

April 18, 2005

The Honorable Richard W. Pombo
 Chairman, Committee on Resources
 The Honorable Nick J. Rahall II, Ranking Member
 United States House of Representatives
 1324 Longworth Building
 Washington DC. 20515



Dear Chairman Pombo and Representative Rahall:

As the elected Public Auditor of Guam, I support the passage of H. R. 1595, albeit with two recommended amendments.

In § 8(b)(1), I would add that the notice inviting claims also be required to be published on the internet via the World Wide Web.

In § 9(e), I recommend that the Trust Fund not be terminated but that it be made a perpetual trust whose income may be expended by the Guam Legislature for public projects in Guam. I also request that the Trust Fund be augmented by allocating to it the payments that would have been made to individuals had they not died prior to 1990. The 1990 cutoff date for claims is a controversial issue among Chamorros; many believe that is arbitrary and unfair. But, as Guam War Claims Review Commission member and now Senator Benjamin J. Cruz has noted, that procedure is supported by precedents dealing with other reparations laws. Yet the sacrifice of those who died prior to 1990 is no less than that of those fortunate enough to have survived for 45 years after the war ended. Allocating to the Trust Fund a sum in recognition of the sacrifices of the persons who died may be a compromise that is acceptable to those who oppose the cutoff date; and investing it in a perpetual Trust Fund would create an enduring memorial to all of those who suffered through the Occupation.

In my own case, I am conflicted about the 1990 cutoff date. On the one hand, I appreciate that the Congress is, at this late date, willing to reopen the issue of reparations. Payments that may be made as the result of this proposed legislation are long over due. But as drafted, the bill would provide compensation for my stepmother, who died in 2000, but not for my mother, who died in a Navy hospital in San Diego in 1962. I have to ask myself, why should one be recognized and not the other; I know from the stories that they told me of their wartime experiences that they suffered equivalently.

The Guam War Claims Review Commission diligently reviewed the history of war claims and reparations as they applied to Guam and in comparison to the manner in which

they were allotted to other victims of World War II. The report that the Commission submitted to the Congress is an accurate assessment of facts that must be considered in determining how to compensate Guam's victims and their survivors 60 years after the war ended.

The Commission's report echoes in many respects Report 107-172 filed June 24, 2002, by the Senate Committee on Energy and Natural Resources on the Guam War Claims Review Commission Act. Particularly illuminating is the Senate Committee's statement that:

In view of the patchwork of war claims laws, which provided different treatment for different groups of persons at different times, H. R. 308 is needed to examine whether the relief provided to the residents of Guam was on a par with that provided to similarly affected United States citizens or nationals in other areas occupied by the military forces of the Empire of Japan.

It is unquestioned that there was disparate treatment and that the indigenous population of Guam was in each instance the group that was adversely affected by the decisions of the governing authority. If the 1990 cutoff date is not addressed, that disparate treatment will be continued as to a significant number of Chamorro victims of the war.

A glaring disparity occurred when the United States consented in the Multilateral Treaty of Peace with Japan¹ to waive all reparation claims against Japan. In the same treaty, the allied powers required Japan to pay reparations to "members of the Armed Forces of the Allied Powers who suffered undue hardships while prisoners of war of Japan."

Yet what were the people of Guam but "prisoners of war" during the 32 months that the military forces of Japan occupied the island? As the Commission notes at page 71 of its report, "[T]he Japanese occupation of Guam was particularly cruel, oppressive, and brutal, and that the loyalty and steadfastness shown by the people of Guam in the face of the atrocities and barbarism inflicted on them by their Japanese occupiers was all the more extraordinary in the circumstances in which they were forced to live."

The stories that my mother, the late Margarita Castro Flores, and my stepmother, the late Carmen Candaso Flores, told me of their experiences during the occupation have inscribed indelibly on my consciousness the pain and punishment they and other Chamorros suffered. My mother was beaten because she would not cook dog for the occupiers; my stepmother, who was lame, was beaten because she did not march fast enough to the fields to toil as a farmhand.

As nationals, but not citizens of the United States from 1898 until 1950, the people of the island were wards of the United States and in negotiating the treaty of peace the United States should have protected the interests of the island's indigenous population.

¹ 3 UST 3169.

Yet issues of international politics and national defense took precedence over the fiduciary duty that the United States owed its wards.

George Kennan, the noted American diplomat and scholar who died at Princeton NJ last month, wrote that the nation's policy of containment of communism made it imperative that the peace treaty with Japan be "brief, general and nonpunitive." He said also that it was the national policy that, "Reparations should be generally halted, the opposition of the other Far Eastern Commission powers notwithstanding."² The basis for the American position was, Mr. Kennan wrote, that "Japan, as we saw it, was more important than China as a potential factor in world-political developments. It was, as I have already observed, the sole great potential military-industrial arsenal of the Far East."³

Thus rather than assure the welfare and rehabilitation of the people of Guam from the ravages of the savage war just concluded, the Great Powers of the West focused on restoring Japan as a bulwark against the advance of communism.

As a result, Japan was quickly restored to its prominence as a major international power and when possession of Okinawa reverted to Japan in 1972, it was returned complete with the amenities of a modern society, including highways, railways and public utilities paid for in large part by American aid.

Largess of a similar nature was never the lot of the people of Guam, either as victimized individuals or as a government in need of assistance. While the federal government did help restore the island after natural disasters, such as Typhoons Karen, Pamela and more recent storms, it did not rebuild the island as it did Japan.

Given the loyalty the people of this island to the United States for more than 104 years, and particularly during the 32 months when Guam was occupied, it is due time that the Congress honor the nation's moral obligation to compensate the Chamorro victims of World War II

Respectfully,



DORIS FLORES BROOKS, CPA, CGFM,
Public Auditor of Guam

² George F. Kennan, *Memoirs 1925-1950*, 391 (Pantheon Books 1967).

³ *Id.*, 374.