

**GUAM WAR CLAIMS REVIEW COMMISSION;
AND GUAM INCOME TAX**

HEARING
BEFORE THE
COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

ON

H.R. 308

TO ESTABLISH THE GUAM WAR CLAIMS REVIEW COMMISSION

H.R. 309

TO PROVIDE FOR THE DETERMINATION OF WITHHOLDING TAX RATES
UNDER THE GUAM INCOME TAX

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JULY 27, 2001



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**GUAM WAR CLAIMS REVIEW COMMISSION;
AND GUAM INCOME TAX**

FRIDAY, JULY 27, 2001

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The committee met, pursuant to notice, at 9:45 a.m. in room SD-366, Dirksen Senate Office Building, Hon. Daniel K. Akaka presiding.

**OPENING STATEMENT OF HON. DANIEL K. AKAKA,
U.S. SENATOR FROM HAWAII**

Senator AKAKA. I would like to at this time turn to the consideration of two Guam bills. This part of the hearing will focus on H.R. 308, the Guam War Claims Review Commission Act, and H.R. 309, the Guam Foreign Investment Equity Act. While I am giving my statement, will the Congressman please come to the table.

H.R. 308 establishes a five-member Federal commission to review the facts and circumstances surrounding the implementation and administration of the Guam Meritorious Claims Act. The commission will also review the effectiveness of the act in addressing the war claims of American nationals residing on Guam between December 8, 1941, and July 21, 1944, who suffered compensable injury during the Japanese occupation of the island in World War II. The commission will make recommendations to Congress.

H.R. 309, the Guam Foreign Investment Equity Act, provides the Government of Guam with the authority to tax foreign investors at the same rates as States under the U.S. tax treaties with foreign countries. Both bills passed the House of Representatives during the 106th Congress, and were passed again earlier this year by the House. I am pleased, therefore, that Chairman Bingaman and Senator Murkowski provided this opportunity for the committee to hold this hearing prior to the August recess.

As a longstanding friend of the Pacific Islands and Guam, I am very familiar with the efforts of Congressman Underwood, former Congressman Ben Blaz, former Congressman Antonio Won Pat, and local Guam leaders in pursuing justice and equity for war claims arising out of the Japanese occupation of Guam. Given the long history on this matter, I urge leaders at both the local and Federal levels to do what is right for Guam's World War II generation, many of whom have already passed away.

I am also aware of the impact of the Asian financial crisis on Guam's economy, the island's 15 percent unemployment rate, and the effort by Guam's leaders to provide greater economic opportuni-

ties on the island. I look forward to hearing from our witnesses today as we consider these issues. It is my hope that we can move forward on today's bills to provide justice to Guam's World War II generation and to increase foreign investment opportunities in Guam.

We have one of our colleagues from the House scheduled to testify today, Congressman Underwood. I am glad you are here this morning early, and I want you to know that we will place your full statement in the record, so please feel free to summarize your remarks. I wish you well, and your family well, Congressman Underwood, and look forward to your statement.

**STATEMENT OF HON. ROBERT A. UNDERWOOD,
U.S. DELEGATE FROM GUAM**

Mr. UNDERWOOD. Thank you very much, Mr. Chairman.
[Greetings given].

Aloha and good morning. I am here to testify before the Senate Energy and Natural Resources Committee on the bills you have mentioned, two bills very important to the people of Guam, and I would like to extend my gratitude to Chairman Bingaman and Senators Akaka and Murkowski for their continuing support and interest in matters pertaining to the territories.

I know how difficult it was to hold this hearing in light of pressing energy issues before the Nation, and so I greatly appreciate this opportunity that you have extended to speak about two very important Guam issues.

H.R. 308, the Guam War Claims Review Commission Act. As you have indicated, Mr. Chairman, this is a long quest by the people of Guam. Not as many Americans as I hope would know about the experiences of the people of Guam during the Japanese occupation, and how basically they have fallen through the cracks in terms of trying to deal with compensable injury and compensable activities that occurred under the Japanese occupation.

I have a full statement in the record that outlines many of those items, and I am sure that the people who will be testifying later, including Hannah Gutierrez, the daughter of the Governor of Guam, as well as my immediate predecessor, Ben Blaz, who personally experienced the occupation, will have very stirring and important testimony on that issue.

Basically, what we are seeking is a commission to study and to make a report, make a series of recommendations to Congress about how the people of Guam have been dealt with on issues pertaining to war claims. We originally had the Guam Meritorious Claims Act which was passed in the immediate post war period, which extended the opportunity for war claims for a period of 1 year at a time when the people of Guam were simply trying to find food and shelter, so that act was clearly inadequate.

Most of the claims submitted were for property damage only. Any claims in excess of \$5,000 had to be addressed to Congress directly, which was nearly an impossibility in the context of the immediate post war period in Guam. Subsequent legislation in Congress in 1948 did not deal with Guam for U.S. citizens, because the people of Guam were not yet U.S. citizens, they were U.S. nationals.

In 1951, the United States signed a peace treaty with Japan, thereby ceding the opportunity for any U.S. citizens to make further claims against Japan. In 1950, the people of Guam had become U.S. citizens, further complicating the matter. In 1962, another revision was done by Congress in terms of war claims legislation. The people of Guam were not included in that particular piece of legislation, under the mistaken assumption that they had been dealt within the 1948 legislation.

So it is a story basically of a very proud people, people who are proud to be associated with America, people who suffered to a great extent because of their circumstances they found themselves in and their loyalty to the United States, so in this particular approach we are hoping that a war claims commission, one to be selected by the Secretary of the Interior, will come to a quick resolution, understanding the history. There is lots and lots of documentation about what has happened both legislatively and in terms of the actual Japanese occupation of Guam.

The Congressional Budget Office has estimated that the cost of this bill is minimal, would not affect direct spending or receipts and, given the fact that most of the people of Guam who experienced the occupation have since passed away, any succeeding recommendations would likely not be as significant as it would have been had it been taken up 20 or 30 years ago.

With this particular piece of legislation, I want to express my gratitude to the administration, the Bush administration for their very strong statement and very comprehensive review of the historical record of the people of Guam. Such attention given to the people of Guam in connection with this particular issue has not been given in the past, so I am very appreciative of the new administration and their interest and support for H.R. 308.

H.R. 309, the Guam Foreign Investment Equity Act, is an act that almost basically I do not know of anyone who thinks that this act should not be passed. There is very little controversy surrounding it, and I know that we will also hear testimony from members of the chamber of commerce from Guam on this particular act, including the current chairman, Tom Michels.

Basically, the act seeks to deal with an anomaly, again related to Guam, and basically it has to do with the mirror tax code that the people of Guam live under, which is that current Federal law holds that foreign investment is taxed at 30 percent, subject to whatever tax treaties are signed by the United States. Guam must adhere to the 30 percent because in succeeding tax treaties it is unclear whether Guam is included in the definition of the United States.

As a consequence, when the United States signs a tax treaty, for example, with Japan, and the tax rate is reduced to 10 percent, as it is today, Guam must assess a 30-percent tax on foreign investment with Japan. As a consequence, it puts us at a distinct disadvantage with places like Hawaii, meaning no disrespect, Mr. Chairman, but it does put us at a disadvantage in terms of attracting foreign investment, but this is a good, common-sense measure.

The people of Guam are experiencing significant economic problems today, and this will be part of our effort to try to economically recover from the tough times we are having today, so I look for-

ward to your support, as I you have indicated, and the support of the committee, and again I want to thank you and Senator Murkowski and Chairman Bingaman, as well as the administration for their strong support and interest in these issues.

Thank you.

[The prepared statement of Mr. Underwood follows:]

PREPARED STATEMENT OF HON. ROBERT A. UNDERWOOD, U.S. DELEGATE
FROM GUAM

Good morning and Hafa A dai. I am pleased to testify before the Senate Energy and Natural Resources Committee on H.R. 308 and H.R. 309, two bills very important to the people of Guam. I would also like to extend my gratitude to Chairman Bingaman and Senators Akaka and Murkowski for their support and interest in matters pertaining to the insular areas. I know how difficult it was to hold this hearing in light of the pressing energy issues confronting the nation, so I greatly appreciate this opportunity to speak about Guam issues.

H.R. 308, THE GUAM WAR CLAIMS REVIEW COMMISSION ACT

Very few Americans are aware that Guam was the only U.S. territory or state with a civilian population during World War II that was occupied by enemy forces.

Legislation regarding Guam war claims has been introduced by every Guam Delegate to Congress, beginning with Guam's first Delegate Antonio Won Pat, and including my predecessor, General Ben Blaz. H.R. 308 is a careful compromise that incorporates many Congressional and Department of the Interior recommendations that have been made over the years. The measure establishes a federal commission to review relevant historical facts and circumstances surrounding war claims of Guamanians who suffered as a result of the Japanese occupation of the island during World War II. This process will determine eligible claimants, eligibility requirements, and the total amount necessary for compensation for the people of Guam who experienced death, personal injury, forced labor, forced march, and internment.

There is a lot of historical information available to show that the United States had every intention of remedying the issue of war restitution for the people of Guam. In 1945, at the urging of the Acting Secretary of the Navy to the House of Representatives, the Guam Meritorious Claims Act was enacted which authorized the Navy to adjudicate and settle war claims in Guam for property damage for a period of one year. Claims in excess of \$5,000 for personal injury or death were to be forwarded to Congress. Unfortunately, the act never fulfilled its intended purposes due to the limited time frame for claims and the preoccupation with the local population to recover from the war, resettle their homes, and rebuild their lives.

On March 25, 1947, the Hopkins Commission, a civilian commission appointed by the U.S. Navy Secretary, issued a report which revealed the flaws of the 1945 Guam Meritorious Claims Act and recommended that the Act be amended to provide on the spot settlement and payment of all claims, both property and for death and personal injury.

Despite the recommendations of the Hopkins Commission, the U.S. government failed to remedy the flaws of the Guam Meritorious Act when it enacted the War Claims Act of 1948, legislation which provided compensation for U.S. citizens who were victims of the Japanese war effort during World War II. Because Guamanians were not U.S. citizens when the act was enacted, but were U.S. nationals, they were not eligible for compensation. Guamanians finally became U.S. citizens in 1950 under the Organic Act of Guam.

In 1962, there was another attempt by Congress to address the remaining U.S. citizens and nationals that had not received reparations from previous enacted laws. Once again, however, Guamanians were inadvertently made ineligible because policymakers assumed that the War Claims Act of 1948 included them. Thus, Guam was left out of the 1962 act.

The reason H.R. 308 continues to involve the U.S. government is because under the 1951 Treaty of Peace between the U.S. and Japan, the treaty effectively barred claims by U.S. citizens against Japan. As a consequence, the U.S. inherited these claims, which was acknowledged by Secretary of State John Foster Dulles when the issue was raised during consideration of the treaty before the Committee on Foreign Relations in 1952.

For more than two decades, war claims has been aggressively pursued by Guam's leaders both locally and at the federal level. In 1980, the Government of Guam created a Guam Reparations Commission which, among its other duties, compiled war

damage claims for death, forced labor, forced march, internment, or injury, from survivors or descendants who did not receive any or full reparations under the Guam Meritorious Claims Act. On the federal level, each of my predecessors also introduced legislation to address this issue. These combined efforts have helped bring us to where we are today and I am hopeful that once the work of the commission is completed, we can finally heal this very painful memory in Guam's history.

The Congressional Budget Office estimated that the cost of my bill would be minimal and would not affect direct spending or receipts. Moreover, considering that the island of Guam had a small population of 22,290 during the war occupation, and given the available territorial and federal records on this matter, I anticipate that any federal commission that is established under my bill would be able to complete its work expeditiously and provide the Congress with the necessary recommendations to resolve this longstanding issue in a timely fashion.

H.R. 309, THE GUAM FOREIGN INVESTMENT EQUITY ACT

H.R. 309 provides the Government of Guam with the authority to tax foreign investors at the same rates as states under U.S. tax treaties with other countries.

The legislation is direly needed, given Guam's struggling economy and 15% unemployment rate, which is more than three times the national average. Unlike the rest of the nation, which has experienced unprecedented economic growth and low unemployment rates the last few years, Guam's economy and tourism industry continues to recover from the Asian financial crisis, given our island's close proximity to Asia.

Moreover, given the impact of the new federal tax cut law on the Government of Guam's revenue stream, because Guam's tax code "mirrors" the U.S. tax code, I believe that H.R. 309 is also good public policy. The revenues from foreign investment that this legislation will generate for the Government of Guam is one way to ameliorate the reduction in local revenues anticipated under the new tax cuts.

Currently, foreign investors in Guam are taxed at 30% in Guam. That is because under the U.S. Internal Revenue Code, there is a 30% withholding tax rate for foreign investors in the United States. Since Guam's tax law "mirrors" the rate established under the U.S. Code, the standard rate for foreign investors in Guam is 30%. Under U.S. tax treaties, it is a common feature for countries to negotiate lower withholding rates on investment returns. Unfortunately, while there are different definitions for the term "United States" under these treaties, Guam is not included. As an example, with Japan, the U.S. rate for foreign investors is 10%. That means while Japanese investors are taxed at a 10% withholding tax rate on their investments in the fifty states, those same investors are taxed at a 30% withholding rate on Guam.

