

108TH CONGRESS  
1ST SESSION

# H. R. 2954

To ensure that the courts of the United States may provide an impartial forum for claims brought by United States citizens and others against any railroad organized as a separate legal entity, arising from the deportation of United States citizens and others to Nazi concentration camps on trains owned or operated by such railroad, and by the heirs and survivors of such persons.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 25, 2003

Mrs. MALONEY (for herself and Ms. ROS-LEHTINEN) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To ensure that the courts of the United States may provide an impartial forum for claims brought by United States citizens and others against any railroad organized as a separate legal entity, arising from the deportation of United States citizens and others to Nazi concentration camps on trains owned or operated by such railroad, and by the heirs and survivors of such persons.

- 1       *Be it enacted by the Senate and House of Representa-*
- 2       *tives of the United States of America in Congress assembled,*
- 3       **SECTION 1. CONGRESSIONAL FINDINGS.**
- 4        Congress finds as follows:



1 have collaborated willingly with the German Nazi re-  
2 gime.

3 (4) The complaint alleges that SNCF provided  
4 the necessary rolling stock, scheduled the depart-  
5 tures, and supplied the employees to operate the  
6 trains bound for the concentration camps. SNCF al-  
7 legedly charged an ordinary passenger coach fare for  
8 the deportations, calculated per person and per kilo-  
9 meter, and considered these trains as ordinary com-  
10 mercial activities. The plaintiffs further contend that  
11 SNCF herded as many people as possible into each  
12 car, requiring passengers of all ages and sexes, in-  
13 cluding the elderly and young children, to stand  
14 throughout the trip of several days' duration, with  
15 no provision for food or water and no sanitary facili-  
16 ties. The complaint further alleges that SNCF  
17 cleaned the trains after each trip, removing the  
18 corpses of persons who perished during transit due  
19 to the execrable conditions of the train cars. The  
20 destination was in each case a camp in which the de-  
21 portees were to be exterminated, worked to death, or  
22 made to suffer terrible and inhuman conditions.

23 (5) The complaint contends that SNCF's ac-  
24 tions violated the Principles of the Nuremberg Tri-  
25 bunal, 1950, relating to crimes under international

1 law (earlier recognized by the Martens Clause of the  
2 Hague Convention IV of 1907), and aided and abet-  
3 ted the commission of war crimes and crimes against  
4 humanity. SNCF has not denied its actions and has  
5 never disgorged the money that it was paid for the  
6 deportations or otherwise compensated the deportees  
7 or their heirs.

8 (6) SNCF's records concerning the deportation  
9 trains have not been made available to the plaintiffs,  
10 and SNCF archives concerning its wartime activities  
11 remain closed to the general public.

12 (7) SNCF moved to dismiss the lawsuit on a  
13 claim of sovereign immunity under the Foreign Sov-  
14 ereign Immunities Act of 1976 (28 U.S.C. 1330 and  
15 1602 et seq.), even though it is one of the 500 larg-  
16 est corporations in the world, earns hundreds of mil-  
17 lions of dollars from its commercial activities in the  
18 United States, and is not accorded sovereign immu-  
19 nity under the laws of France. SNCF's motion to  
20 dismiss the lawsuit has been granted by the United  
21 States District Court for the Eastern District of  
22 New York. Plaintiffs appealed the decision, their ap-  
23 peal was granted, and the case was remanded for  
24 further proceedings.

1 (8) This lawsuit presents issues of substantial  
2 importance to citizens and veterans of the United  
3 States and finds that the courts of the United States  
4 are a proper forum for this lawsuit and similar suits.

5 (9) SNCF is attempting to use the Foreign  
6 Sovereign Immunities Act of 1976, enacted 30 years  
7 after the events at issue occurred, to evade liability  
8 for conduct for which it would otherwise be held ac-  
9 countable, rather than accepting responsibility for its  
10 actions. Under the rule of separate entities applica-  
11 ble at the time of the events in question, SNCF  
12 would not be immune from suit in United States  
13 courts. The Foreign Sovereign Immunities Act of  
14 1976 was not intended to expand the reach of im-  
15 munity in these circumstances.

## 16 SEC. 2. ACCESS TO UNITED STATES COURTS FOR HOLO-

## 17 CAUST DEPORTEES.

18 (a) JURISDICTION OF DISTRICT COURTS.—The  
19 United States district courts shall have original jurisdic-  
20 tion, without regard to the amount in controversy, of any  
21 civil action for damages for personal injury or death  
22 that—

23 (1) arose from the deportation of persons to  
24 Nazi concentration camps during the period begin-

1       ning on January 1, 1942, and ending on December  
2       31, 1944; and

3               (2) is brought by any such person, or any heir  
4       or survivor of such person, against a railroad that—

5                       (A) owned or operated the trains on which  
6       the persons were so deported; and

7                       (B) was organized as a separate legal enti-  
8       ty at the time of the deportation, whether or  
9       not any of the equity interest in the railroad  
10      was owned by a foreign state.

11      (b) OTHER LAWS NOT APPLICABLE.—Sections 1330  
12      and 1601 through 1611 of title 28, United States Code,  
13      or any other law limiting the jurisdiction of the United  
14      States courts, whether by statute or under common law,  
15      shall not preclude any action under subsection (a).

16      (c) INAPPLICABILITY OF STATUTES OF LIMITA-  
17      TION.—No action described in subsection (a) shall be  
18      barred by a defense that the time for bringing such action  
19      has expired under a statute of limitations.

20      (d) APPLICABILITY.—This section shall apply to any  
21      action pending on January 1, 2002, and to any action  
22      commenced on or after that date.

