. (a) This Section shall apply to Guamanians who did not meet the one-year time limitation for filing of death or personal injury claims provided in Section 1 of the Act of November 15, 1945 (chapter 483; 59 Stat. 582), or, who suffered other compensable injuries contained in (b)(2) below, provided, however, that claimants otherwise meet the eligibility, time limitation for filing, and other criteria set forth in this section.

"(b) For the purposes of this section:

"(1) The term 'award' means the amount of compensation due to any claimant found eligible by the Secretary of the Interior under the criteria set forth in this section.

"(2) The term 'compensable injury' means one of the following three categories of injury incurred during, or as a result of, World War II:

"(A) Death.

"(B) Personal injury.

"(C) Forced labor, forced march, or interment.

"(3) The term 'Guamanian' means any person who resided in the territory of Guam during the period beginning December 8, 1941, and ending September 2, 1945, and who was a United States citizen or national during the period.

"(4) The term 'Secretary' means the Secretary of the Interior.

"(c)(1) The Secretary shall have the authority to receive, examine, and render final decisions concerning claims which may be filed under this section. In addition, the Secretary is authorized to certify and disburse payments from the Fund established in subsection (f)(1) to eligible claimants.

"(2) In order to be eligible for benefits under this section, the following criteria must be met:

"(A) The claimant is a living Guamanian who personally received the compensable injury, except that in a claim for death, a claimant may be the heir or next of kin of the decedent Guamanian, and payment of the award shall be pro-rated among heirs or next of kin claiming for the same death as provided in Guam probate laws;

"(B) the claimant files a claim with the Secretary for a compensable injury containing all the information described in paragraph (3); and

"(C) the claimant is able to furnish either proof of the compensable injury or is able to produce

affidavits by two (2) witnesses to the compensable injury.

"(D) the claimant files a claim within one (1) year after the date of enactment of this section.

"(3) In order to be eligible for benefits under this section, the claimant must file a claim with the Secretary which must be under oath and shall include-

"(A) the claimant's name and age;

"(B) the village in which the claimant resided at the time the compensable injury occurred;

"(C) the approximate date or dates when the compensable injury was incurred;

"(D) a brief description of the compensable injury being claimed;

"(E) the circumstances leading up to that compensable injury.

"In the event that death is the compensable injury being claimed, the claimant must state, and furnish proof, of his or her relationship to the deceased.

"(d) A claimant may only be eligible for benefits arising out of one category of compensable injury.

"(e)(1) The Secretary shall certify all awards for payment. The Secretary shall pay the following amounts to each eligible claimant from the Fund established in subsection (f)(1).

"(A) \$20,000 for the category of death.

"(B) \$5,000 for the category of personal

injury.

"(C) \$3,000 for the category of forced labor, forced march, or interment.

"(2) If an eligible claimant refuses to accept payment under this section, such amount shall remain in the Fund established by subsection (f)(1), and no payment shall be made under this section to such claimant at any future date.

"(f)(1) There is established in the Treasury of the United States, the Guam Claims Fund, to be administered by the Secretary of the Treasury, as directed by the Secretary of the Interior. Amounts in the Fund shall only be available for disbursement by the Secretary of the Interior in the amounts specified in subsection (e). In the event that all eligible claims have been paid and a balance exists in the Fund, any unobligated funds shall revert to the general fund of the Treasury of the United States sixty (60) days after the final report required in subsection (h)(3) is submitted to Congress.

"(2) No costs incurred by the Secretary in carrying out this section shall be paid from the Fund or set off against, or otherwise deducted from, any payment under this section to any eligible claimant.

"(3) There is authorized to be appropriated to the Fund such sums as are required to carry out this section.

"(g)(1) Not later than 90 days after the date of enactment of this section, the Secretary shall give public notice

in the territory of Guam and such other places as the Secretary deems appropriate of the time when, and the time limitation within which, claims may be filed under this section. The Secretary shall assure that the provisions of this section are widely published in the territory of Guam and such other places as the Secretary deems appropriate, and the Secretary shall make every effort to advise promptly all persons who may be entitled to file claims under the provisions of this section and to assist them in the preparation and filing of their claims.

"(2) The Secretary shall act expeditiously in the examination, determination, and certification of submitted claims, but in no event not later than one year after the expiration of the time for filing claims under this section.

"(3) The Secretary shall notify each claimant of the approval or denial of his or her claim in writing, as provided by regulations to be issued by the Secretary.

"(h)(1) No later than 18 months after enactment of this section, the Secretary shall submit a report to Congress with a recommendation of a specific amount of compensation necessary to fully carry out this section. Said report shall include-

"(A) a list of all claims, categorized by compensable injury, which were approved under this section; and

"(B) a list of all claims, categorized by compensable injury, which were denied under this section, and a brief explanation for the reason therefor.

"A copy of this report shall be transmitted to the Governor of Guam.

"(2) Beginning with the first full fiscal year ending after submittal of the report provided in paragraph (1), and annually thereafter until submission of the report under paragraph (3), the Secretary shall submit an annual report to Congress concerning the operations under this section, the status of the Fund, and any request for an appropriation in order to make disbursements from the Fund. Such report shall be submitted no later than January 15th of each year.

"(3) Once all eligible claims have been paid, the Secretary shall submit a report to Congress certifying-

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

"(B) The final status of the Fund, and, the amount of any existing balance thereof.

"A copy of this report shall be transmitted to the Governor of Guam.

"(i) Any remuneration on account of services rendered on behalf of any claimant, or any association of claimants, in connection with any claim or claims under this section may not exceed 5 percent of the amount paid on such claim or claims under this section. Any agreement to the contrary shall be unlawful and void. Whoever, in the United States or elsewhere, demands or

receives, on account of services so rendered, any remuneration in excess of the maximum permitted by this section, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined in accordance with title 18, United States Code, imprisoned not more than 12 months, or both.

"(k) Nothing contained herein shall constitute a United States obligation to pay any claim arising out of war. The compensation provided in this section is ex gratia in nature and intended solely as a means of recognizing the demonstrated loyalty of the people of Guam to the United States during the Second World War."

ANAL K. INOUIE
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United States Senate

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WASHINGTON, DC 20510
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April 25, 1990

The Honorable Joe T. San Agustin
Speaker, 20th Guam Legislature
163 Chalan Santo Papa Street
Agana, Guam 96910

Dear Mr. Speaker:

As you may recall when I recently visited Guam, I promised to look into the issue of war claims. To this end, I have been working with House Subcommittee Chairman Ron de Lugo, Congressman Bob Lagomarsino and, of course, Ben Blaz. Accordingly, I wish to share with you a copy of an amendment to H.R. 2024, a bill introduced by Congressman Blaz, relative to payment of Guamanian war claims arising out of World War II.

Please note that subsection (f) (3) authorizes "such funds as are required to carry out this section." This language is absolutely necessary to prevent the difficulty experienced earlier when the Legislature passed a resolution approving a specific formula which was subsequently contested by a local Commission.