While the long-term solution is for U.S. negotiators to include Guam in the definition of the term "United States" for all future tax treaties, the immediate solution is to amend the Organic Act of Guam and authorize the Government of Guam to tax foreign investors at the same rates as the fifty states since the U.S. cannot unilaterally amend treaties to include Guam in its definition of United States. Guam's Organic Act has an entire tax section that mirrors the U.S. tax code.

Other territories under U.S. jurisdiction have already remedied this problem or are able to offer alternative tax benefits to foreign investors through delinkage, their unique covenant agreements with the federal government, or through federal statute. Guam, therefore, is the only state or territory in the United States which is unable to provide this tax benefit or to offer alternative tax benefits for foreign investors.

The Congressional Budget Office has estimated that the legislation would not have any effect on the federal budget. It simply allows the Government of Guam to lower its withholding rate for foreign investors. While the bill will result in the loss of revenue for the Government of Guam in the short term, those losses are expected to be offset by the generation of increased tax revenues through increased foreign investments in the long term. 75% of Guam's commercial development is funded by foreign investors.

H.R. 309 incorporates changes recommended by the Treasury Department to ensure that a foreign investor who benefits from this legislation cannot simultaneously benefit from tax rebates under Guam territorial law.

I urge support for both H.R. 309 and H.R. 308 from the members of the Senate Energy and Natural Resources Committee.

Senator AKAKA. Thank you very much for your testimony. I want to tell you, you covered it so well I do not have any questions for you.

[Laughter.]

Senator AKAKA. But I have a feeling for what you and the people of Guam want, and as I reiterate, you have my support, and we will take it as quickly as we can forward.

Mr. UNDERWOOD. Well, I appreciate that very much, Senator, and of course today, during the month of July is the fifty-seventh anniversary of the liberation of Guam, so it is very significant that we had this hearing at this time. Unfortunately, I will not be able to be here for the rest of the hearing. My wife is having a knee operation and my marriage is at stake, so I think that is even more important than these two bills.

Senator AKAKA. Congressman Underwood, please relay my aloha to your wife, and best wishes for a full recovery.

Mr. UNDERWOOD. Thank you very much.

Senator AKAKA. Thank you.

Hannah Gutierrez, representing the Governor of Guam, is the witness in this next panel. Hafa adai, Hannah.

Ms. GUTIERREZ. Hafa adai, Senator.

Senator AKAKA. Welcome to the committee. I know your dad very well, the Governor of Guam, and welcome you here to the committee. I want you to feel as comfortable as you can.

Ms. GUTIERREZ. Thank you.

Senator AKAKA. And tell us what you think about the bills that are before you. I also want you to know that your full statement will be placed in the record, so please feel free to summarize your remarks.

STATEMENT OF HANNAH GUTIERREZ, REPRESENTING THE GOVERNOR OF GUAM; ACCOMPANIED BY CLIFFORD GUZMAN, DIRECTOR OF THE BUREAU OF PLANNING; AND JOHN WITT, LEGISLATIVE DIRECTOR, THE GOVERNOR OF GUAM'S WASHINGTON OFFICE

Ms. GUTIERREZ. Thank you very much, Mr. Chairman, for holding this hearing. Thank you also to Chairman Bingaman and Senator Murkowski for their support as well. My name is Hannah Gutierrez. I am here this morning representing Governor Carl Gutierrez. I am very honored to be here this morning to present his testimony on H.R. 308, the Guam War Claims Review Commission Act.

I am joined here by Mr. Clifford Guzman, the director of the Bureau of Planning for the Government of Guam, Mr. John Witt, the Governor's Washington staff, my sister, Carla Stahl, my niece, Lilly. I would like to thank you for entering the Governor's full testimony into the record. I will not read his testimony. I would like to give a short summary of a few highlights of his written statement.

Let me first say that Governor Gutierrez supports H.R. 308 and the establishment of a commission to review Guam's War claims experience. This is a long overdue issue. If there is to be any resolution to this long overdue issue, it is going to require action from Congress.

The historical record is well-established. Congressman Underwood has established that record very well. I would just like to say that the Hawkins commission report is very significant in that it reviewed and evaluated these problems at the time that they were

happening. Congress did not heed the recommendations of the commission. Had they done so, these injustices would have been resolved long ago, yet here we are, 57 years after the liberation of Guam, and the people of Guam still seek resolution to their war claims.

I would like to call attention to the Governor's testimony, and I would like to read a small portion of it. "This is the heart of the issue, whether the people of Guam were treated with the same fairness accorded to other Americans for war claims in the aftermath of World War II. What happened on Guam during the enemy occupation of our island is regrettable and tragic. How Guam has been treated for war claims requires redress.

"Let us review briefly the record of what happened on Guam, not to open old wounds, but to remind this Congress about the magnitude of the injustice. During the occupation of Guam from December 8, 1941, to July 21, 1944, our people were subjected to torture, forced labor, forced marches, internment, beatings, and death. Every single Chamorro family on Guam has a parent, uncle, aunt, sibling, or close relative that was subjected to the brutal occupation."

The Governor continues, "for my family, the atrocities of war are very close to home. Just 5 days before the landing of the Americans, my future wife, Geri Torres, then a 15-month-old infant, was passed from her mother's arms to her father's during a forced march. Hannah Chance Torres, Geri's mother, had been so badly beaten by soldiers that she could barely endure the march to the concentration camp. Hannah did not live through her first night of internment at Manengon. This occupation was all the more brutal because of the loyalty of the people of Guam to the United States. It is not ancient history for us. It is a living history.

"While many survivors of the occupation have since passed away, the memory of the atrocities is kept alive by the thousands of witnesses who still live, and their descendants, who have been told the story of the occupation. We cannot close the door on this part of our history until the history of war restitution is resolved."

I am Hannah Torres' granddaughter and her namesake. I am 26 years old, just one year younger than she was when she was killed. That 15-month-old-infant, the same age as my niece, Lilly, is my mother. For all of us on Guam, the story of the occupation is a personal story, and it is a personal tragedy.

Our story is nothing special. It is the story of thousands and thousands of families on Guam. It is the story of our parents, in my case my grandparents, and when the Governor says that it is a living history, it truly is. It lives on for those who survived the concentration camps and survived the beating, for those who watched their family and their loved ones beaten and killed, for those like my mom who will never know their loved ones because of the occupation, and it lives on through my generation as well, because of their stories.

We cannot be true to who we are as a people if we forget our heritage and if we forget our tragic history. The sad part of it all is that we feel that Congress does not have a sense of the injustices that we have suffered, that our sacrifices in the occupation, and the brutality that was visited on us by our oppressor is trivial, or some-

thing that can easily be forgotten. It will never be forgotten, because this is our family, our fathers, our mothers, our grandparents.

As I said earlier, my family's tragedy is no different from those suffered by many other families on Guam, those who were forced into forced labor, marches, beatings, and death.

We were civilians who were beaten and executed, forced into concentration camps, decimated by hunger, disease, and brutality, yet we are proud Americans, and we would not be seeking redress from the U.S. Government if the door had not been closed to reparations from Japan because of the treaty of peace with Japan. This is just not right, and only Congress can make this right.

I would like to thank you for supporting H.R. 308, and if there are any questions or concerns about H.R. 309, Mr. Clifford Guzman is here to address those concerns.

Thank you very much, and thank you again for giving us the opportunity to be heard this morning.

[The prepared statement of Governor Gutierrez follows:]

PREPARED STATEMENT OF HON. CARL T.C. GUTIERREZ, GOVERNOR OF GUAM

Mr. Chairman and Members of the Committee: Si Yu'os Ma'ase (thank you) for holding this hearing on H.R. 308, the Guam War Claims Review Commission Act and on H.R. 309, the Guam Foreign Investment Equity Act. The People of Guam are grateful for the expedient manner in which these bills are being considered by the Committee, and we commend Senator Akaka and Senator Murkowski for their leadership in the Senate on Guam's issues.

H.R. 308, THE GUAM WAR CLAIMS REVIEW COMMISSION ACT

We support H.R. 308 and the establishment of a commission to be appointed by the Secretary of the Interior to review the facts and circumstances surrounding the administration of the Guam Meritorious Claims Act of 1945 (Public law 79-224) and the effectiveness of such Act in addressing the war claims of the American nationals residing on Guam between December 8, 1941 and July 21, 1944.

The Guam War Claims Review Commission will hold hearings, gather information from federal and local sources, and issue a report to the Secretary of the Interior and to the Congress on its findings within nine months. This is an ambitious timetable, but we believe that it can be met and that resolving Guam's war claims in a timely manner is the right goal for the Commission.

The Commission shall 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 similarly affected United States citizens or nationals in territory occupied by the Imperial Japanese military forces during World War II. The Commission shall advise on any additional compensation that may be necessary to compensate the People of Guam for death, personal injury, forced labor, forced march and internment.

This is the heart of the issue—whether the people of Guam were treated with the same fairness accorded to other Americans for war claims in the aftermath of World War II. What happened on Guam during the enemy occupation of our island is regrettable and tragic. How Guam has been treated for war claims requires redress.

Let us review briefly the record of what happened on Guam, not to open old wounds, but to remind this Congress what the magnitude of the injustice is. During the occupation of Guam from December 8, 1941 to July 21, 1944, our people were subjected to torture, forced labor, forced marches, internment, beatings and death. Every single Chamorro family on Guam has a parent, uncle, aunt, sibling or close relative that was subjected to the brutal occupation.

For my family, the atrocities of war are very close to home. Just five days before the landing of the Americans my future wife Geri Torres—then a 15 month old infant—was passed from her mother's arms to her father's during a forced march. Hannah Chance Torres, Geri's mother, had been so badly beaten by soldiers that she could barely endure the march to the concentration camp. Hannah Torres did not live through her first night of internment at Manengon.

This occupation was all the more brutal because of the loyalty of the people of Guam to the United States. It is not ancient history for us, it is living history. While many survivors of the occupation have since passed away, the memory of the atrocities is kept alive by the thousands of witnesses who still live and their descendants who have been told the story of the occupation. We cannot close the door on this part of our history until the issue of war restitution is resolved.

After Guam was liberated by the American forces, wholesale displacement of our people continued as villages were relocated to make room for much needed military bases to continue the war effort and ensure Imperial Japan's defeat. In 1945 and 1946, while our people were still displaced and resettlement continued, the United States Navy administered a war claims program that was seriously flawed and that intentionally downplayed the suffering of our people. Naval administrators focused on material damage, asking such questions as, "How many coconut trees did you lose?" A vast number of people, due to the displacement, were never contacted by Naval administrators of the war claims program.

In August 1950, the Organic Act of Guam was passed by Congress conferring United States citizenship on Guam's residents. On September 8, 1951, the United States signed the Treaty of Peace with Japan. The timing of these two events was unfortunate. The Treaty of Peace precluded direct claims against Japan by American citizens. In testimony before the Senate, Secretary of State John Foster Dulles explained that it would be Congress's responsibility to provide for those Americans who have not been satisfied in the war claims against Japan. In 1962, Congress amended the War Claims Act of 1948 to reopen claims for victims of World War II, due to pressure from veterans groups. The 1962 amendment (Public Law 87-846) did not include Guam.

In 1947, a commission was sent by the Secretary of the Navy James Forrestal to Guam to review the Navy's handling of the war claims. It concluded that the Navy's administration of the war claims was inadequate and an embarrassment to the United States in light of the loyalty of the people of Guam. The Hopkins Commission (chaired by Ernest M. Hopkins) recommended that Congress reopen war claims for the people of Guam.

In the years since these events, a number of survivors of the Occupation of Guam have died. In 1995, Mrs. Beatrice Flores Emsley passed away. She was an ardent and eloquent spokeswoman for those seeking war restitution justice, and she had testified to Congress on two occasions. Her story is incredible. In the closing days of the occupation, Mrs. Emsley survived an attempted beheading and was left for dead in a mass grave. She awakened a couple of days after she passed out, and crawled out of the mass grave to safety. She was never compensated for her injuries, and, as I mentioned earlier, she died before Congress ever took action to redress this grievance. We have other stories of heroism and suffering. We have thousands of stories.

All of which brings us to today's hearing. Congress seems bound by its inertia on this matter. It is almost as if there is institutional amnesia about its role in denying war reparations to Guam and its sole responsibility to resolve this matter. Because of the United States Government's peace treaty with our former oppressors, and Congress's own negligence in amending the War Claims Act, that justice can only come from Congress.

I urge Congress to pass H.R. 308 and to establish the Commission envisioned in this bill to get the process started for a resolution of the war claims issue. We have no time to spare if we want the survivors of the occupation to see justice in their lifetime. The Commission can help us educate Members of Congress on an unfulfilled moral duty and be instrumental in the future passage of legislation that fulfills the nation's responsibility to the people of Guam.

Mr. Chairman, we support H.R. 308 and we again thank you for your leadership on this issue.

H.R. 309, THE GUAM FOREIGN INVESTMENT EQUITY ACT

Si Yu'os Ma'ase (thank you) for holding this hearing on H.R. 309, the Guam Foreign Investment Equity Act. This is an important piece of legislation that is a priority for Guam's economic recovery. We are grateful that you have accommodated a hearing on H.R. 309 and that the Committee on Energy and Natural Resources is helping us to address our economic situation.

The Guam Foreign Investment Equity Act will amend the Organic Act of Guam to define that for income tax purposes, the tax rate shall be the same as the rate that would apply if Guam were treated as part of the United States for purposes of treaty obligations. This provision would not apply to tax payers whose taxes are rebated under Guam law.

H.R. 309 levels the playing field for Guam so that we may compete effectively for foreign investors. Guam would no longer be disadvantaged by any favorable tax treaty provisions that currently apply only to the fifty states and the other four territories. H.R. 309 removes the disincentive that exists that discourages foreign investment in Guam vis-à-vis investing in another state or territory. Furthermore, H.R. 309 would ensure Guam's inclusion in any tax treaty negotiated between the United States and our Asian neighbors. As America in Asia, Guam stands to benefit whenever tax treaties are enacted that encourage investment, trade and new economic activity.

Guam's economy is essentially an Asian economy. Our visitor industry relies heavily on visitors from Japan, Korea, the Philippines, Thailand, Taiwan and China. Our visitor industry infrastructure includes hotels, resorts and tourist attractions that represent substantial investments of foreign capital. These investments speak to the confidence of foreign businesses in Guam's future.

While we have been impacted by the Asian economic crisis, we have weathered the crisis and we have made the necessary adjustments to maintain our quality of life. We are anticipating that we will exceed 1.5 million visitors this year, and that modest growth in visitor arrivals will continue. A strong visitor industry encourages foreign investment.

To diversify our economy, we have been actively promoting Guam as a telecommunications hub for American companies doing business in Asia and for Asian companies hoping to expand into the American market. Guam is literally the crossroads of Asia, and our location makes us an ideal choice for new telemarketing ventures.

H.R. 309 gives us a new marketing tool that would help us to promote Guam in Asia. It allows us to offer tax benefits that many Asian businesses may already be familiar with, while preserving our ability to market investment incentives unique to Guam. Most importantly, H.R. 309 would remove any disadvantage that may be perceived by a foreign investor when comparing Guam with other potential investment opportunities.

This legislation restores fairness to the income tax code. Since Guam is a mirror code jurisdiction, it only makes sense that Guam should mirror whatever advantages the U.S. Code offers to foreign investors.

We have been doing all that is within our means to create the conditions for economic growth. In the past few years, we were challenged by the downsizing of the military presence on Guam and the Asian economic crisis. While these events were beyond our control, the federal government seems to be disinterested in our economic condition. At a minimum, we would expect the federal government to address its funding shortfall in the Medicaid program due to the Medicaid cap in effect in all the territories. In a time of unprecedented federal surpluses, it is incomprehensible to us that Guam must carry the lion's share of Medicaid funding, a federal entitlement program that is in effect an unfunded federal mandate.

We believe that the federal government ought to do more to address the Compact-impact issue, both in direct reimbursement to Guam and in addressing the impact of unrestricted immigration to Guam. This issue has assumed an urgency in recent years as our economy has been weighted down by 15% unemployment. The Government of Guam estimates over \$150 million in unreimbursed Compact-impact costs from 1986 to 2000.

This Committee, and in particular, Senators Akaka and Murkowski, has been supportive of Guam's efforts to have excess federal lands returned to our people. The return of lands no longer needed by the military helps spur private investment on Guam, and returns those idle lands to productive use. This is an issue that requires constant vigilance, because, it seems, when it comes to Guam's land, there is always an inordinate amount of interest by federal agencies.

It is unfortunate that the recent federal tax cuts made no accommodation for those mirror code jurisdictions that have been negatively impacted by a tax cut. We have no surplus from which to give a rebate. Any rebate will have to be paid for by curtailing government services, enlarging class sizes, reducing health care coverage, and making choices that are the result of decreased government revenues. It would have been better had Congress also appropriated the funds for the tax cuts in mirror code jurisdictions that have no surplus.

Federal policy does have a direct effect on our lives and our standard of living. We welcome the federal policy change that H.R. 309 represents, because it means not only that we have another tool to encourage investment in Guam, it also means that Congress is interested in assisting us by making policies that would provide economic relief.

We are pleased that H.R. 309 also represents an ongoing discussion between Guam and the Congress over what federal policies have been harmful to us. Most

importantly, we hope that we remain engaged on these economic issues. H.R. 309 is not a cure-all nor is it an immediate remedy. It is merely a tool that we find useful and necessary in bringing investments to Guam and encouraging economic growth. In that sense, it is very helpful and we hope to see this bill become law.

Senator AKAKA. Well, thank you very much, Hannah. You have a bright future ahead of you.

Ms. GUTIERREZ. Thank you.

Senator AKAKA. I am jealous because you are 26. I wish you well when you go on for your future education in law, and you have certainly demonstrated yourself well before the committee.

Ms. GUTIERREZ. Thank you very much.

Senator AKAKA. I thank you very much for that.

Ms. GUTIERREZ. Thank you.

Senator AKAKA. Do you have any statements to make, Mr. Guzman? I have a question for you later.

Mr. GUZMAN. All right, sir. Certainly the only statement I would like to say is to thank you for your continuing support and advocacy for Guam issues, particularly with Federal access lands as well as the compact impact, your attention to H.R. 309, the Guam Foreign Investment Equity Act. It is about time, and we are very pleased to be here and very proud to be part of this process, part of the American process, but certainly if there are just questions you would like to have answered on it, I have statements but I know that all the different colors have gone out.

Senator AKAKA. Thank you very much. Hannah, so I do not forget, please convey my aloha to your mother.

Ms. GUTIERREZ. I will, thank you.

Senator AKAKA. And to your dad.

Ms. GUTIERREZ. I will, thank you.

Senator AKAKA. I have a couple of questions for you, Hannah. Should H.R. 308 become law, what qualifications do you believe commissioners should possess?

Ms. GUTIERREZ. May I refer these questions to John?

Mr. WITT. Mr. Chairman, I am the Governor's legislative director in Washington. We believe that the general statement in H.R. 308 is adequate, and that is, a familiarity with the issue and with the history. Certainly, for the Secretary's nominations we would hope that there would be people of stature so that there would be some weight to the report of the commission, and of course with the Governor's nominations we would anticipate local Chamorros who could bring some of the institutional history to the commission.

Senator AKAKA. Thank you very much for that, and thank you, Hannah. If you want to make any further statements, you are welcome to do that, but my next question is to Mr. Guzman, who is the Director of Guam's Bureau of Planning.

Mr. GUZMAN. Yes, sir.

Senator AKAKA. Mr. Guzman, do you believe the Federal Government could be doing more to help Guam's economy? If so, please elaborate.

Mr. GUZMAN. Well, thank you for that question. I know our time is short, and I will try to make this as brief as possible, but actually I do believe there is quite a bit more, beyond just H.R. 309. I think H.R. 309 is a very wonderful step. It is a first step forward

for us in trying to get some parity with the U.S. tax treaties across the world.

Certainly this, again, to us represents a first positive step. There are many other issues out there. As you know, our economy is an Asian economy, and we market ourselves as Asian American, and we are very proud of that. It is a very positive step for us.

It does bring in more investment opportunities, it does bring in more people, and tourism being our main economic engine it helps us in marketing that, but however, on the social side we do have some problems. On the budgetary side we do have some problems. As you are quite aware, Hawaii has experienced the same thing. There has been reduced visitor industry spending, particularly from Japan, Korea, and Taiwan, which is our mainstay, and that has decreased our revenues on our general fund.

Added to that is, although we embrace it wholeheartedly, has been the tax relief Act that was recently passed. We do not enjoy the surpluses that the U.S. mainstream economy does. We are an Asian economy, and so therefore that becomes more of a direct hit to us.

Basically, it going to cost us about \$31 million out of that general fund, then we have got Medicaid caps and welfare caps. We match \$5 million that is provided and capped by the Federal Government. In Medicaid alone it costs us \$28 million above that \$5 million that comes out of our own treasury, if you will, our general fund. The same thing with welfare. Welfare costs are increasing. It looks like we are going to be at \$30 million this year.

So the total would be \$35 million, which includes the \$5 million contribution from the Federal Government, and then the EITC, the earned income tax credits, these are generally tax credits that are usually deducted and taken and paid for out of social security and Medicaid, but when we mirrored the U.S. income tax code, unfortunately some of the language did not translate as easily, or at all, and so therefore that is another \$20 million a year very easily that we have to contend with, as well as educational tax credits.

Again, we do not enjoy the surpluses or the opportunities that the U.S. economy in the 50 States do because of that robust economy, and so therefore that becomes another problem for us.

There is a whole litany of things that occurs. Of course, we do enjoy Federal grants, and we appreciate that, and we work very hard to try to fill those grants to the best of our ability. However, in some of those grants the matching formulas are a lot different for the territories than they would be for any State, and so therefore we are subject to quite honestly whatever is left over after the States have taken their share, and our matching is generally higher in most of the formula grants than it would be for any State out there, and so there is a whole litany of things that we have to deal with.

We appreciate the interest, again, that the U.S. military has given to Guam. We are doing everything we can to encourage that. We are basically a two-horse town, tourism and military, and we are doing our best now to diversify our economy. The bill, H.R. 309, is going to give us more tools to be able to do that, to expand into telecommunications and financial services, and we are working our best to do that.

However, I think on the general side our concern is that this year alone in our general fund budget we are going to have to slash about \$91 million out of \$468 million, which is a large chunk, and unfortunately it is forcing us to consolidate schools, so as opposed to following the U.S. national trend to reduce class sizes, we have to increase class sizes.

The compact impact, which costs us about \$31.5 million a year, again those are things, costs that we have to bear, and again your support on that has been marvelous, and we appreciate that support and the attention that you have given it.

There are a whole litany of pressures that are brought to bear on our economy that are outside of our control, and any opportunity we have to bring these to light in any questions such as yours that are brought up in these kinds of forums are very much appreciated, and certainly we are here to provide any other additional information, either at this forum or any forum beyond this, or even in just discussions amongst staff members, or whatever the case might be.

But suffice it to say that just with compact impact, the tax relief act, the issues of welfare and the issues of caps and Medicaid caps, it is close to about \$100 million, and basically, although they are positive, we have to consider them unfunded Federal mandates at a time when our economy is taking a major hit because of the decrease in visitor spending, and so it is a very difficult time. We are doing the best that we can with the tools that we have.

H.R. 309 is going to be provide us more tools, and we appreciate any power tools you can send our way, but again, any time that we have an opportunity to express some of these things we certainly look forward to it.

I think that is quite a bit.

Senator AKAKA. Thank you very much. You have elaborated very well. I thank you, Mr. Guzman, and also Hannah Gutierrez for your statements, and thank you for appearing before the committee this morning.

Mr. GUZMAN. Thank you very much.

Senator AKAKA. Mr. Christopher Kearney, Deputy Secretary of Interior for Policy and International Affairs, is the next witness. Will you please come to the table?

Mr. Kearney, welcome to the committee.

STATEMENT OF CHRISTOPHER KEARNEY, DEPUTY ASSISTANT SECRETARY FOR POLICY AND INTERNATIONAL AFFAIRS, DEPARTMENT OF THE INTERIOR

Mr. KEARNEY. Good morning. Thank you, Mr. Chairman.

Senator AKAKA. We will include your full statement on each bill in the hearing record, so please feel free to summarize your remarks.

Mr. KEARNEY. I will. Thank you very much.

Senator AKAKA. Please proceed with your statements in both bills.

Mr. KEARNEY. Yes, sir.

Senator AKAKA. In whatever order you would like, and then we will go to questions from the committee. Thank you.

Mr. KEARNEY. Thank you, Mr. Chairman. Good morning. It is a pleasure for me to appear before you today to discuss the administration's view on H.R. 308, the Guam War Claims Review Commission Act, and H.R. 309, the Guam Foreign Investment Equity Act. I will first discuss H.R. 308, a little bit of background, some of which you have heard today, but I think it is valuable for us to revisit some of it as well.

Hours after the December 7, 1941 attack on Pearl Harbor, the Japanese attacked and captured Guam. The people of Guam suffered greatly, yet they remained loyal to the United States, often risking their own personal safety to aid the American effort.

In recognition of the suffering of these U.S. nationals, the first War Claims Act passed by Congress was for Guam. It authorized payments not to exceed \$5,000 for damage, loss, or destruction of public or private property, and if a claim exceeded \$5,000, or was for death or personal injury, it was to be forwarded to the Congress for payment out of appropriations.

In early 1947, a delegation headed by Ernest Hopkins was sent to assess the war claims payment situation on Guam. The Hopkins delegation called for legislation to pay all claims "on the spot" in Guam, including death and personal injury, raising the limit to \$10,000, and recommended further relief for any person who had voluntarily reduced his claim to \$5,000. However, no action was taken on the Hopkins report.

A year later, the Congress passed the War Claims Act of 1948 to compensate civilian American citizens. Residents of Guam, however, were nationals at the time, and not citizens, thus, the 1948 Act did not apply to most World War II residents of Guam.

The 1962 amendment to the War Claims Act of 1948 provided for payments to "nationals of the United States" except the island of Guam. So what we have here is a patchwork of war claims laws focusing on different groups of persons at differing times, with relief for differing categories of suffering.

The administration supports H.R. 308, with a change that I will address shortly. I want to take just a moment to talk about what we see as the central reason for the legislation, and then as reflected in item 4 of section 5 of the bill, which calls for the commission to determine whether or not there is parity of war claims paid to residents of Guam, as compared to awards paid to other similarly affected U.S. citizens.