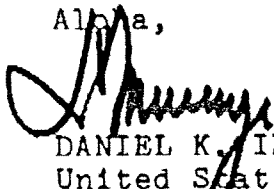
Because this stand appears contrary to that taken by the 20th Guam Legislature in its Resolution 162, I believe the enclosed amendment represents a workable compromise and is in the best interests of the people of Guam since the Secretary of the Interior would be required to report a specific dollar recommendation based on actual claims filed with his office. Please note that compensation is restricted to living survivors (except in the case of a claim for death).

The Honorable Joe T. San Agustin
April 25, 1990
Page 2

Mr. Speaker, as I indicated I am most sympathetic to the issue of Guam war claims. However, I do not wish to sponsor legislation which does not have the support of the people of Guam. Therefore, prior to introducing the enclosed amendment, I may request a resolution affirming the Legislature's support for the enclosed Amendment In The Nature Of A Substitute To H.R. 2024, dated April 23, 1990.

Since time is of the essence and Congressman Blaz is most anxious for the issue to be resolved by both Houses, I look forward to receiving this resolution at the Legislature's earliest convenience.

Alma,



DANIEL K. INOUE
United States Senator

DKI:pmo

CC: The Honorable Ron de Lugo
The Honorable Robert J. Lagomarsino
The Honorable Ben Garrido Blaz
The Honorable Joseph F. Ada
The Honorable George Bamba

BEN BLAZ
GUAM



COMMITTEE ON ARMED SERVICES
MILITARY INSTALLATIONS AND FACILITIES
PROCUREMENT AND MILITARY NUCLEAR SYSTEMS
SEAPOWER AND STRATEGIC AND CRITICAL MATERIALS

COMMITTEE ON INTERIOR
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INTERNATIONAL OPERATIONS

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Congress of the United States
House of Representatives
Washington, DC 20515

April 26, 1990

LA-6

The Honorable Joe T. San Agustin
Speaker, Twentieth Guam Legislature
163 Chalan Santo Papa Street
Agana, Guam 96910

Dear Joe:

I am writing to alert you to the fact that in a few days you will be receiving two letters - a joint-letter signed by Ron de Lugo and Bob Lagomarsino (chairman and ranking minority member of the House Subcommittee on Insular Affairs respectively), and a second letter from Senator Dan Inouye - requesting the Legislature's support of a substitute version of H. R. 2024, the Guam war claims bill I introduced last year.

I cannot stress too strongly the need for the Legislature to pass such a resolution if it wants Congress to resolve this urgent issue this year. In my opinion, the amended bill represents the only viable solution to compensating deserving Guamanian survivors of the Japanese occupation. Because the amount to be appropriated will be based on actual claims filed, it is even possible that we could receive more than the \$20 million initially provided in the bill (since it was based on approximately 3,000 claimants).

Joe, my friend, I am writing you this personal letter because I know we both subscribe to the old adage: a bird in hand is worth two in the bush. I do not believe we will have such an opportunity to resolve this issue again in the foreseeable future.

Please help this bipartisan effort on the part of Congress to succeed. Because time is short, I hope the Legislature can take action as soon as possible. For your information, Senator Inouye and Messrs. de Lugo/Lagomarsino will be sending courtesy letters (enclosing the substitute bill) to the Governor and Minority Leader George Bamba as well.

If you have any questions, or would like to share some of your thoughts, please call me.

Sincerely,

BEN BLAZ
Member of Congress



GEORGE BAMBA
SENATOR
MINORITY LEADER

Twentieth Guam Legislature

163 Chalan Santa Papa Street

Agana, Guam U.S.A. 96910

fb copy

J MAY 16 1990 12:15 pm
OFFICE OF THE GOVERNOR

TELEPHONES:
(671) 472-3432/33

FAX NO.
(671) 477-8648

May 16, 1990

The Honorable Joseph F. Ada
Chairman
Guam War Reparations Commission
Agana, Guam 96910

Subject: Letter of Resignation

Dear Mr. Chairman:

Effective today, I hereby tender my resignation as a member of the Guam War Reparations Commission. I am compelled to take this action after having learned that the Commission plans to oppose amendments proposed by Senator Daniel K. Inouye, Congressmen Ron de Lugo and Robert J. Lagomarsino, to Congressman Ben Blaz's bill to compensate our people for War Claims arising out of the Second World War.

I strongly feel that to oppose these amendments would be to break faith with the thousands of Guamanian survivors who have looked to us to resolve this issue. I am prepared to honor the commitment I made and that made by my late mother, Cecilia Bamba, to obtain compensation for those atrocities committed against our people. For the record, let me briefly review the events leading up to my decision.

On April 10, 1989, the Twentieth Guam Legislature unanimously passed Resolution 162 which requested Congressman Blaz to introduce legislation compensating Guamanian survivors utilizing a set damage award formula. The co-sponsors of this Resolution included Senators Manibusan, Nelson, Duenas, Dierking, Quitugua and Santos - all of whom, along with myself, were later appointed to the Guam War Reparations Commission.

True to his word, Congressman Blaz introduced H.R. 2024 on April 18, 1989 and obtained a hearing before the House Subcommittee on Insular Affairs in July of last year. Before this hearing, the Guam War Reparations Commission was created by Executive Order to coordinate testimony in support of the bill.

Unfortunately, instead of supporting H.R. 2024, the Commission proposed amendments which completely changed the bill's intent.

Rather than standing behind the \$20 Million (which was based on research of living survivors), the Commission recommended changing this to an "initial" appropriation of \$165 Million - although little, if any, substantive justification was given for this figure. The Commission also recommended changing the focus of the bill from compensating living survivors to that of descendants, although, no other claims act passed by Congress included such a provision.

As a result of these mixed signals, H.R. 2024 became stalled in the House Subcommittee on Insular Affairs.

Because of my commitment to war claimants, I continued to work closely with Congressman Ben Blaz on this issue. As a result, he persuaded Senator Daniel Inouye to come to Guam. Before leaving island, Senator Inouye promised to consider introducing legislation in the Senate. However, as you will recall, the Senator specifically cautioned us that he would not introduce a bill unless it was fully supported.

Over the next two months, Congressman Blaz coordinated discussions between Chairman de Lugo, Ranking Member Lagomarsino and Senator Inouye's office in an effort to reconcile the Commission amendments with supportable facts. On April 26, 1990, he wrote yourself, myself and the Speaker that letters would be forthcoming from the above enclosing an amended bill which they felt could be supported upon adoption of a resolution. The amended bill reconciled the \$20 million versus \$165 million by substituting "such amounts as are required". The effect of this language is that the amount of compensation would be determined by filed claims, i.e. if claims exceeded \$20 million, Congress would pay them. The Inouye/de Lugo/Lagomarsino draft also restricted payment to living survivors and removed the offset on previous awards.

On May 2, 1990, Congressman Blaz faxed a letter to Speaker San Agustin from Senator Inouye, stating his support for the amended bill and offering to introduce same in the Senate on receipt of a resolution passed by the Legislature supporting Substitute Bill H.R. 2024. The next day, Congressman Blaz faxed the Speaker a joint-letter from Congressmen de Lugo and Lagomarsino, reiterating this offer.