By examining the payments under the various acts, the commission will be able to determine how claimants on Guam fared vis-à-vis U.S. citizens. We will have, then, the answer to the fairness question.

Now I would like to turn to item 5, or section 5, which is the area of concern for the administration. The term, people of Guam, as used in the legislation, and the listing of categories in item 5 would introduce new language not included in existing World War II War Claims Acts. Moreover, item 5 is indeed redundant of item 6, which directs the commission to issue a report, including any comments and recommendations for actions.

If the commission believes that additional compensation should be paid based on analysis of World War II claims laws and information from Guam, it can include such a recommendation in its re-

port. Therefore, the administration respectfully submits that item 5 of section 5 of H.R. 308 be removed from the bill.

I will turn now to H.R. 309, the Guam Foreign Investment Equities Act. Foreign investors who do not reside in Guam contribute significantly to the economy. Such investors pay tax to Guam at a rate of 30 percent on their gross amount of interest, dividend, rent, and royalty, and other periodic income derived from their investments. However, with respect to investment within the 50 States, foreign nonresident investors pay U.S. tax, but the rate of such tax is often reduced significantly. This disparity in tax rates has proven to be a disincentive for investment in Guam by foreign investors.

Under the bill, foreign investment in Guam would be subject to tax at the rate that would apply were Guam covered by the U.S. tax treaties. The statute would, in effect, level the playing field for Guam and bolster its economy, which we support. The administration supports the enactment of H.R. 309.

That concludes my statement. I would be happy to answer any questions that you might have.

[The prepared statement of Mr. Kearney follows:]

PREPARED STATEMENT OF CHRISTOPHER KEARNEY, DEPUTY ASSISTANT SECRETARY
FOR POLICY AND INTERNATIONAL AFFAIRS, DEPARTMENT OF THE INTERIOR

Mr. Chairman and members of the Committee, it is a pleasure for me to appear before you today to discuss the Administration's views on H.R. 308—the Guam War Claims Review Commission Act, and H.R. 309—the Guam Foreign Investment Equity Act.

H.R. 308—GUAM WAR CLAIMS REVIEW COMMISSION ACT

H.R. 308, the Guam War Claims Review Commission Act, would establish a five-member commission to: (1) examine whether or not Guam War Claims compensation paid to residents of Guam was on parity with compensation provided to United States citizens or nationals in territory occupied by the Imperial Japanese military forces during World War II, (2) advise on additional compensation for the people of Guam, and (3) submit a report, including comments and recommendations, within nine months to the Secretary of the Interior and relevant congressional committees.

Background

Hours after the December 7, 1941 attack on Pearl Harbor, the Japanese attacked and captured Guam. The Japanese were in full control of Guam until 1944. The people of Guam suffered during the occupation. Yet, they remained loyal to the United States, often risking their own personal safety to aid the American war effort and American military personnel left on the island.

In recognition of the suffering of these United States nationals, the first war claims act passed by the Congress was for Guam. It was called the Guam Meritorious Claims Act of November 11, 1945. It authorized the formation of a claims commission to make payments not to exceed \$5,000 for damage, loss or destruction of public or private property resulting from hostilities or hostile occupation or non-combat activities of United States armed forces or civilian personnel. If a claim exceeded \$5,000 or was for death or personal injury, it was to be forwarded to the Congress for payment out of appropriations.

In early 1947, a delegation headed by Ernest M. Hopkins was sent by Secretary of the Navy James V. Forrestal to assess the war claims payment situation on Guam, which was administered at the time by the Navy. The March 25, 1947 Hopkins delegation report stated:

The Guamanian people rendered heroic service to the Nation in the recent war and displayed great courage, fortitude and loyalty. Such services, equivalent to service on the field of battle, should be recognized both collectively and in specific cases, individually.

The Hopkins delegation called for legislation to pay all claims "on the spot" in Guam, including death and personal injury, and raising the limit to \$10,000. The

Hopkins authors also recommended further relief for any person who had voluntarily reduced his claim to \$5,000. No action was taken on the Hopkins report.

A year later, the Congress passed the War Claims Act of 1948. Among other provisions was one to compensate "civilian American citizens" who were captured at Midway, Guam, Wake Island, the Philippine Islands, or any territory or possession of the United States attacked or invaded by the Imperial Japanese Government. Payments were made to persons who were interned by the Japanese and to widows and children of persons who died in internment. Virtually all the residents of Guam were "nationals" of the United States at that time, but not "citizens." Thus, the 1948 Act did not apply to most World War II residents of Guam.

The 1962 amendment to the War Claims Act of 1948 provided for payments to "nationals of the United States" for loss, destruction, or damage to property "except the island of Guam." The 1962 amendments did not compensate for death or personal injury, except on the high seas.

What we have here is a patchwork of war claims laws focusing on differing groups of persons at differing times with relief for differing categories of suffering.

Administration Position

The Administration supports H.R. 308, with a change that I will address shortly.

We believe that the central reason for this legislation is reflected in item (4) of section 5 of the bill. Item (4) calls for a commission to determine whether or not there was parity of war claims paid to residents of Guam as compared with awards paid to other similarly affected United States citizens or nationals in territory occupied by the Imperial Japanese military forces during World War II. Examination of the history of war claims payments is warranted given questions involving the administration of the Guam Meritorious Claims Act and subsequent claims acts. By examining the payments under the various acts, the commission will be able to determine how claimants on Guam fared vis-à-vis United States citizens and other nationals with regard to different categories of suffering and deprivation for which awards were made.

I would now like to turn to item (5) of section 5, the one key area of concern we have with the bill. The term "people of Guam" and the listing of categories in item (5) would introduce new language not included in existing World War II war claims acts. Moreover, item (5) is redundant of item (6), which directs the commission to issue a report, "including any comments and recommendations for action." If the commission believes that "additional compensation" should be paid, based on analysis of the World War II war claims laws and information from Guam, it can include such a recommendation in its report. The Administration, therefore, suggests that item (5) of section 5 of H.R. 308 be removed from the bill.

H.R. 309—GUAM FOREIGN INVESTMENT EQUITY ACT

I would now like to turn to H.R. 309, the Guam Foreign Investment Equity Act.

Background

Foreign investors, who do not reside in Guam, contribute significantly to the economy of Guam. Under current United States law, such investors pay tax to Guam at a rate of thirty percent on the gross amount of interest, dividend, rent, royalty and other periodic income derived from their investments. With respect to investment within the fifty states, foreign non-resident investors pay United States taxes, but the rate of such tax is often reduced significantly under one of the over sixty income tax treaties to which the United States is a party. This disparity in tax rates has proven to be a disincentive for investment in Guam by foreign investors.

There are three ways to lessen the taxation of foreign investors who do not reside in Guam. The first would be the re-negotiation of current United States treaties to cover Guam. Such an undertaking would be a time-consuming and expensive governmental task. Second, under the 1986 tax act, Guam could reduce its tax rates if it chose to de-link its tax system from the Federal system. Guam has chosen not to de-link. Third, the Congress, by law, can assign the benefit of the tax treaties to foreign investors on Guam.

This last alternative is embodied in H.R. 309. Under the bill, foreign investor income would be subject to tax at the rate that would apply were Guam covered by United States tax treaties. H.R. 309 would level the playing field for Guam, and bolster its economy.

Administration Position

The Administration supports the enactment of H.R. 309.

Senator AKAKA. Thank you very much for your statement. I have a few questions for you. The issue of Guam war claims is not a new issue. Despite a new administration, I hope that I can count on the Interior Department to continue the progress made on this issue over the years, given the fact that many of Guam's World War II generation have already passed on.

The Department of the Interior is the lead agency on insular areas. Given Guam's economic state, the Guam Foreign Investment Equity Act will greatly assist Guam's economy. Apart from support for this bill, what else can the Interior Department do to work with the Government of Guam and other Federal agencies to assist Guam in this economic recovery?

Mr. KEARNEY. Well, you mentioned something in the part of your question which goes to the heart of my answer. We are now just getting our team in place. Secretary Norton has now—as she has said, is now no loner home alone. We now have a number of political appointees in place, including the Assistant Secretary for Policy Management and Budget, who is now in her third day, who has responsibility for insular areas.

We are looking at a range of policy issues, including matters related to Guam and the other areas, and we are going to look very closely to see what other areas there are that we can be helpful, and we are going to try to be as exhaustive in that review and advocacy as we can. I do not have a specific proposal for you at the moment, but I can commit to you that we are interested and desiring of pursuing as many opportunities for Guam and the other islands as we can, and we continue to look for every opportunity, and we will work with you in the future too, as we come across those opportunities.

Senator AKAKA. Thank you for that response. When will the administration make a decision on whether or not to continue the Interagency Group on Insular Areas?

Mr. KEARNEY. That is something under review at the moment. That is something that I am taking a look at. I would hope that would be in the next several weeks. I would be less than candid if I gave you a specific date.

Senator AKAKA. Well, I have no further questions for you, Mr. Kearney. I want to thank you very much for appearing here before the committee with your testimony, and I look forward to working with you. Thank you very much for your response.

Mr. KEARNEY. As do I. Thank you, Mr. Chairman, for holding this hearing.

Senator AKAKA. Thank you. Our next panel is Mr. Tom Michels from Guam, and Hon. Ben Blaz, former delegate from Guam, and I want to welcome both of you. Hafa adai. I am glad to have you here. Before I ask my friend Senator Murkowski for any statement he has, I want to welcome you, Ben Blaz in particular, because I served with you in the House, and I hope your family is well. It is so good to see you again.

Senator Murkowski.

**STATEMENT OF HON. FRANK H. MURKOWSKI, U.S. SENATOR
FROM ALASKA**

Senator MURKOWSKI. Thank you very much, Mr. Chairman. I appreciate you holding this hearing. As you know, you recall, you and I have had an opportunity to hear first-hand the circumstances surrounding the reason for this hearing, and I want to also comment on the qualifications of the nominee for the Department of Energy.

We have several distinguished witnesses. You have already had the introduction of Congressman Underwood. I reviewed the information submitted by the nominee, who has met with our staff. I think she is extremely well-qualified.

On the two measures, I have a series of questions which I will submit to the administration, but I look forward to working with you, the delegate, the Governor and others as we consider these measures. I am certainly grateful for the courtesies the Governor extended to both of us when we did visit Guam a few years ago. I hope that we can visit again.

I think it is fair to say that too often we take for granted the relationship we have with our territories, and as a consequence I think it is very appropriate that from time to time, particularly your proximity from Hawaii, that we give them an opportunity to be heard from, and I had a conversation with the Governor yesterday with regard to testimony that has already occurred.

Unfortunately, I had a physician's appointment of longstanding, and when you go to the physician, you know, you never get out on time, and you do not start on time. I do not know whether the Senate schedule is patterned after the physician's office or if it is the other way around, but in any event, the Governor's daughter had—her grandmother, as you have noted, died as U.S. forces were liberating Guam. Her mother was a child.

She is now in law school, and we wish you well, and I understand you are named after your grandmother, so I did want to make that acknowledgement, Mr. Chairman, and tell you how important I think it is that we try and be more responsive to the concerns and needs of our territories.

You and I have both shared the experience of being territories, Alaska and Hawaii, so we know first-hand that oftentimes it is a distant government that is unresponsive to the needs, and really does not understand, if you will, that the people really have no other relief than to look to the Federal Government and those that have the responsibility in the Federal Government, both the House and Senate, to provide representation and the voice of the territories.

I look forward again to assisting you as you proceed, and wish you and the nominees and the witnesses well. Thank you.

Senator AKAKA. Thank you very much, Senator Murkowski. As you know, Senator Murkowski and I are close friends. We have traveled somewhat together, and we have gone to Guam together, so we have been able to identify some of the problems and some of the issues that are out there in the Pacific, and I will tell you that he is a champion in helping the Pacific area out as well as other parts of our country, but I want to wish him well, and I hope the doctor had something good to say about you.

Senator MURKOWSKI. Thank you. He said we should go back to Guam.

[Laughter.]

Senator AKAKA. I would agree with you. I think we ought to work on that.

Senator MURKOWSKI. All right.

Senator AKAKA. Thank you very much.

I would like to ask our Senator from Delaware who is present with us for any statement he may have.

Senator Carper.

**STATEMENT OF HON. THOMAS R. CARPER, U.S. SENATOR
FROM DELAWARE**

Senator CARPER. Thanks very much, Mr. Chairman. I have never had a chance to go to Guam with you and Senator Murkowski, but I have been to Guam many times. I went there as a naval flight officer oftentimes in the 1970's, and as recently as the 1990's leading a congressional delegation back to Southeast Asia, and we used to have a saying—we were stationed in Okinawa for part of that period of time, and I go to Okinawa about 8 months into an 11-month drought, and they turned the water on about 1 hour out of every 48 hours in Okinawa, from midnight to 1 a.m., and turned it back off for another 2 days, and we used to go off to Guam for about a 5-day detachment and fly operation. There were surveillance flights out of Guam.

And boy, in Guam it rains about every other hour and then the sun shines, it is beautiful, but we used to say, Guam is good. We loved to go to Guam, and I am here this morning as a father who just appreciates very much Guam. I am pleased to see Ben again and to welcome him, and was a colleague of Governor Gutierrez, and I am sorry I missed Hannah but I wanted to be here for at least this last panel. I have just gotten here from Delaware, just got off the train, so I apologize for missing the earlier panels, but I wish you well, welcome, and it is nice to see you.