Six days before the Speaker received a request from Senator Inouye, Resolution 511 was introduced in the Twentieth Guam Legislature. Sadly, this resolution did not answer Senator Inouye's request for a positive position on his amendments. Instead, the resolution proposes to support amendments proposed by the Commission - a

The Honorable Joseph F. Ada
May 16, 1990
Page 3

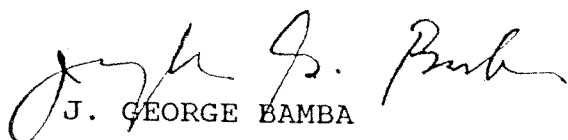
position directly in opposition to the substitute bill.

Mr. Chairman, Congressman Blaz was able to secure Senator Inouye's interest on this issue having worked with him on the Japanese American Relocation Act. To throw away this support, along with that of Chairman de Lugo and Congressman Lagomarsino, will doom Guam's quest for the payment of war claims.

For this same reason, I cannot support any action on the part of the Commission which would have the practical effect of preventing passage of the substitute version of H. R. 2024. Our first priority should be compensating those living survivors who actually experienced the injury and then once this is accomplished, we can continue to work toward getting descendants of survivors paid. The longer we delay, the more survivors of these atrocities will pass away never to know that justice was finally rendered.

Therefore, and on behalf of the thousands of living survivors whose rights to compensation may forever be compromised, I hereby tender my resignation as a member of the Guam Reparations Commission. I can assure you, though, that I will continue my work, work begun by my mother, in the hope that we can finally close this chapter in our history.

Sincerely,


J. GEORGE BAMBA

cc: Members
Guam War Reparations Commission

BEN BLAZ
GUAM

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Congress of the United States
House of Representatives
Washington, DC 20515

COMMITTEE ON ARMED SERVICES
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SELECT COMMITTEE ON AGING
 HUMAN SERVICES

June 20, 1990

LD-4

The Honorable Joe T. San Agustin
 Speaker
 Twentieth Guam Legislature
 163 Chalan Santo Papa
 Agana, Guam 96910

Dear Joe:

On May 22, 1990, during my State of the Congress Address I requested the Twentieth Guam Legislature to take action as promptly as possible on a resolution supporting an amendment to our war claims bill proposed by Senator Dan Inouye, Congressmen Ron de Lugo and Robert Lagomarsino.

I informed the Legislature that "the meter has been running on this issue for more than forty years, and the battery is running low. The prospect of revisiting it again, should it fail to get your support, is getting dimmer with each passing day."

It is now the middle of June and although there have been substantial media reports on the subject, I have received no official communication from either the Legislature or the the Guam War Reparations Commission.

It is my understanding that two resolutions are pending before the Legislature. I hope that you would soon consider action on them which is essential before any follow-on action is undertaken in the Congress.

With the summer recess soon to occur in Congress and the agenda all but filled for the remainder of the term, our window of opportunity is fast closing.

Sincerely,

BEN BLAZ
 Member of Congress

Guam War Reparations Commission

JUL 09 1990

The Honorable Ben Blaz
Subcommittee on Insular
and International Affairs
1130 Longworth House Office Bldg.
Washington, D.C. 20515

Dear Congressman Lagomarsino:

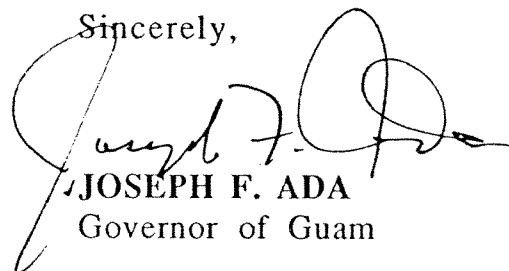
On behalf of the members of the Guam War Reparations Commission and the people of Guam, I would like to extend my sincere thanks and appreciation to you for your work on Guam War Reparations.

We further appreciate your taking the time to meet with the Commission at its meeting of May 25. The Commission has reviewed the Inouye Amendment and has prepared its response, as requested by Chairman de Lugo.

Enclosed please find a copy of the Commission's letter to Senator Daniel Inouye regarding the comments and concerns of the Commission in this regard, as well as a copy of the response itself.

Thank you again and Si Yu'os Ma'ase.

Sincerely,



JOSEPH F. ADA
Governor of Guam

Enclosure



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Agana, Guam 96910
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Governor
Joseph F. Ada
Chairman

Senator
Francisco R. Santos
20th Guam Legislature
Vice-Chairman

Senator
George Bamba
20th Guam Legislature

Senator
Herminia D. Dierking
20th Guam Legislature

Senator
Edward R. Duenas
20th Guam Legislature

Senator
Marilyn D.A. Manibusan
20th Guam Legislature

Senator
Ted S. Nelson
20th Guam Legislature

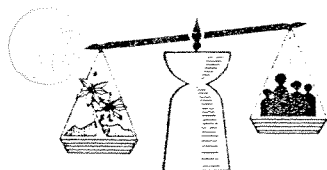
Senator
Franklin J. A. Quitugua
20th Guam Legislature
Public Member

Commissioner
Vicente C. Bernardo
Commissioners' Council
Representative

Mr. Pedro G. Cruz
Public Member

Mrs. Beatrice F. Emsley
Public Member

Joanne M. Brown
Executive Director





Guam War Reparations Commission

JUL 09 1990

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Mr. Pedro G. Cruz
Public Member

Mrs. Beatrice F. Emsley
Public Member

Joanne M. Brown
Executive Director

The Honorable Daniel K. Inouye
United States Senate
SH-722 Hart Senate Office Bldg.
Washington, D.C. 20510-1102

Dear Senator Inouye:

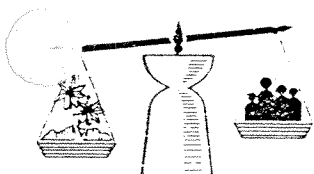
On behalf of the members of the Guam War Reparations Commission and the people of Guam, I would like to extend my sincere thanks and appreciation to you for your work on Guam War Reparations.

The Commission has carefully reviewed both the original bill as introduced by Congressman Ben Blaz, H.R. 2024, and the amendments to the act which you have proposed. In addition, we have obtained much testimony from the people of Guam who suffered during the occupation of our island more than 46 years ago. It was our desire in so doing to determine accurately the will of our people in the area of war reparations and to act accordingly.

There are many areas of concern which have been brought up in the course of our discussions, meetings and gathering of testimony on this issue and these concerns are outlined in the attached document. This listing of our concerns and proposed changes are intended to assist you in the further drafting of legislation that will at long last compensate the people of Guam for their suffering during World War II.

Once again, Senator, we appreciate the work you have done on this issue, particularly your personal visit to Guam earlier this year to hear first-hand the tragic story of suffering our people have endured. We know, as well, that you have been a friend of and champion of Guam in the U.S. Senate for many years and have a great desire to see that the obligation - both moral and financial - of the powerful nations to the people of Guam is recognized and addressed after 46 years.

As the people of Guam have no representation within the United States Senate, we have relied on you - as a friend of Guam - for assistance in that august body. The Guam War Reparations Act is no exception; therefore, any favorable consideration which you can give to the comments and concerns of the Commission in regards to the Act would be most appreciated, not only by myself and the Commission, but by all the people of Guam.

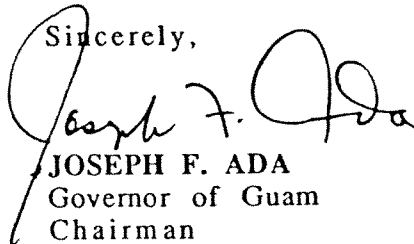


The Honorable Daniel K. Inouye
Page Two

We look forward to working closely with you - on a face-to-face level - to provide our people of Guam with compensation - and justice - after 46 years.

Thank you again and Si Yu'os Ma'ase.

Sincerely,



JOSEPH F. ADA
Governor of Guam
Chairman

CC: The Honorable Ron de Lugo, M.C.
The Honorable Robert J. Lagomarsino, M.C.
The Honorable Ben Blaz, M.C.
The Honorable Joe T. San Agustin

Enclosure

POSITION OF THE GUAM WAR REPARATIONS COMMISSION ON "INOUYE AMENDMENT" TO GUAM WAR REPARATIONS ACT

Sec. 36 (a). This Section shall apply to Guamanians who did not meet the one-year time limitation for filing of death or personal injury claims provided in Section 1 of the Act of November 15, 1945 (chapter 483; 59 Stat. 582), or, who suffered other compensable injuries contained in (b) (2) below, provided, however, that claimants otherwise meet the eligibility, time limitation for filing, and other criteria set forth in this section.

The Guam War Reparations Commission objects to the exclusion of Chamorros compensated under the Guam Meritorious Claims Act from receiving any further reparations compensation. Approximately 4,355 Chamorros received such payment under the Meritorious Claims Act. However, the Act primarily covered ~~compensation for property damages rather than personal injury~~ claims as requested by H.R. 2024, and the subsequent amendments made to the Bill by the Guam War Reparations Commission. It should be noted that less than 258 Chamorros - out of a population of approximately 19,000 Chamorros - received payment for personal injury through the Meritorious Claims Act; additionally, claims for more than \$5000.00 were required by the Act to be reviewed by the Secretary of the Interior. Naturally, few claims over \$5,000.00 were considered or paid.

The Commission further questions the process by which the Meritorious Claims Act was originally administered by the U.S. Navy, including the imposition of a one year time limitation that did not allow all eligible claimants to file, as well as the inconsistencies in compensation amounts for personal injury and death claims.

These concerns regarding the Guam Meritorious Claims Act were also raised by Congressman Ron de Lugo during the July 27, 1989 hearing before the Committee on Insular and International Affairs. At that time, Congressman de Lugo noted the existence of U.S. Navy documentation in this regard, documentation which at the time stated the Guam Meritorious Claims Act was seriously flawed and

further stated that recommendations to correct those flaws were ignored. Navy documentation noted that the Act covered property damage, death, and personal injury claims and did not include claims for forced labor, forced marches, and internment.

Documentation also noted that compensation was set at pre-war 1941 prices. The Forrestal Commission (1947) noted that such payments were nothing but a hollow gesture, a mere pittance.

It should also be noted that at the time of the passage and enactment of the Meritorious Claims Act, the Chamorro people of Guam believed the Act to be the initial "installment" in the discharge of the obligation of the powerful nations to our people upon whose soil the disputes of the powerful nations were fought. However, the 1950 Treaty of Peace with Japan, in which the United States Government, without consultation with or the consent of the Chamorro people, negotiated the rights of the Chamorros to seek any reparations compensation from the Government of Japan. The introduction over the years of new legislation to provide reparations for Guam has resulted from the inadequacies of the Guam Meritorious Claims Act to justly compensate the Chamorro people of Guam.

The Commission reiterates the position that the Guam Meritorious Claims Act did not adequately compensate the Chamorro people after World War II, and subsequently should not serve as the departure point for further reparations compensation.

Section 36 (b) (2): The term "compensable injury" means one of the following three categories of injury incurred during, or as a result of, World War II:

- (A) Death*
- (B) Personal injury*
- (C) Forced labor, forced march or internment*

The Commission objects to the listing of only three categories under the Inouye Amendment to H.R. 2024. In the July 11, 1989 amendments proposed by the Guam War Reparations Commission to H.R. 2024, The Commission recommended that an additional category for "forced march or internment" be included separate and apart from "forced labor". The Commission further recommended that each category be further defined as follows:

(3) The term "death" applies to any person who was killed or who died during enemy occupation or who thereafter died from a cause attributed to injury resulting from military operations by the liberating United States forces.

(4) The term "personal injury" means any injury inflicted upon a person's body or mental stability resulting from the occupation by the Japanese forces or military operations by the liberating United States forces.

(5) The term "forced march" means any movement on foot by a person or group of persons carried out by the occupation forces for detention in concentration camps, or forced to flee their homes for safety.

(6) The term "internment" means detention in prison or concentration camp during the occupation period or immediately thereafter following the liberation by United States forces.

The provision of the fourth category, in effect separating forced march or internment from forced labor, is due to the magnitude of the labor which the Chamorro people of Guam were forced to perform. This virtual slavery was of a magnitude and duration sufficient to require consideration as a reparable injury on its own merits.

Section 36 (2) (b): The claimant files a claim within one (1) year after the date of enactment of this section.

The Commission has no objection to the one (1) year deadline to file claims as long as sufficient attempts are made to contact all valid claimants.

Section 36 (3): The term "Guamanian" means any person who resided in the Territory of Guam during the period beginning December 8, 1941, and ending September 2, 1945, and who was a United States citizen or national during this period.

The Guam War Reparations Commission has no objection to the above listed dates but cautions Congress to take into consideration

Chamorros who were injured or killed by Japanese soldiers following the formal surrender by Japan on September 2, 1945. In the course of its public hearings on War Reparations, the Commission was informed of Chamorro individuals who suffered such injury or death at the hands of Japanese "stragglers" - soldiers who were in hiding and unaware of the end of formal hostilities - following September 2, 1945. The Commission has no objection to the specific dates of formal hostilities as long as language in the Bill can be revised so as to not exclude Chamorro casualties related to wartime activities that occurred after September 2, 1945.

Section 36 (c) (1): The Secretary of the Interior shall have the authority to receive, examine and render final decisions concerning claims which may be filed under this Section. In addition, the Secretary is authorized to certify and disburse payments from the Fund established in subsection (f) (1) to eligible claimants.

The Commission objects to the language that permits the Secretary of the Interior to render final decisions concerning claims filed with the Secretary. The Commission maintains its original proposed amendment to H.R. 2024 in section (i) that "The denial of any claim by the Secretary may be appealed, as to claimants residing in Guam, in the District Court of Guam, and as to any other claimants, in the Court of Claims."