Thank you.

Senator AKAKA. Thank you very much for your comments, Senator Carper.

At this time we would like to proceed with the testimony. I will call on Hon. Ben Blaz first for your statement, and before you do that, again I want to say, we have had many good times talking, and I have heard so much directly from you about what you experienced, and you are, I can say specifically, one of the few that experienced the occupation of the Japanese on Guam, and can certainly testify for the people of Guam, so will you begin?

**STATEMENT OF HON. BEN GARRIDO BLAZ,
FORMER DELEGATE FROM GUAM**

Mr. BLAZ. You wish for me to begin, Mr. Chairman?

Senator AKAKA. Yes.

Mr. BLAZ. Thank you very much, Mr. Chairman, and I must say that I cannot resist the temptation to make a few personal comments at this juncture. Despite the fact that I am not unfamiliar with the halls of Congress, the fact that you are sitting under that seal with the gentleman from Alaska and the gentlemen from Dela-

ware that embraces the story of our entire Nation speaks so well for the country that we all served for so long.

I dare say that there is not a single person in this room, however, who can give an account of Pearl Harbor, and in my case Apra Harbor on a first-hand basis, besides you and me, and for that reason I think we may well add a little sidebar to the long story, and to the long effort, for I remember so well, Mr. Chairman, when you and I used to knock on doors that had knobs but did not open, and here we are, sitting mano-a-mano in the House of Lords, with all due respect.

This is a trip that I have made several times. The effort before us here has been called by many names, meritorious claim, war restitution, war reparation, war claim. Like the rose, despite the name, it is still the same, but unlike the rose, those efforts have not been so rosy, and I must say to you that one of the things that occurred to me as I walked in this morning was that the past 60 years or so, every once in a while when I get a chance my comrades from the labor battalion, 18 of us in the beginning, would meet from time to time to tell jokes until the belly aches, to garnish and regarnish stories so that I no longer recognize whether we really did them or not.

But nevertheless, we take pride in the fact that we survive a test that our country has not faced since the revolution, in many respects, people fighting on their own soil, and then ending up by being neither fish nor fowl, and caught in a whole series of activities and legislation that I do not believe was ever intended to deny. It is just that in the process somehow the devil in the detail strikes back and we suffer.

This year, I will have that reunion again. Believe it or not, in the ensuing years 16 have gone to heaven, and only two of us will have that reunion, and such is the long journey that we have taken.

Ironically, the people of Guam—and I am not going into the details, because I took a laborious effort to reduce them to writing, but I wanted to add the flavor of a person who was there. Ironically, despite the enormous frustration of not having remedy to this malady in the system, there remains an enormous amount of pride on the people of Guam that we are one of the few segments of our American society who, as a family together, have weathered a storm that proves beyond any doubt, today or tomorrow, our loyalty to the United States.

I could go on and on, Mr. Chairman, but you know darned well if you let me do that we would have to have sandwiches brought in here, so let me just say to you that I very much appreciate the opportunity to be here. I was a part of this institution. I left my heart not in San Francisco, but in Guam and in the U.S. Congress, and I am very proud to be here to thank you personally for the fact that although we do not have the privilege of electing two Senators from Guam, we continue, and Mr. Akaka, we have always been well-represented here. I also want to thank my successor for his tenacious effort to right what we think was a wrong.

[The prepared statement of Mr. Blaz follows:]

PREPARED STATEMENT OF BEN GARRIDO BLAZ, FORMER DELEGATE FROM GUAM

I should like to thank you, Mr. Chairman, and members of the Committee for inviting me to this hearing on H.R. 308, a bill to establish the Guam War Claims Review Commission. I am particularly grateful to Congressman Robert Underwood for his perseverance in seeking a resolution to a heart-wrenching issue that has been gnawing at the cockles of the hearts of the native Chamorro population of Guam for many, many years.

In an earlier hearing on this subject, the Disclosure Requirement form that came with the invitation had a question that caught my attention and, admittedly, brought a mild chuckle. It inquired whether I had any training or educational experience which add to my qualifications to testify on the subject matter of the hearing. I responded that my training for forced labor was in the category of "on-the-job training" under heavily guarded conditions. We refer to it as "unhappy labor" in my language. I indicated that my educational experience was "hands-on" or, perhaps, "hands-up," considering the circumstances of my indentured service. Although I was only thirteen years when the occupation started, I had the good fortune of being healthy, but the misfortune of being taller than those in my age group and the Japanese guards. I was drafted in the first round for the labor battalion—right out of 7th grade!

The six decades since "Pearl Harbor" and the beginning of World War II have dimmed the sight, shortened the steps, and mellowed the temperament; however, they have not muddled the memory of those painfully difficult years of the occupation. It was a defining period in the history of Guam and the Chamorros.

Because so many years have elapsed since the great war, a brief background may be helpful to the reader's understanding of the events that transpired and the attitude and sentiment toward America that prevailed on Guam at the start of the war.

A few months before the invasion in December 1941, the families of Americans stationed on Guam were sent home. That was the first perceptible signal to us that the war that was raging in Europe may extend to the Pacific; we felt, however, that our little island would not be involved. But the departure of the American families was a very emotional occasion and it revealed a strong attachment to the departing families. At that time, there were elders in our village who remembered a similar event involving the Spanish garrison at the turn of the century. According to them, no tears flowed on that occasion.

After the island was captured, the remaining Americans were sent to prisoner-of-war camps in Japan. Except for the occupation force and a lone U.S. sailor, hidden in the jungle by patriots, the remaining population, about 25,000 strong, consisted of native Chamorros, intensely loyal to the United States. Their devotion and loyalty to America was not lost on the Japanese who exacted revenge at every opportunity. The harsh treatment, however, resulted in bonding, rather than breaking, the resolve of the natives to remain steadfast in their loyalty to America.

This sentiment hardened during the occupation and had a very positive effect on the morale of the people. It became even more pronounced after liberation. It was manifested in the cooperative manner in which the Chamorros reacted to the taking of their ancestral land parcels for the war effort against Japan. It was also to play a role in the initial reluctance to submit claims for property damage and personal injury on the notion that to do so would be seemingly ungrateful to the mother country that had just liberated our people.

This demonstrably deep affection for the United States was somewhat surprising to many, given the relatively low standing that the Chamorros of Guam found themselves on the American totem pole. Official records, in all three branches of the U.S. government are replete with references to Guam's status, or, more accurately, non-status, during the first fifty years of the last century. Quite frequently, the natives of Guam were referred to as wards of the United States, with the U.S. Navy serving as their wardens. Sons of Guam were only permitted to join the Navy as men servants. Ironically, many served their entire careers in officers' wardrooms.

This dubious category of being neither citizens of the U.S. nor foreigners on U.S. soil, also played a major role in discouraging the citizens of Guam from aggressively seeking remedial action for property damage and personal injury even after they realized that doing so was not inappropriate.

In previous efforts to address this issue through Congressional action, agencies of the Federal government cite the Guam Meritorious Claims Act of 1945 (Public Law 79-224) as evidence that the U.S. had resolved it. That effort, however well intentioned, did not serve its purpose satisfactorily. A sizable chunk of the population of Guam was not even aware that such a program existed. They were stunned later when they discovered that the period for submission of claims lasted only one year. This opportunity took place relatively shortly after the occupation when the island

was in a feverish struggle to rebuild and was inundated with thousands of soldiers, sailors, Marines, and airmen and their equipment. At the time, most in the civilian population did not have access to a reliable newspaper; had limited use of radios; had no phones; and no mail service. The Navy's effort was woefully short of one of the most essential requirements of pending government action: due notice.

Meantime, America's benevolence and generosity toward vanquished foes was flowing world-wide. The Marshall Plan in Europe was lifting both friends and former enemies off their backs to make them economically self-sufficient. In Asia, General Douglas MacArthur was saving Japan's face and fate through his leadership and magnanimity toward Japanese customs and traditions. In time, former Japanese mandated islands around Guam received reparations and assistance toward nationhood; other islands in the Marianas chain with Guam became a Commonwealth of the United States; and reparations for the Micronesians became a reality (Public Law 92-39).

Against this backdrop came the realization that Guam was deserving of recognition for its own "hand-to-hand" engagement during the war. There was a time when the focus was to seek remedy from Japan. This avenue, however, was permanently closed when the United States and Japan signed the Japanese Peace Treaty. None other than John Foster Dulles recognized that there were unresolved issues when he stated that United States nationals whose claims are not covered by the provisions or by legislation of other allied powers must look for relief to the Congress of the United States. In 1962, Congress extended the time for American nationals to submit their claims (Public Law 87-846) but specifically excluded the people of Guam who, by that time, were no longer American nationals, having attained U.S. citizenship.

In recent years, the Congress of the United States has resolved similar problems with the compensation to individuals of Japanese ancestry evacuated, relocated, and interned during World War II and the Aleutian and Probilof Island Restitution Act. Guam, on the hand, continues on its arduous quest for some measure of acknowledgement for its own sacrifices.

Despite the number of years that have elapsed since the occupation, the issue of restitution continues to simmer and has had an influence in current thinking and sentiment on Guam toward the U.S. Coupled with the quest for political self-determination, it has virtually attained the status of a rallying slogan, "Remember the Occupation." Grandchildren of those who suffered personal injury have now assumed the role of champions for the cause.

Some have characterized this episode as unrequited love; others simply describe it as lack of appreciation. A few years ago, I accompanied the Secretary of Defense on a trip that stopped on Guam. There was a lot of discussion on what the Secretary should or should not say while he was on island. To break the impasse, I wrote down three words on an index card and passed it to a member of the staff. I suggested, as a starter, to try those words. They were: *Thank You, Guam*.

There is a battalion of lawyers at Justice, a company of them in this Department, and a platoon of them in that Department. They are capable of finding more citations to justify a rejection of H.R. 308 than I have time to read them during the remaining years of my life. If, on the other hand, they would take into account the special circumstance of Guam and its people, they could just as readily find citations in support of the bill. If the question last century was why, the answer this century could be—because it is the right thing to do.

From time to time, a group of us who were in the same labor battalion during the occupation would meet for beer, beans, and another look at a box full of mementos. Among them is a torn and tattered clipping from a U.S. newspaper which appeared following liberation: *There Were No Quislings on Guam*. Of the original 18 in our group, only two of us are left to view that clipping this year.

As a member of the generation of Chamorros most directly affected by the events that prompted the piece of legislation now before us, I ask your support of H.R. 308. I dare say, Mr. Chairman, that among those present here today, you and I are the only ones who truly remember what happened at Pearl Harbor and, in my case, at Apra Harbor on Guam, sixty years ago which triggered the chain of tragic events which prompted the continuing search for resolution by the people of Guam. Ironically, those of us who remember the enemy occupation, now all septuagenarians and older, still manage to walk with prideful swagger that we survived a loyalty test very few Americans have had to endure.

Senator AKAKA. Thank you very, very much for your personal statement, Congressman Blaz.

Mr. Michels, we will receive your statement.

**STATEMENT OF THOMAS P. MICHELS, CHAIRMAN,
BOARD OF DIRECTORS, GUAM CHAMBER OF COMMERCE**

Mr. MICHELS. I am Tom Michels, and I am the chairman of the board of the Guam Chamber of Commerce. I am representing the Guam chamber today. We represent our membership represents approximately 70 percent of the gross island product. I think Congressman Underwood articulated the merits of the bill very good, so let me just briefly say, I think H.R. 309 is all about leveling the playing field.

Guam has an unincorporated—unincorporated territory that was created by the Organic Act Reform. Under the Organic Act, Guam's income tax mirrors the Internal Revenue Code, and quite frankly, this is a distinct advantage that Guam offers to foreign investors, because under the Internal Revenue Code, it is a well-known tax code, it offers a lot of stability to the territory, so it is a real advantage to us.

However, there is the inequity addressed in H.R. 309 that Guam is not entitled to participate in the tax treaties of the United States, and as a result of that, foreign investors are subject to the 30-percent withholding tax.

I think Congressman Underwood gave the example of the tax treaty with Japan. The withholding tax is 10 percent rather than 30, and with the United Kingdom it is zero.

Our largest industry is tourism. Over 90 percent of our tourists are from Asia, the majority of that being from Japan, and our tourism infrastructure was primarily built by foreign investors in the form of hotels, golf courses, and other tourist attractions. In order for us to be competitive it is essential that this infrastructure be kept modern and up-to-date, and that obviously requires investors.

Because our visitors are primarily from Asia, the source of investment is from Asia, so H.R. 309 is all about bringing parity to Guam so that foreign investors are treated equally, as they would in the United States.

Our second largest industry is Department of Defense spending, and we at the Guam chamber are very active in attracting additional Department of Defense activities. The economy has suffered with the Asian economy meltdown, and we are looking to further diversify our economic base.

I would be happy to answer any questions that the committee may have.

[The prepared statement of Mr. Michels follows:]

PREPARED STATEMENT OF THOMAS P. MICHELS, CHAIRMAN, BOARD OF DIRECTORS,
GUAM CHAMBER OF COMMERCE

Introduction

My name is Thomas P. Michels. I am a Vice President & Guam Country Manager of the Bank of Hawaii, the principal subsidiary of Pacific Century Financial Corporation, a regional financial services holding company based in Hawaii, with operations throughout the West and South Pacific, Asia, and selected markets on the U.S. mainland.