It is the belief of the Commission that the granting of unchallenged authority to the Secretary of the Interior in this matter would be counterproductive and arbitrary. It should be noted that even decisions of the Internal Revenue Service can be appealed to the courts. The granting of unchallenged authority to the Secretary is further counter to due process as guaranteed by the United States Constitution.

Also further note that Public Law 100-383 (August 10, 1988, Title II, the "Aleutian and Pribilof Islands Restitution Act"), the Department of the Interior and the Bureau of Indian Affairs were designed as the administrative agencies to administer claims for the Aleutian and Pribilof Islands. The Bureau approves all claims for cash disbursements and there exists a formal appeals process for people who disagree with Bureau decisions.

The Guam War Reparations Commission recommends an appeals process through the courts be made available to eligible island residents in the event that challenges arise concerning reparation claims.

Section 36 (2) (A) The Claimant is a living Guamanian who personally received the compensable injury, except that in a claim for death, a claimant may be the heir or next of kin of the decedent Guamanian, and payment of the award shall be pro-rated among heirs or next of kin claiming for the same death as provided in Guam probate laws;

The Commission maintains its position that "a claimant may also be a next of kin or a surviving heir to a Guamanian eligible for compensable injury who died following the occupation period."

It should be noted that an extended period of time - nearly 46 years - has passed since the liberation of Guam by United States armed forces. During this time, the issue of war reparations has never been adequately addressed. Many Chamorros who resided in Guam during occupation and/or hostilities on their island have since passed away.

It should be further noted that at the time of the invasion and subsequent occupation of Guam, the Chamorro people of Guam were U.S. nationals - wards of the United States. As such, the Chamorro people of Guam considered themselves - and the Navy fostered this belief - to be under the protection of the United States of America. Therefore, the United States was obligated to ensure the safety and well-being of the Chamorro people of Guam. This was not done prior to the invasion of Guam; because of the limitations of the Meritorious Claims Act, it was not done following the war; because the Chamorro people of Guam are still awaiting justice and dignity even today, 46 years after the re-occupation of Guam by U.S. forces, the United States' obligation to our people has yet to be realized and properly addressed.

The Chamorro people of Guam have always been a trusting people. This was the case in 1941, this was the case in 1946, this is the case even today. We have always had full faith in the moral rightness of the United States of America; that our concerns would be recognized, that our needs would be addressed.

This faith was especially necessary because the Chamorro people of Guam had no representation whatsoever in Washington; even today, we do not have full representation in Washington.

It would be simple indeed for the United States government to abrogate its moral obligation and responsibility to the Chamorro people of Guam who suffered death, personal injury, forced labor, forced marches or internment by further delaying the application of justice to these people; another 46-year delay - or even ten years - may see the passing of the final Chamorro who survived hostilities on their island and thus conveniently remove any need for reparation.

For this reason, justice demands that the Chamorro people of Guam - as a sovereign people and as the indigenous people of Guam - whose island was used by powerful nations as the battlefield for their disputes - be compensated as a people. The Guam War Reparations Commission acknowledges that no precedent exists at present for reparation for descendants; however, the experiences of the Chamorro people of Guam are unique to world history, an unprecedented experience.

Justice requires no precedent.

Section 36 (2) (C) the claimant is able to furnish either proof of the compensable injury or is able to produce affidavits by two (2) witnesses to the compensable injury.

The Commission maintains that "the claimant is able to furnish proof of the compensable injury or is able to produce an affidavit(s) by at least one witness or, if no witness is available, by a sworn statement by himself attesting eligibility to the compensable injury."

It should be noted that it has been many years since the end of World War II. A large percentage of Chamorros who were witnesses to the atrocities committed during the war have since died. The current language of the proposed bill would make it difficult for claimants to be able to obtain two witnesses that can verify their injuries. It should also be further noted that many atrocities were committed away from the presence of witnesses - except for the several soldiers who committed the atrocities - and, additionally, it should be noted that in some cases, an individual may have survived

a mass execution - as in the case of Mrs. Beatrice Emsley - and thus there were no surviving witnesses save for the criminals themselves.

Section 36 (e) (1) The Secretary shall certify all awards for payment. The Secretary shall pay the following amounts to each eligible claimant from the fund established in subsection (f) (1).

- (A) \$20,000 for the category of death.*
- (B) \$5,000 for the category of personal injury.*
- (C) \$3,000 for the category of forced labor, forced march or internment.*

The Commission agrees to the amount of \$20,000 for the category of death but maintains that the following categories and amounts be included :

- (B) \$15,000 for the category of personal injury.
- (C) \$10,000 for the category of forced labor.
- (D) \$7,000 for the category of forced march or internment.

The Commission does not consider these amounts to be excessive in light of the payment of \$20,000 in reparations to individuals of Japanese ancestry under Public Law 100-383.

This public law provides under Title I, United States Citizens of Japanese Ancestry and Resident Japanese Aliens, compensation to individuals of Japanese ancestry who were evacuated, relocated and interned by the U.S. Government in the amount of \$20,000, and under Title II, Aleutian and Pribilof Island Restitution, provides each eligible Aleut a payment in the amount of \$12,000 for relocation by the U.S. during World War II.

In addition, the Aleuts were entitled under their reparations act, the use of their trust funds together with accrued interest, and other earnings to provide social programs and services that will benefit their elderly, disabled; provide for student scholarships; preserve Aleut cultural heritage and historical records; improve community centers in affected Aleut villages; and improve the condition of Aleut life, as determined by their trustees.

Further, in Section 106 of Public Law 100-383, individuals of Japanese ancestry received in their reparations act a Public Education Fund staffed by a board of directors to sponsor research and public educational activities so that events surrounding the evacuation, relocation, and internment of U.S. citizens and permanent resident aliens of Japanese ancestry be remembered.

The Inouye amendment does not provide any further compensation for a Chamorro trust fund for educational or social purposes. The amount of compensation is limited to direct individual compensation with no further obligation on the part of the United States Government to provide any additional reparations in the future.

The Guam War Reparations Commission is sympathetic to the sufferings of the Japanese Americans and the Aleutian Islanders during World World II. The Commission is further pleased that the Congress has recognized the justice in making reparations to these individuals. However, this does not lessen the need of the Chamorro people of Guam for reparations in their own right.

It must be noted once again that Japanese-Americans have received \$20,000 each for forced relocation and internment. The Chamorro people of Guam not only suffered forced relocation and interment - for which the Commission is requesting considerably less than \$20,000 - the Chamorro people of Guam also suffered personal injury, death, forced labor, forced marches, internment and the destruction of their homes.

The Guam War Reparations Commission, acting on behalf of and with the clear direction of the people of Guam, asks for reparations not for the sake of the payment itself but for the sake of justice and the recognition of the obligation of the United States government to ensure that justice is preserved for our people.

Section 36 (f) (3) There is authorized to be appropriated to the Fund such sums as are required to carry out this section.