I am here, however, in my capacity as Chairman of the Guam Chamber of Commerce Board of Directors. Our chamber membership is comprised of over 300 individual businesses representing all sectors of the business community. About 52% of our members come from small businesses, but our combined membership generates \$2 billion annually in economic activity or approximately 70% of Guam's Gross Island Product.

I feel privileged to be here today to provide supporting testimony for the Guam Foreign Investment Equity Act, H.R. 309. This legislative measure is long in coming and will correct a very serious inequity in the tax treatment of foreign investors in Guam.

Background

In the Organic Act of 1950, Congress mandated that the Guam tax system would be identical to the U.S. Internal Revenue Code, using basically the same rates, exemptions, credits, and deductions. The Government of Guam was to be responsible for the collection of taxes and the administration of tax laws under a "mirror system." In effect, Guam's tax code is the U.S. Internal Revenue Code, with all laws in effect at that time applying to individual and corporate tax payers, as would all future tax regulations and amendments made thereto.

Corporations organized in Guam, as well as Guam residents, are subject to tax on their worldwide income. Non-resident aliens and foreign corporations engaged in trade or business within Guam are subject to full U.S. taxation on income effectively connected to such trade or business. Non-resident aliens and foreign corporations are also subject to a 30% tax on certain other forms of passive income, from sources within Guam, that is remitted to them from their investment projects on Guam.

Current Situation

Guam is not included in any of the U.S. Tax Treaties negotiated with our major trading partners around the world. And since Guam is required to impose the "IRC Mirror Image" 30% withholding tax, absent relief or abatement from negotiated tax treaties, we find ourselves to be the most expensive taxing jurisdiction that foreign investors encounter under the American flag, including offshore U.S. Territories.

The Problem

The main barrier to foreign investment in Guam is the 30% withholding tax on dividends, interest, and other forms of passive income that are remitted to foreign investors from their investment projects in Guam. This additional 30% cost on investment returns makes Guam an extremely unattractive place for foreign investors who now comprise about 80% of the island's source of outside capital. From an historic perspective, Asian banks that lend Capital to Guam projects do so at interest rates of about 100-125 basis points above the Libor Index. This cost of funds for large projects is about 50 Basis Points or Libor less 0.5%. Under these arrangements, the extra 30% cost to lenders on total interest income derived from a spread of only 100-125 basis points make the profit potential for outside capital on Guam nil or marginal at best.

A \$25 million loan from a Japanese bank in today's interest environment, for example, will provide an effective return yield of about 12.5 basis points or 0.0125% before operating costs. According to a major financial institution in Guam, the 30% withholding tax impact to a lender is equal to about 90% of the profit potential from a simple lending transaction.

The Law

The 30% rate is statutory. It is a rate established in the U.S. Internal Revenue Code and "mirrored" on Guam as the island's income tax law as I have described earlier. The U.S., in agreement with its trading partners around the world, has lowered the withholding tax rates on a country-by-country basis through the execution of double tax treaties. The intent of these treaties, as I understand it, is to prevent double taxation of citizens of the contracting states and to remove tax impediments on foreign trade between the contracting states. I also understand that it is a standard feature of all tax treaties to provide for significantly lower tax rates on investment returns. The withholding tax rates vary with each country. For example, the withholding rate on interest income from the U.S. to Japan is 10% and 0% to the United Kingdom. The same interest income is subjected to a 30% rate from Guam. Asian investors, who comprise the majority of foreign investors to the island, can find more cost effective returns on the U.S. mainland than on Guam because tax treaties limit the definition of the "United States" to the 50 states for tax treaty purposes. As it stands now, Guam has one of the highest withholding tax rates in the industrialized world.

The Solution

If Guam were to be included in the definition of the United States for all future tax treaty negotiations, then foreign investors in Guam could enjoy competitive withholding tax rates. This remedy, however, is of little practical value because the U.S. Treasury Department negotiates new and revised tax treaties on an infrequent basis. In the interim, the U.S. Treasury should be encouraged to give Guam permis-

sion to “mirror” the provisions of any U.S. tax treaty currently enforced on a basis consistent with the “mirror” application of the U.S. Internal Revenue Code as provided in the 1950 Organic Act of Guam.

Guam Foreign Investment Equity Act, H.R. 309

The enactment into law of H.R. 309 will provide Guam with the most expedient remedy to our problem, and it is the preferred solution of the Guam Chamber of Commerce. It is our preferred solution because it provides the statutory basis for relief to a very specific problem. It is also our choice of remedy because it is the most immediate way to eliminate a discriminatory tax burden that has been the most serious impediment to foreign investment on Guam.

Making Guam a part of renegotiated tax treaties is an option. But it entails a very long, difficult process that could span many years, and involve different players at different stages of negotiations. Having the state department enter into an exchange of protocols with each jurisdiction is also another option. But this too can be just as difficult a path to take as in actual treaty negotiations because it involves basically the same procedures for state department heads to get together and agree on even a change in sentence to a treaty.

H.R. 309 should be passed with a sense of urgency at a time when Guam continues to struggle from the aftermath of the Asian economic meltdown. Our economy is heavily dependent upon tourism and foreign investments associated with this economic activity. And of major concern to us today, is the island’s high employment rate at 15%, and the 30% shortfall in government revenues, heightening the difficulty for the Government of Guam to meet its public obligations.

Conclusion

Mr. Chairman, and members of the committee, the Guam Chamber of Commerce urges the expedient adoption of H.R. 309 at the earliest date possible. It will remedy a long-standing discriminatory problem that we have endured far too long. It will enhance the inflow of capital at a time when it is most needed and it is the right thing to do for all Americans, especially for those who live on Guam. Thank you.

Senator AKAKA. Thank you very much, Mr. Michels. I do have questions. My first questions will be to Congressman Blaz. I know you have been through this, and you have worked with the Department, too. My question to you is, do you believe that the Department of the Interior—do you believe that their recommendations are necessary for H.R. 308?

Mr. BLAZ. You are going to put me right on the spot, right? I have a long history of not agreeing with the Department of the Interior, Mr. Chairman, on a number of issues, and in fact in this issue before us today I have a little bit of concern over the lack of linking in the funding so that we are really at the discretion of whoever is in charge there. There is no line. The line of responsibility for appropriation is really almost a subjective thing for whoever decides, oh yeah, we can do that.

But the specific question, someone just handed me, additionally compensate the people of Guam for death. I believe the value, the true significance of the review commission, Mr. Chairman, really is to resolve this, because we have been in a number of hearings over the years, and in each time of the hearing we would have it bogged down by having to do this thing in this manner, and as a result, but one of the reasons that I was so heartened by the fact that we are now establishing a war claims review commission was to permit people then to go to the scene, and to interview witnesses, and to determine for themselves, and then come back with a recommendation.

So on that particular issue, I am a little leery about additional compensation simply because the political reality, and the reality of this body here is really against something, additive to something

that has already been agreed upon, and so on that basis I would just say that I think I would yield to the Guam review commission.

I support that it be established, and let them come up with the recommendations, and if they say this is what we are going to go for, then I think we should go for it. That is the best I can do, Mr. Chairman.

Senator AKAKA. One of the questions in this is who—and this was alluded to in testimony, and the question would be, who should be eligible claimants?

Mr. BLAZ. Who should be—I am sorry, Mr. Chairman.

Senator AKAKA. Who should be eligible claimants?

Mr. BLAZ. You know, this is a very, very serious question, because it is precedent-setting, as you know, Mr. Chairman. There is in the air, as you know, a big effort, or some people think, about reparations for something that happened a long, long time ago, and when you stop to think about people and the descendants, this thing can go on and on forever.

For me personally, my initial reaction would be that the person who was involved in this thing here should be the primary claimant, and I will tell you, there is a provision here that if you do not want it, you can give it back, I think I will give mine back, because that is not the issue so much for people as is the issue of having the thing addressed, even if we have to turn it back and give it to a scholarship or something else.

So to me the principal recipients should be—I am a little bit uneasy, quite frankly, about any methodology that would grant unto survivors ad infinitum something that really is beyond even our great Treasury to manage, so I am not going to be very popular on Guam because of this position, but the truth of the matter is that it may be the most difficult thing to put across, is the whole idea that, hey, listen, I am related to him, and particularly in the case of places where the relationships are almost loco parentis, I guess is the closest you can get, and if you start including those things it becomes quite muddled.

Once again, I think that the review idea may be the thing, to iron all these things out, but for me personally, the people who were involved in this long odyssey, primarily, and they are just a handful, are the primary recipients, and if they establishing later on that maybe the son of this for whatever reason, I would not stand up and do any side-straddle hop opposing it, but I would not be as—let me put it this way, as encouraged that the Congress would respond so generously to a long line of recipients beyond the survivors, quite frankly.

Senator AKAKA. I would like to ask other members for questions that they might have for you, Congressman Blaz, so let me ask Senator Murkowski whether he has any questions.

Senator MURKOWSKI. Thank you very much. I think, Senator Akaka, you have covered much of the concern at hand on the repatriation issue.

I would like to just make a statement and see if there is a comment from either of the witnesses relative to something that you and I had extended discussion on over the years, and it emanated to some extent from the ground snake issue, and then the question of, I think it is pronounced Ritidian Point, which is the area that

the military retained, and then the U.S. Fish & Wildlife Service currently has.

I think it is somewhere in the area of 300 acres, or something of that nature, which brings home the point that would seem to me that excess land that the military no longer has a use for, and lands that have been taken from basically, historically, the people of Guam, should be returned as opposed to transferred to other Federal agencies, and I would encourage the Governor and the chamber, former officials and others to come up with some recommendations relative to what their attitude might be towards returning some of this land.

Speaking from the point of view of one Senator, it would seem to me that once the Government has finished with the general purpose of the land that was necessary for military installations and other defensive or offensive capabilities, that when that need no longer exists, it should be returned to the territory of Guam so that the people in the territory can directly benefit by it, as opposed to it being in the status of some other agency, and I believe it is the U.S. Fish & Wildlife Service particularly on Ritidian Point that still retains that.

It is questionable in my own mind the justification for that continuance, and my question to you is, would it not be better off back under the control of the Government and the territory of Guam, and if so I would be very happy to discuss this matter with Senator Akaka further and see if there is something that we cannot do.

I would welcome the comments of either of you.

Mr. BLAZ. On the issue of excess land and returning it, is that the question, sir?

Senator MURKOWSKI. The question specifically is, Federal lands that are no longer utilized for the purpose that they were withdrawn and taken from the territory and the people, the question is, in your opinion, is there any reason why we cannot work to return those, and Ritidian Point as well, to the territory?

Mr. BLAZ. All right, sir. My sentiment on this thing here is that when you return excess land from the Government and say you are returning it to Gov Guam, or Guam, there is one school of thought that you will be returning it to the original land owners.

My sentiment on this thing here differs a little bit from that notion, because since this thing happened six decades ago Guam has grown almost unbelievably, and there are common needs. There are common needs for all sorts of things for common usage, and I would favor, quite frankly, a formulation which would permit the Government to take a look and see what it is that the Government needs for further expansion, perhaps, of its port, for further expansion of its air facilities, for a school, for recreation, whatever it is for the common good, and having done that, then if there remains any land that might be suitable for return to the original land-owners, they would have the first shot at getting those.

With respect to the land, whether or not the Federal Government or the Government of Guam takes it, I think there is probably a series of laws that have to be hurdled in a way regarding this issue, but here again we have a possible problem, and that is that in the one hand, for the Government of Guam really to encourage, to continue to encourage the return of the military, which in the

past has been a tremendous source of a stable economy for the people of Guam being so reliable, there is now currently a mood on Guam that the military should return.

If that were to happen, the only way that it could happen would be to permit those military units that are planning to return to Guam to have a place to stay, so one has to work with the other.

If, on the other hand, you say, well, all excess land go back, then it is almost useless to then turn the land back and argue to return, because there is no place at the end for them, and that would be my sentiment.

Senator MURKOWSKI. Thank you.

Mr. Michels.

Mr. MICHELS. Yes, I think the Ritidian Point area you refer to, a portion of it was retained by Fish & Wildlife, and there is a portion on the perimeters that did go back to family members, and frankly, this area is beautiful. It is quite pristine, and it has probably been an advantage that it was under Federal control for a number of years, in that it is very natural and a very pretty area.

Those areas on the perimeter of the Fish & Wildlife, there has been some tourism development there, mainly day-type trips for tourists. It is a beach fiesta type situation, and it is an attraction to our tourism industry, so it does supplement it.

Senator MURKOWSKI. Well, I am not here to interfere in the realm of what is preferential to Guam, but it would seem to me that the Government of Guam could be more responsive to the needs of the people in determining, a) if the—and I am talking, Hon. Ben Blaz, of excess land that is not being utilized. I am not talking about the active military installations there, but the excess land that has been identified as no longer necessary, but still occupied by various Federal agencies.

It would seem to me it would be beneficial to Guam to have those lands transferred back, and then Guam would determine how to utilize those lands, either through trying to find legitimate heirs, or for the public benefit, and as far as Ritidian Point, is it better that a government 5,000, 6,000 miles away dictates utilization of Ritidian Point, or the Government of Guam retain, but that is for the people of Guam to decide, but I am simply suggesting to you, and I do not mean to imply that—you might find a more favorable attitude in the Department of the Interior currently to transferring excess Government land than we have had in the past.

Thank you.

Mr. WITT. Mr. Chairman, with your indulgence, could we respond?

Senator AKAKA. Could you state your name and your title?

Mr. WITT. John Witt, the Washington legislative director for Governor Gutierrez.

With your indulgence, could we respond to the points that Mr. Murkowski raised?

Senator, Mr. Murkowski and Mr. Akaka have been very supportive of the Guam Land Return Act which passed in the last Congress, which gives Guam the right of first refusal for excess military lands, and we very much appreciate all the work on excess lands that you guys have done with us.

The Land Return Act includes a provision for negotiations with the Secretary of the Interior for disputed lands which are in the wildlife refuge overlay. We tried that process in the closing months of last year. We tried to negotiate with the Department of the Interior regarding Ritidian. Governor Gutierrez put on the table a proposal to remove the most contentious issues in Ritidian, to at least carve out a small sliver of 90 acres and trade that with better Gov Guam land.

And we take your point, Mr. Murkowski, that perhaps that might be more receptive ears at the Secretary of the Interior's office now, which is why Governor Gutierrez supported the nomination of Secretary Norton, that we do believe that there ought to be more local input and local controls, and local cooperation on conservation issues. So long as Ritidian is an issue that divides us, it is difficult for the Governor of Guam to cooperate on conservation issues.

With regard to the general issue of the return of excess lands, and the possible return of military forces from Okinawa to Guam, we feel very strongly that if you are talking about the permanent stationing of military on Guam and the increasing of military presence, that is a good that all of the community can agree on.

But if you are talking about still leaving excess lands idle, and on occasion using them for training, well, there are valid concerns that have to be balanced with Chamorro land claims, so that is a very difficult question, but if you are talking about moving 2,500 or 5,000 marines to Guam, we do not argue with the increase of the military permanent presence on Guam.

We do not like the idea that there are 40,000 marines on Okinawa, and they come on occasion to Guam to use our island for training, but the economic benefit remains in Okinawa. As Mr. Guzman pointed out, we are a two-horse town, tourism and the military, and we have to try to find the correct balance between the military presence and training.

Senator AKAKA. Thank you very much.

Senator MURKOWSKI. I would certainly look forward to working with members of the committee on what Guam may want to bring back on the table.

Senator AKAKA. Thank you very much, Senator Murkowski, for your questions.

May I call on Senator Carper?

Senator CARPER. Thank you, Mr. Chairman. I was not familiar with either H.R. 308 or H.R. 309 prior to today's hearing, and I just want to make sure I understand what is proposed in each of these.

As I understand it, in H.R. 308, the legislation would create a commission. The job of that commission would be to gather information from a variety of sources, and to then provide a report to the Secretary of the Interior and to the Congress on its findings in a period of time, I think something less than a year, and then it would be up to the Congress and the administration as to what to do. Is that the sum and substance of it? Can either of you tell me what is the status of H.R. 308 in the House of Representatives? Has it been enacted?

Ms. FINKLER. It has passed.

Senator CARPER. It has passed, H.R. 308 has passed, okay. Thank you.

With respect to—and now we are holding the hearing on it here today, and we will determine whether or not the Senate, this committee and the Senate are to act.

H.R. 309, the Guam Foreign Investment Equity Act, I understand that that legislation has passed the House of Representatives?

Mr. MICHELS. That is correct, in May of this year.

Senator CARPER. Introduced this January, passed in May, and it now is getting its hearing before this committee. As I look at it, my thought was, this seems to be a bill that might fall within the purview of the Finance Committee, at least as much or more than this committee. Is there shared jurisdiction on—no? We have soul jurisdiction, okay.

Ms. FINKLER. This committee has jurisdiction over territorial affairs.

Senator CARPER. This committee has jurisdiction over territorial affairs, fair enough.

Let me just ask, what are the objections—if I may, of our witnesses, what are the objections that have been raised to H.R. 309?

Mr. MICHELS. I believe there was some objection from Treasury last year, but it was primarily related to, there was a trust legislation—well, the tax ability of trusts is administered by the Internal Revenue Code, but there was legislation passed locally in Guam that would rebate taxes administered to trusts based on Guam. There would be 100 percent rebate, and I believe their objections were related to those trusts, foreign trusts being on Guam, that there be a 100-percent rebate of their taxes.

Senator CARPER. Has the current administration shared with us or with you their own views of this legislation, H.R. 309?

Mr. MICHELS. Yes. They are in support.

VOICE. Yes, sir. The witness today tacitly endorsed—

Senator CARPER. And when we say the witness today, it was the administration's witness. Okay, good. All right. Well, those are my questions. Again, thank you. It is good to see you, and for those in the audience who are affiliated with Governor Gutierrez, please convey to him my very best. Thank you.

Senator AKAKA. Thank you very much, Senator Carper.

I have no further questions for our witnesses. I just want to thank you again, but before I do, is there any other comment that you would like to make, either one of you?

Mr. MICHELS. I would just like to comment, you have asked some of the other witnesses about what the Federal Government could do for the economy of Guam. I would like to respond to that. Our infrastructure in Guam, namely the roads, the sewers, and water distribution systems, are quite dated. Most of that was built post World War II. That was nearly 60 years ago, so some infrastructure redevelopment and improvement is necessary, and if there are any Federal programs that we could look to to assist in that area.

Also, I have mentioned the chamber of commerce is very active in soliciting additional military activities in Guam. We feel our location is very strategic, and as the military reassesses their strategic direction, and may redistribute force structure with that strat-

egy, that Guam is a very welcome and I think well-located location for that.

Senator AKAKA. I want to be sure that we understand that, based on Congressman Underwood's testimony and the testimony of Mr. Kearney, it is my understanding that the administration's concerns have been addressed. I think there was a question on H.R. 309. The administration's position and, I underline, supports its enactment, so we are moving along here, and for our former members such as Congressman Won Pat and Congressman Blaz, and now Congressman Underwood, you folks have worked long and hard for this moment, and I believe this moment is coming, and we want to move as quickly as we can to get it done.

Mr. BLAZ. Mr. Chairman, may I add a footnote here, because I did not get an opportunity to respond to Mr. Murkowski's comment, and quite frankly I did not hear requests or comment about the natural habitat, the thing that Mr. Witt had commented on.

It is, indeed, very, very puzzling to the people of Guam for an area so beautiful and so pristine to be preserved for that day when the bird returns, that day that is sure never to come until they correct the malady of the invasion of the brown tree snake, which is not indigenous to Guam, which will destroy the first effort into that pristine area.

Of all the things that we have in Guam that probably annoys the people more, is this whole idea of the birds and the bees are endangered, but the Chamorros of Guam are not. We are in many respects endangered from not having a place for our own habitat.

So the question of which comes first, the chicken or the egg, is really the question before the House, and yet to this day the whole idea of the brown tree snake, which you know, Mr. Senator, Mr. Akaka, if we ever lose sight of the effort to keep it from Hawaii would be so devastating to Hawaii across the State, and should we not take care of Hawaii, and it gets to Balboa Park in San Diego, then the whole Congress would be looking at the eradication or the control or somehow try to do something about a snake that came into Guam not because we imported it, because someone else, and yet to this day, the Department of Defense is going to throw us a few dollars to the Department of the Interior, and a few people get together and they go through the motion.

Had it not been for you and Senator Inouye, who tried to keep this out of Hawaii, we probably would not be getting any money, so to me, the whole question of pristine land and set-aside, and all this by the Department of the Interior, is absolute nonsense, when you are saving it for a day that is likely never to come.

So it is really a question of priority, and to me the formulation that was on line by Mr. Witt about possibly exchanging sites, it might well be a first step solution, but the area that we are talking about right now the Department of the Interior wants to reserve for itself is really one of the most choice areas in the entire Marianas chain.

I am sorry for this passionate plea at the end here, Mr. Chairman, but—well, you know I would have made that plea after I heard that.

Senator AKAKA. Well, thank you very much, Congressman Blaz, and thank you, Mr. Michels, for your testimony.

I would like to announce that the hearing record will remain open for 1 week if anyone wants to submit additional comments on any of these bills.

It has been a good hearing, good to hear from the folks of Guam. It looks as though we will be completing our work here and will be moving this on to the floor of the Senate, so I would like to thank all of the witnesses, especially those who have come all the way from Guam, and those who have their heart in Guam concerns. I want to tell you again that this has been a great hearing, and without any further comments or statements, this hearing is adjourned.

[Whereupon, at 11:30 a.m., the hearing was adjourned.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

TERRITORY OF GUAM,
Hagåtña, Guam, July 25, 2001.

Hon. JEFF BINGAMAN,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am herewith submitting my official testimony in support of the passage of House Resolution 308, the Guam War Claims Commission Act. As much as I want to present this in person, pressing matters here on Guam renders it impossible for me to get away. Congressman Robert A. Underwood's District Office will be sending via Congressional pouch, original copies of this testimony for submission to your office.

However, if there are any questions as to any of the contents of this testimony, please do not hesitate to call me at (671) 472-3456/3457.

Sincerely yours,

ANTONIO R. UNPINGCO,
Speaker.

STATEMENT OF ANTONIO REYES UNPINGCO, SPEAKER, 26TH GUAM LEGISLATURE

Committee Chair, Mr. Bingaman, Subcommittee Chair, Mr. Akaka, Members of the Committee on Energy and Natural Resources and the Subcommittee on Natural Resources:

I am Antonio Reyes Unpingco, Speaker of the Twenty-Sixth Guam Legislature. I am submitting this testimony in support of the most expeditious passage of House Resolution No. 308, the Guam War Claims Review Commission Act.

Mr. Chairman, for many years now, the people of Guam have pursued the reactivation or renewal of war claims for atrocities suffered at the hands of enemy occupiers from December 8, 1941 to July 21, 1944. The mechanism developed by H.R. 308 has been reviewed and evaluated as the most efficient and expeditious for its stated purposes. The timelines provided in the legislation will permit a most thorough review of existing records, the interview of those survivors who are still living, and an expeditious conclusion as to what must be done to accomplish the goals and intent of the original Guam Meritorious War Claims, which, unfortunately did not accomplish its intent because of circumstances at the time. The people were just too busy trying to get their lives and families back together again. Likewise, the administrators of the original Guam Meritorious War Claims considered the program as limited to providing compensation for property loss, and in this sense, to property loss after the invasion of the island by the liberating forces rather than the devastation and destruction, of property, loss of human life and horrific atrocities, perpetrated by Japanese occupiers. The provisions of H.R. 308 will rectify this.

It is heartening to note the inclusion of a provision through which the Commission may ". . . advise on any additional compensation that may be necessary to compensate the people of Guam for death, personal injury, forced labor, forced march, and internment; . . ." There can be no doubt that the Chamorros on Guam on December 8, 1941, suffered over 1,000 days of atrocities and horror. Immediately upon enemy occupation, individuals were needlessly murdered or brutalized. Simply upon suspicion of sheltering and assisting American Naval radioman George Tweed, many were tortured using horrific methods, some were murdered, executed without trial.

Born on April 21, 1942, I was a child of the war. I survived only because my family made many sacrifices. My father, Jose Aguon Unpingco, a U.S. Navy chief petty officer, was on Guam on December 8, 1941. His leave was abruptly interrupted. Not able to escape, he was caught by the Japanese, and beaten. Later during the occupa-

tion, he, and my older sister Gloria, who is now 75 years old, were placed, with other Chamorros, in slave labor building airstrips at Tiyan. My father, my mother, Gloria and my two older brothers and three sisters were all obedient, knowing that disobedience would most certainly bring suffering on themselves, and perhaps their mother and baby brother. My father and mother have passed away. However, I pray for closure for my brothers and sisters and the thousands of Chamorros who are still alive and still have vivid memories of the war. Every year, I sponsor the ceremonies to memorialize the Chamorros who were ruthlessly massacred in caves along Guam's only fresh water lake hoping that for the brothers and sisters of those butchered, closure would be coming soon. H.R. 308 will be the first step in making that closure possible.

Knowing that survival would come only with strength of character and a belief in freedom and liberty, the Chamorros of Guam remained fiercely patriotic and loyal to America. Throughout the Japanese occupation, the people's allegiance to American democracy and freedom remained unwavering. The song "*Uncle Sam Won't You Please Come Home.*" was written by a Chamorro and hummed or sang throughout the island. In so many ways, this allegiance and faith in their adoptive nation, provided the spirit and motivation to be strong and stay alive.

Towards the end of the war, when Japanese leaders began realizing their inevitable doom, and anticipated the arrival of American forces, the occupiers stepped up their program to buttress their defenses on the beaches of Agat and Asan, the most obvious points for landing an invasion force. Likewise, work on airstrips at Tiyan and Jalaguac, at Orote Peninsula and Harmon Field were intensified in preparation for a futile attempt to use the few Zeros on hand to fend off liberation forces. All of this work was accomplished by Chamorro men, women and children. Forced to work under penalty of death or torture, the Chamorros became slaves.