The Commission requested in its amendments to H.R. 2024 that an initial sum of \$160,000,000 be appropriated and that there be authorized additional funds if needed to satisfy all approved claims for compensable injury. However, the Commission has no current objections to section (f) (3) as written in the Inouye amendment if

the four categories and requested amounts of the Commission be included in the amendment.

Section 36 (g) (1): Not later than 90 days after the date of enactment of this section, the Secretary shall give public notice in the territory of Guam and such other places as the Secretary deems appropriate of the time when, and the time limitation within which, claims may be filed under this section. The Secretary shall assure that the provisions of this section are widely published in the territory of Guam and such other places as the Secretary deems appropriate, and the Secretary shall make every effort to advise promptly all persons who may be entitled to file claims under the provisions of this section and to assist them in the preparation and filing of their claims.

Section 36 (g) (2): The Secretary shall act expeditiously in the examination, determination, and certification of submitted claims, but in no event not later than one year after the expiration of the time for filing claims under this section.

Section 36 (g) (3): The Secretary shall notify each claimant of the approval or denial of his or her claim in writing, as provided by regulations to be issued by the Secretary.

The Commission has no objections to the language permitting the Secretary of the Interior to notify claimants. The Commission further has no objections to sections 36 (g) (2) or 36 (g) (3) of the Inouye amendment.

Section 36 (h) (1): No later than 18 months after enactment of this section, the Secretary shall submit a report to Congress with a recommendation of a specific amount of compensation necessary to fully carry out this section. Said report shall include-

(A) a list of all claims, categorized by compensable injury, which were approved under this section; and

(B) a list of all claims, categorized by compensable injury, which were denied under this section, and a brief explanation for the reason therefor.

A copy of this report shall be transmitted to the Governor of Guam.

Section 36 (h) (2): Beginning with the first full fiscal year ending after submittal of the report provided in paragraph (1), and annually thereafter until submission of the report under paragraph (3), the Secretary shall submit an annual report to Congress concerning the operations under this section, the status of the Fund, and any request for an appropriation in order to make disbursements from the Fund. Such report shall be submitted no later than January 15th of each year.

Section 36 (h) (3): Once all eligible claims have been paid, the Secretary shall submit a report to Congress certifying-

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

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

A copy of this report shall be transmitted to the Governor of Guam.

Section 36 (i): Any remuneration on account of services rendered on behalf of any claimant, or any association of claimants, in connection with any claim or claims under this section may not exceed 5 percent of the amount paid on such claim or claims under this section. Any agreement to the contrary shall be unlawful and void. Whoever, in the United States or elsewhere, demands or receives, on account of services so rendered, any remuneration in excess of the maximum permitted by this section, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined in accordance with title 18, United States Code, imprisoned not more than 12 months, or both.

The Commission has no objection to these sections. However, the Guam War Reparations Commission offers its assistance in notifying affected island residents of reparation payments.

Section 36 (k): Nothing contained herein shall constitute a United States obligation to pay any claim arising out of war. The compensation provided in this section is ex gratia in nature and intended solely as a means of recognizing the demonstrated loyalty of the people of Guam to the United States during the Second World War.

The Guam War Reparations Commission objects strenuously to the language contained in Section 36 (k) as patronizing and as clearly designed to avoid the entire reason for war reparations.

The loyalty of the Chamorro people of Guam, while unquestioned, is not at issue in this regard. The people of Guam are not asking for reparation of their loyalty, we are asking for reparation for the suffering of the Chamorro people that directly resulted from hostilities between two powerful nations, the United States of America and Japan.

The Chamorro people of Guam did not ask that the dispute between these two nations be fought on our soil. Rather, this conflict was imposed upon us and our people suffered death, personal injury, forced labor, forced marches and internment as a result. Those who survived the hostilities took many years to recover; indeed, many never recovered fully.

Our people are still feeling the effects of World War II and its aftermath and have never been adequately compensated for these effects.

It should be further noted that the United States, through its treaties and agreements with Japan, has forever prevented the Chamorro people of Guam from seeking compensation or reparation from the nation directly responsible for much of the suffering suffered by our people. It must be noted once again that the Chamorro people of Guam did not have any form of self-government whatsoever at the time, that the Chamorro people of Guam had no representation whatsoever in Washington, and relied in full faith on the goodwill of the United States of America in this regard.

Instead, the United States negotiated away the right of the Chamorro people of Guam to seek reparations from those who caused injury to our people. Therefore, the United States, because it did so without the consent of - or even consultation with - the people of Guam, does have and must recognize its obligation to the people of Guam who now have no other recourse or option open to them.

The Commission recognizes the political realities of the time. The United States was engaged in the Korean War. The North Korean Army had American forces surrounded in the extreme southeastern corner of Korea, the Pusan perimeter. China had just fallen to the Communists just two years earlier; pressure was being applied to the remaining Nationalist Chinese in Taiwan. In Vietnam, Ho Chi Minh was fighting the French forces that had returned after World War II and within four years, the United States would begin sending "advisers" to that nation. In Malaya, Communist insurgents were fighting the British. There was a growing and active Communist movement in Indonesia. The Hukbalahap had yet to be exterminated in the Philippines.

Throughout Asia, there was a sense of rising Communist influence and aggression. Thus, it was a policy decision of the United States to conclude a quick treaty with Japan, to end the American occupation of Japan, to turn Japan into a valuable Asian ally and a bulwark against Communist expansion. In the midst of these important, world-changing considerations, one can see how the needs and concerns of a small population of Chamorros, on a small island in the Pacific, might be ignored.

However, even prior to the ratification of the 1950 Japanese Peace Treaty, Secretary of State and drafter of the treaty, John Foster Dulles stated, "United States nationals whose claims are not covered by the treaty provisions or by the legislation of other Allied Powers, must look for relief to the Congress of the United States." Even at that time, over forty years ago, the United States Congress was made aware that it would have a moral and legal responsibility to address the issue of reparations for the people of Guam.

Therefore, the Guam War Reparations Commission strongly insists that the language in Section 36 (k) be amended to reflect a recognition of United States obligation to the people of Guam in this regard.

ROBERT J. LAGOMARSINO
19TH DISTRICT, CALIFORNIA

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CONGRESSIONAL OBSERVER
GENEVA ARMS CONTROL TALKS

POW/MIA TASK FORCE
CHAIRMAN

Congress of the United States
House of Representatives
Washington, DC 20515

COMMITTEE ON
FOREIGN AFFAIRS
SUBCOMMITTEES
WESTERN HEMISPHERE AFFAIRS
VICE CHAIRMAN
ASIAN AND PACIFIC AFFAIRS

COMMITTEE ON
INTERIOR AND INSULAR
AFFAIRS

SUBCOMMITTEES:
INSULAR AND INTERNATIONAL AFFAIRS
VICE CHAIRMAN

NATIONAL PARKS AND PUBLIC LANDS
VICE CHAIRMAN—PARKS

July 17, 1990

The Honorable Ben Blaz
U.S. House of Representatives
1130 Longworth House Office Building
Washington, D.C. 20515

Dear Ben:

I am in receipt of a letter written by the Chairman of the Guam War Reparations Commission to Senator Inouye concerning the Guam war claims bill.

I am deeply saddened by the lack of support exhibited by the Commission and Legislature for our efforts to compensate living Guamanian survivors of the occupation. As you are aware, Ron de Lugo and I were willing to lock arms on this issue in a bipartisan effort to recognize Guamanian loyalty during the Second World War. In spite of the intense budget pressures facing the Congress from both sides of the aisle within the Congress and the Administration, I believe the compromise bill could withstand scrutiny and be enacted into law. However, I am in agreement with Danny that to push through a bill which does not have the support of Guam leaders other than yourself and a few Minority senators from the local Legislature, would be counter-productive.

Ben, as a colleague, I hasten to mention that I find the persistent unwillingness of local leaders to participate in the formulation of compromise language or even to reach a consensus, to be more than a little distressing. It is disturbing that those in responsible positions apparently find it more beneficial to complain about inequities than to seek the means of reconciling them. This is not only true of two versions of H.R. 2024, but on the Commonwealth Bill as well.

I am not quite sure how we can bring about a more receptive attitude on Guam with respect to legislation which would have a reasonable chance of enactment.

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314 EAST CARRILLO
SANTA BARBARA, 93101
(805) 963-1708

104 E. BOONE ST. #E
SANTA MARIA, 93454
(805) 922-2131

The Honorable Ben Blaz
July 17, 1990
Page 2

As you know, I have worked on territorial-related legislation for more than 16 years and witnessed the complex evolution of bills in Congress. Ben, I call on you to persuade and remind the island's leadership that in the exercise of Congress' constitutional responsibility for the territories, Congress sincerely wishes to advocate the interests of Guam. We want to address the concerns of our fellow citizens in a way which respects and promotes self-government within the parameters of our very diverse democratic constitutional system. In return, we request some expression of support when we do so. However, since it appears that our Guam War Reparations initiative is being lukewarmly received, I am reluctant to proceed. The most unfortunate part is the lack of support which may jeopardize the only realistic chance to provide war reparation to those directly affected during their lifetime.

In conclusion, let me assure you that despite the many frustrations and disappointments, I will continue to do whatever I can to assist our citizens in the territories in the future.

Regretfully,

ROBERT J. LAGOMARSINO
Member of Congress

RJL:cg

rjl\bla0716

DRAFT
LETTER FROM SENATOR INOUE

The Honorable Joseph F. Ada
Chairman, Guam War Reparations Commission
Governor of Guam
P. O. Box 2950
Agana, Guam

Dear Mr. Chairman:

I am in receipt of your letter responding to my request to the Guam Legislature for a consensus on a substitute version of H.R. 2024, the Guam war claims bill introduced by Ben Blaz.

I wish, first of all, to state that I am flattered by your generous characterization of my efforts on behalf of Guam. It is because I, like Ben Blaz, know first-hand the tragedy of war and the unquestioned loyalty of the people of Guam, that I made a commitment to introduce legislation in the Senate on behalf of Guam.

I was therefore keenly disappointed by the Commission's stance not to support substitute language I had worked out with Ron de Lugo, Bob Lagomarsino and Ben Blaz in the House. I had hoped that my recommendations, based on twenty-five years in the Congress, coupled with the urgency of compensating living survivors before they pass away, would result in support for the substitute version.

It never dawned on me that the Commission would be unwilling to come up with a workable compromise. Furthermore, I can only assume that since the majority of members of the Commission comprise a third of the entire Legislature, the likelihood of obtaining the strong legislative support I requested is highly doubtful.

I reviewed the changes proposed by the Commission to the substitute bill. They substantially change the basic document that took three months to prepare for possible passage in the U.S. Congress in 1990. Because the new proposal would engender months of staff time, legal analyses and conferences to arrive at consensus and a compromise which is absolutely essential to the legislative process, there is simply no time available given our full agenda, to address this issue. In other words, the window of opportunity has essentially closed. Therefore, I regret to inform you that I will not be able to sponsor a companion measure to H.R. 2024 in the Senate.

I might add that this is the second time in two years, local leadership has rejected two separate formulations specifically designed to accommodate the wishes of the people of Guam in this regard. Although Ben Blaz has urged me to reconsider this position, I cannot in good conscience introduce legislation which apparently does not have the whole-hearted support of the leadership of Guam.

Sincerely,

BEN BLAZ
GUAM

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Congress of the United States
House of Representatives
Washington, DC 20515

COMMITTEE ON ARMED SERVICES
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AFRICA
INTERNATIONAL OPERATIONS

SELECT COMMITTEE ON AGING
HUMAN SERVICES

December 6, 1990

The Honorable Joe T. San Agustin
Speaker, 20th Guam Legislature
163 Chalan Santo Papa
Agana, Guam 96910

Dear Joe:

I wish, first of all, to congratulate you on your election as Speaker of the 21st Guam Legislature. I am confident that we will be able to continue our close working relationship in the days ahead.

As the first session of the 102nd Congress approaches, I am in the process of preparing bills for introduction. Enclosed please find "Amendment In The Nature Of A Substitute To H.R. 2024," dated April 23, 1990. As you will recall, this proposed Guam war reparations bill was transmitted to you in April 1990 by Ron de Lugo, chairman of the House Insular and International Affairs Subcommittee; Bob Lagomarsino, ranking Minority member of the subcommittee; and by Dan Inouye on the Senate side. In cover letters dated April 23 and 25, 1990, these key members of Congress requested the consensus of the Guam Legislature on the proposed bill. They indicated that, if the Legislature adopted a favorable resolution, they would be willing to support its introduction and passage in Congress.

In July 1990, the Guam War Reparations Commission wrote to Ron de Lugo, Bob Lagomarsino and Dan Inouye recommending substantial amendments to the proposed substitute bill. However, since these gentlemen requested action by the Guam Legislature as the duly elected representatives of the people of Guam (as opposed to an appointed Commission created by Executive Order of the Governor), they apparently elected not to proceed without receiving the consensus of Guam lawmakers. Secondly, the Commission's response was viewed as a rejection; instead of supporting the proposed bill, the Commission recommended amendments which materially changed its intent.

I am once again transmitting the proposed bill to the Legislature with a request for a resolution of either support or rejection. In the event that the Legislature supports the enclosed as written, I will immediately introduce it in the 102nd Congress and, together with Ron de Lugo, Bob Lagomarsino and Dan Inouye, vigorously pursue passage by both Houses.

The Honorable Joe T. San Agustin
December 6, 1990
Page 2

In the event the Legislature rejects the proposed bill, it has the option of proposing one of its own. However, I ask that in making its decision, the Legislature take into consideration the fact that amendments proposed by the Commission during the July 1989 hearing were carefully considered by Ron de Lugo, Bob Lagomarsino, Dan Inouye and me in more than three months of intensive efforts to work out a compromise bill which would be acceptable to both the people of Guam and the Federal Government.