Many were forced to march to work camps along the invasion beaches in Agat to prepare Japanese defensive positions. On July 19th, two days before the first American soldier set foot on the shores of Agat, these young Chamorros were marched into caves in the Fena Lake area where they were brutally murdered with grenades, machine gun fire and bayonets. In the southern village of Malesso, the angry enemy decided to simply slaughter Chamorro men and women in caves in the Tinta and Faha areas. There were plans to annihilate the entire village. A few days later, the liberation invasion began and the useless slaughter stopped.

As the days of liberation were coming closer and closer, the enemy occupiers decided to move all of their prisoners of war to concentration camps in Mannengon and Talofoto. Forced to march from as far away as the northern villages of Chiguian, Janom and Jinapsan, the surviving Chamorros were concentrated in camps along the Manengon River in Yona and the Talofoto River in Talofoto. Some, too sickly to walk, were brutalized and died on the way, their bodies simply disgracefully thrown on the wayside to decompose and rot. Without sanitary and health care facilities, without adequate food, and without shelter from the elements, many, particularly infants and the elderly, died and were buried in mass graves next to the concentration camps.

All of these incidents are documented and these documents and eyewitness testimony have been presented in previous testimony before the House Committee on Natural Resources and Insular Affairs and will be made available to the Commission for their review. I am confident that upon that review the members of the Commission, no matter where they are from, will come to the conclusion that justice has not been achieved in terms of the human suffering and injustices.

Mr. Chairman, in this sense, and in an effort to resolve this issue once and for all and, most of all, in an effort to bring closure to the many who lived through those 1,000 days of horror, I ask this Committee, in the most humblest of terms, to favorably consider H.R. 308, to report the measure out with its recommendation to do pass, and to encourage your colleagues in the Senate to approve the measure as expeditiously as possible.

I understand that there are many important and crucial issues before this body. And I know that many times, measures such as H.R. 308 can get lost in the shuffle of paperwork. However, I am confident that every member of Congress can understand the human side of this particular issue and will support its passage and enactment.

With great sincerity, I extend a most heartfelt Si Yu'os Ma'ase, in our vernacular, Thank You and God Bless You All. God Bless America. God Bless Freedom.

TERRITORY OF GUAM,
Hagåtña, Guam, July 25, 2001.

Hon. JEFF BINGAMAN,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am transmitting, via facsimile, my unsolicited testimony on House Resolution 308, the Guam War Claims Commission Act, to your Committee for its consideration. As one who has lived on Guam for 52 years, I had the privilege to be here during the reconstruction and rebuilding of a community devastated by war. I also had the privilege and honor of attending high school classes with the many young Chamorros whose lives were abruptly and brutally interrupted. I can only imagine the contributions that could have been made by the young Chamorros who were killed during the Japanese occupation as I found that those young Chamorros who survived the war were intense and passionate in their desire to learn and to improve their lives.

Mr. Chairman, House Resolution 308 will bring closure to a horrific period in the lives of many Chamorros. It will also bring justice to a people who were forgotten or who were simply treated as nationals and property, rather than humans.

I ask that this testimony be included in the official record and that my office be placed on your mailing list for any information relative to this matter.

Sincerely yours,

MADELEINE Z. BORDALLO,
Lieutenant Governor.

STATEMENT OF MADELEINE ZEIEN BORDALLO, LIEUTENANT GOVERNOR OF GUAM

Mr. Bingaman, Honorable Chairman of the Senate Committee on Energy and Natural Resources, Mr. Akaka, Chairman of the Subcommittee on Natural Resources, Honorable members of this Committee, Senators:

By way of introduction, I am Madeleine Z. Bordallo, Lt. Governor of Guam and I am submitting this testimony in support of the most expeditious passage and enactment of H.R. 308, the Guam War Claims Commission Act.

Mr. Chairman, I am not a native of Guam and I am not a Chamorro by birth. I was born in Graceville, a small town on the outskirts of St. Paul, Minnesota, to a family of German descent. When I first arrived on Guam, the children looked strangely at the young girl with white skin and blonde hair.

However, I have lived on Guam since 1948 when I was a fourteen-year-old high school student. My father was appointed to re-establish and rebuild the educational system on Guam and other islands, and he took his family with him. Since then I have been a Guamanian. I married into a prominent Chamorro family and my daughter and granddaughter consider themselves native Chamorros. In spirit and in my heart, I consider myself a Chamorro.

I speak of this tie with the native Chamorros as a means to express the love that developed within me for the island, its people, its ways and its culture. Since my arrival on Guam, except for two short years for college studies, I have never left Guam except for short vacations or business trips. The island is my home, the people are my people.

I did not experience World War II. Sometimes I wonder if I were there on December 8, 1941, would I have survived? I know, from accounts related to me by close friends who were there, of many things that happened during those hostilities. However, I am an eyewitness to the aftermath and destruction war brings down on property and the devastation it causes on human lives. Because I was there, as a young girl, to see the results of war, I think that I am qualified to testify on the matter before the Committee and its importance to the Americans on Guam.

The native Chamorros of Guam, those who lived on Guam between December 8, 1941 to July 21, 1944, and are still living today, have been pursuing the re-institution of the Guam Meritorious Claims Act for many years. Unfortunately, Guam Meritorious Claims Act, implemented during the rebuilding period on Guam, was a victim of circumstances. The people were too busy trying to find their families, rebuild their homes and lives. Those who were displaced in order to build U.S. military installations were busy trying to build new communities and settled into their new homes. Communications was non-existent. There were no phones, no newspapers, and no electronic media. The roads were devastated and travel from village to village was discouraged because of the continuing fear of Japanese stragglers (Japanese soldiers not aware that the war had ended and who remained in hiding in the jungles).

Mr. Chairman, I do not express this to the Committee because I heard it from people. Up to 1948 and into the early 50's communications and transportation on

Guam was virtually non-existent; the majority of the island did not even have electricity. Roads were bombed out and impassable. Living in Tamuning, it took my family nearly four hours to travel to Agat, a distance of 21 miles, and we have a car.

The circumstances at the time made it difficult for those attempting to administer the Guam Meritorious Claims Act to do their work thoroughly and effectively. The plight of the people and the condition of living that they found themselves in, made it impossible for them to prioritize the filing of claims as much as they should have. As a young American thrown into that arena, I understood then, as I do now, why and how these things can happen.

I am very pleased that H.R. 308 contains a provision to include a consideration of the human suffering during the period of Japanese occupation. The provision to consider death, personal injury, forced labor, forced march and internment as reasons for just compensation will be welcomed by the Chamorro people. Many were needlessly murdered and just as many were brutalized with scars still showing. Airstrips, used by Japanese and American air forces, and Japanese emplacements, in preparation for the American invasion, were built with Chamorro slave labor. And every Chamorro man, woman, and child was forced to march to concentration camps in Mannengon and Talofofo. In the process many were murdered. Today, the families memorialize those who were massacred, simply because the impending invasion angered the Japanese occupiers, in the Malesso caves at Tinta and Faha and the Fena Lake cave at Mepo.

Guam, as U.S. property, is the only American soil that has ever been occupied by hostile enemy troops. Japan did not invade Hawaii after the bombing of Pearl Harbor. Though there were plans to bomb the U.S. West Coast, it never materialized. After bombing Guam on December 8, 1944 and on December 10, 1944 the Japanese Imperial Army captured Agana, Guam's capital.

Mr. Chairman, the Chamorro people are ready for this legislation. They have been waiting for it for 57 years. And, as an American who has turned Chamorro, I think I can state that they look forward to it, not because of any promise of compensation, but primarily so that it can bring closure to a horrific period in their lives.

In this vein, I ask this Committee and the Congress to pass H.R. 308 as soon as possible so that what should have been done then can be revisited now with the purpose of accomplishing the intent of the Guam Meritorious Claims Act and with the intent and spirit to bring closure for those who survived World War II.

OFFICE OF THE PEOPLE,
Hagåtña, GU, July 26, 2001.

Hon. FRANK MURKOWSKI,
U.S. Senate, Committee on Energy and Natural Resources, Washington, DC.

Re: H.R. 308

HAFADA AI MR. CHAIRMAN: It is indeed fitting that we are present here today to hear testimony on this item of legislation that will provide the path necessary to close a chapter in the lives of the people of Guam who suffered the atrocities of war and the neglect of a nation.

Guam celebrated the 56th anniversary of its liberation from Japanese Occupation just five days ago, on July 21, 2001. The generation who were the direct beneficiaries of the ultimate measure—given by the American liberating forces—shed tears of gratitude at remembrance ceremonies throughout the island. But behind the tears, one can see a longing for a return of the loyalty they gave to these soldiers, to the nation that has yet to fulfill its responsibility to them for their own sacrifices and suffers endured—and the ultimate measure our people gave because they remained loyal to a country that left them behind—when it evacuated all Americans on Guam when the threat of a Japanese invasion was imminent.

Throughout the years of Japanese Occupation of Guam in World War II, the people of Guam endured unimaginable day-to-day experiences. They did not know what the day would bring, or worst, if they would survive the following day.

The Japanese military orchestrated numerous massacres, killing hundreds of island people. In addition to these mass murders, women were raped and killed. Numerous killings occurred simply because the Japanese armed forces assumed that they held the supreme power to abuse the people of Guam.

For those who were not killed, they were forced to march and were placed in an internment camp. Many were also forced to work long hours under the sun, sometimes going without food or water.

Others were physically tortured, and the rest were mentally tortured.

Such descriptions are simplified. What went on for almost three years on Guam could never be described the same way it actually happened. The emotional and physical sufferings the people of Guam had to go through could never be accurately imagined or felt by those who did not experience the Occupation.

The island that once lived in paradise was suddenly turned into an island of hell. Houses, ranches, buildings and many other structures were destroyed. People lost their homes, loved ones, and basically, the lives they once had before the Japanese occupied Guam. For three years, the people of Guam were exposed to vicious horrors and terrors of military occupation.

Certainly, no one can travel back in time to repair the damages done. Attempts to somehow compensate the survivors of this period can be traced back in history. Unfortunately, each attempt was unsuccessful. Guam was left out in numerous legislations and foreign treaties that sought to justly compensate the victims of the War.

Due to a peace treaty with Japan in September of 1951 in San Francisco, California, claims of reparations against Japan by United States citizens were waived. Therefore, the people of Guam cannot bring such claims to the Japanese Government.

The only other means is to bring such issue to the United States Congress. Since 1972, each Guam Delegate to Congress tried to introduce a bill for restitution from the United States Government. But each time the bill failed. Until now, Guam has not been fairly recognized for the sacrifices it has made as the only American soil occupied by enemy forces during World War II.

Decades have quickly passed by since the Occupation. This also means that thousands of original victims and survivors of the atrocities have passed away and only a few remain today.

Therefore, I strongly urge the Senate to take H.R. 308 into consideration since we can no longer waste anymore time. The U.S. government must realize this objective and to compensate them before they are all gone.

The Japanese stripped off the natural rights of the people of Guam. These human rights violations include death, personal injury, forced labor, forced march, and internment. We cannot undo what was done. Nevertheless, we can restore a little bit of what the Japanese took away from the people of Guam by continuing to keep our forefathers' principles that men are "endowed with certain unalienable rights" through the approval of the Guam War Claims Review Commission Act.

I humbly beseech this good and august body to act. They say that we—all humans—inherently know what is right; the hard part is to do what is right.

In my heart, I am certain that this body knows that passing this bill is the right thing to do; it must now do the hard part and do what is right.

On behalf of Chamorro-Americans long gone from this good earth, and those soon to leave us, I thank you. Un Dangkulu Na Si Yu'us Maase.

Respectfully,

VICENTE C. PANGELINAN,
Minority Leader.

OFFICE OF THE PEOPLE,
Hagåtña, GU, July 26, 2001.

Hon. FRANK MURKOWSKI,
U.S. Senate, Committee on Energy and Natural Resources, Washington, DC.

Re: H.R. 309

Hafa Adai Mr. Chairman: It is my distinct honor and pleasure to appear before this Committee to support the passage of H.R. 309, to provide the determination of withholding taxes under the Guam income tax.

While Guam struggles with a depressed economy, we have doubled our efforts to help ourselves with aggressive efforts in seeking investment resources from without Guam to provide the economic revitalization for the benefit of our people. Despite our efforts, the legal structure and application of the internal revenue code to these foreign investors places Guam at a disadvantage with other jurisdictions. Specifically, I am referring to the application of the rate of withholding tax on the income of these investors.

This disparage treatment has hindered our efforts and aggravated our conditions to the point of economic depression. Unemployment on Guam has risen to over fifteen percent, bankruptcy filings are occurring at a record pace and government revenues will fall to the lowest levels in ten years.

Guam does not generate the necessary investment capital internally to lift us out of these depressed economic conditions and thus we must rely on investment from outside sources.

Passage of this act will not give us equality, but at least we will realize equity in the treatment of outside investors, so vital and essential to our economic growth. This change in treatment of the rate of withholding taxes will place Guam as close to level as we can get, without full integration into the tax structure. That discussion I will leave for another day.

I want to thank our Delegate, Congressman Underwood, for his valiant efforts in presenting this issue before the Congress. I hope and pray for your favorable action.

On behalf of the people of Guam, I thank you for this opportunity to plead their case and remain confident that your action will benefit them all.

Respectfully,

VICENTE C. PANGELINAN,
Minority Leader.

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