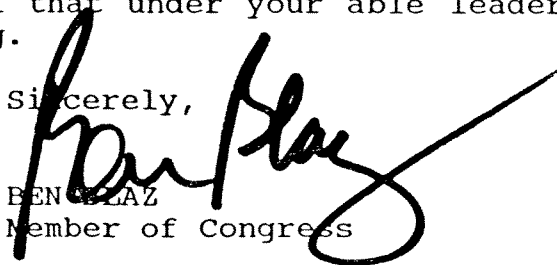
I might add that the proposed bill answers the objections raised by the Administration, which, as you know, opposes the bill on the basis of previous compensation awarded under authority of the 1946 Guam Meritorious Claims Act as well as the precedent a Guam war reparations bill might set. As you will recall, similar objections were raised concerning H.R. 442, which became the Japanese American Relocation Act. However, these objections were surmounted and key members of Congress have been persuaded that certain living survivors of the occupation deserve to be compensated.

Joe, as we both know, this represents our third attempt to resolve the war reparations issue in Congress. In April 1989, after receiving a resolution reflecting the unanimous approval of the 20th Guam Legislature, I introduced H.R. 2024. Three months later, Ron de Lugo held a hearing in which, as you know, the Guam War Reparations Commission essentially rejected the bill by recommending amendments changing its intent. We tried a second time with Dan Inouye, Ron de Lugo and Bob Lagomarsino. Again, a proposal came back to the Legislature and no position was taken. As a result, we lost a golden opportunity.

Quite frankly, disappointment over the lack of response may very well dampen the enthusiasm of some of our friends in Congress. Senator James McClure, a staunch friend of Guam and advocate of our war reparations quest is no longer in Congress, the crises in the Middle East and the worsening financial condition of the Nation as a whole, all are factors which could affect a resolution to the issue. Therefore, I cannot express too strongly, the urgent need for the Legislature to act affirmatively on the proposed bill which already has the support of key members of Congress.

Joe, I find it exhilarating that in this instance key members of Congress have recognized our political maturity and, rather than usurping the Legislature's prerogative, are willing to be guided by it. I am hopeful that under your able leadership such guidance will be forthcoming.

Sincerely,



BEN BLAZ
Member of Congress

cc: All members of the Guam Legislature

TWENTY-FIRST GUAM LEGISLATURE
1991 (FIRST) Regular Session

Resolution No. 1 (LS)

Introduced by:

E. R. Duenas
E. M. Espaldon
M. D. A. Manibusan
J. G. Bamba
D. F. Brooks
A. R. Unpingco
T. V. C. Tanaka
M. C. Ruth
A. C. Blaz
M. J. Reidy
J. P. Aguon
E. P. Arriola
H. D. Dierking
C. T. C. Gutierrez
P. C. Lujan
G. Mailloux
D. Parkinson
J. T. San Agustin
F. R. Santos
D. L. G. Shimizu

Relative to requesting Guam Delegate Ben Blaz to reintroduce in the 102nd Congress House of Representative Bill No. 2024 with the proposed amendments approved by the Guam War Reparation Commission to provide full settlement of war reparation compensation for the atrocities suffered by the people of Guam during World War II.

- 1 BE IT RESOLVED BY THE LEGISLATURE OF THE TERRITORY OF GUAM:
2 WHEREAS, during enemy occupation of the island during World War II, the
3 people of Guam were subjected to untold atrocities that included public execution,
4 torture and physical beating, forced labor, forced marches, and, in the waning days of
5 the War, internment in concentration camps intended for the final annihilation of the
6 population; and
7 WHEREAS, hundreds were killed or executed, thousands were tortured or
8 suffered physical beating or mistreatment, and virtually all men, women and children

1 seven years and older were forced into manual labor, building fortifications or growing
2 crops to feed enemy troops, and then nearly all of Guam's estimated 20,000 inhabitants
3 were interned in the concentration camps established for their "Final Solution"; and

4 WHEREAS, in the 101st Congress, Delegate Ben Blaz introduced House of
5 Representative Bill No 2024 which was publicly heard by the House Subcommittee on
6 Insular and International Affairs, at which time representatives from the Guam War
7 Reparation Commission, headed by Governor Joseph F. Ada, testified, recommending a
8 series of amendments to the bill which they felt were fair and equitable, the
9 amendments being based upon the written and oral testimony of the people of Guam,
10 many of them victims of these war atrocities, who testified at the public hearings
11 conducted island-wide by the Commission; and

12 WHEREAS, the Commission recommended, among other things, to increase the
13 level of compensation to \$20,000 for death, \$15,000 for physical injury, \$10,000 for forced
14 labor, \$8,000 for a forced march, and \$8,000 for internment in concentration camps, as
15 well as allowing claims by surviving heirs of eligible victims who have passed away;
16 and

17 WHEREAS, in an island-wide drive, over 30,000 adult residents of Guam signed
18 a petition asking Congress to fairly settle the war reparation issue for Guam which the
19 United States government had initially begun to undertake shortly after the end of the
20 war, before the U.S. signed a peace treaty in 1951 with Japan which absolved the guilty
21 party, Japan, from any obligation to pay war damages to the inhabitants of Guam, which
22 treaty was signed without consulting Guam, its people or its leaders, leaving it now up
23 to the U.S. Congress to provide equitable relief, similar to what it has provided for
24 residents of Guam's neighboring islands in Micronesia, and since it has been forty-five
25 years since the war ended and the people of Guam have patiently waited to be fully
26 compensated for personal injuries and hardships resulting from the enemy occupation;
27 now, therefore, be it

28 RESOLVED, that the Twenty-First Guam Legislature does hereby on behalf of the
29 people of Guam request and memorialize Delegate Ben Blaz to expeditiously
30 reintroduce in the 102nd Congress a bill similar to HR 2024 but incorporating those
31 amendments recommended by the Guam War Reparation Commission at the 1989
32 public hearing conducted by the House Subcommittee on Insular and International
33 Affairs, the Legislature hereby endorsing the amendments recommended by the Guam
34 War Reparation Commission and supporting their incorporation into the new bill

1 which Delegate Ben Blaz is requested to introduce, the Guam War Reparation
2 Commission being requested to exert all efforts to secure the full settlement of war
3 reparations for all eligible claimants from Guam and to work closely and cooperatively
4 with Delegate Ben Blaz to such end; and be it further

5 RESOLVED, that the Speaker certify to and the Legislative Secretary attest the
6 adoption hereof and that copies of the same be thereafter transmitted to Delegate Ben
7 Blaz; to the Chairman of the House Interior Subcommittee on Insular and
8 International Affairs; to the Speaker of the U.S. House of Representatives; to the
9 President of the U.S. Senate; to the Secretary of the Interior; to Senator Daniel K.
10 Inouye; and to the Governor of Guam.

DULY AND REGULARLY ADOPTED ON THE 23RD DAY OF JANUARY, 1991.



PILAR C. LUJAN
Legislative Secretary



JOE T. SAN AGUSTIN
Speaker