

107TH CONGRESS
1ST SESSION

H. R. 1198

To preserve certain actions in Federal court brought by members of the United States Armed Forces held as prisoners of war by Japan during World War II against Japanese nationals seeking compensation for mistreatment or failure to pay wages in connection with labor performed in Japan to the benefit of the Japanese nationals, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 22, 2001

Mr. ROHRBACHER (for himself, Mr. HONDA, Mr. DELAY, Mr. CUNNINGHAM, Mr. WHITFIELD, Mr. JEFFERSON, Mrs. WILSON, Mr. ROGERS of Michigan, Mr. SAXTON, Mr. SHOWS, Mr. RILEY, Mr. DOOLITTLE, Mr. BARTLETT of Maryland, Ms. ROS-LEHTINEN, Mr. HAYES, Mr. GIBBONS, Mr. SCHAFFER, Mrs. KELLY, Mr. PENCE, Mrs. CAPITO, Mr. REHBERG, Mr. BONIOR, Mr. EVANS, Mr. BORSKI, Mr. FROST, Mr. PICKERING, Mr. FOLEY, Mr. CANNON, Mr. DEMINT, Mr. MCCRERY, and Mr. WALDEN of Oregon) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on International Relations, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To preserve certain actions in Federal court brought by members of the United States Armed Forces held as prisoners of war by Japan during World War II against Japanese nationals seeking compensation for mistreatment or failure to pay wages in connection with labor performed in Japan to the benefit of the Japanese nationals, and for other purposes.

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. SHORT TITLE.**

4 This Act may be cited as the “Justice for United
5 States Prisoners of War Act of 2001”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

8 (1) During World War II, members of the
9 United States Armed Forces war by Japan were
10 forced to provide labor for Japanese privately owned
11 corporations in functions unrelated to the prosecu-
12 tion of the war.

13 (2) These Japanese corporations violated inter-
14 national law, including the standards required under
15 international conventions relating to protection of
16 prisoners of war, by failing to pay wages for that
17 labor, by allowing and promoting torture and mis-
18 treatment of the United States prisoners of war at
19 the hand of their private employees, and by with-
20 holding food and medical treatment.

21 (3) In the Treaty of Peace with Japan, signed
22 at San Francisco in 1951, Japan admitted liability
23 for its illegal and inhumane conduct toward the Al-
24 lied Powers and, in particular, liability for such con-

1 duct toward members of the armed forces of the Al-
2 lied Powers held as prisoners of war.

3 (4) Despite this admission of liability, article
4 14(b) of the Treaty has been construed to waive all
5 claims of nationals of the United States, including
6 claims of members of the United States Armed
7 Forces held as prisoners of war by Japan during
8 World War II.

9 (5) Under article 26 of the Treaty, the Govern-
10 ment of Japan agreed that, if it entered into a war
11 claims settlement agreement with any other country
12 that provided terms more beneficial than those
13 terms extended to the parties to the Treaty, then
14 those more favorable terms would be extended to
15 each of the parties to the Treaty, including the
16 United States.

17 (6) Since the entry into force of the Treaty in
18 1952, the Government of Japan has entered into
19 war claims settlement agreements with other coun-
20 tries that provide terms more beneficial than those
21 terms extended to the parties to the Treaty with re-
22 spect to claims by nationals of those countries
23 against Japanese nationals, allowing such claims to
24 be pursued without limitation, restriction, or waiver
25 or any type.

1 (7) In accordance with article 26 of the Treaty,
2 Japan is obligated to extend the same more bene-
3 ficial terms under the subsequent war claims settle-
4 ment agreements with other countries described in
5 paragraph (6) to the United States, including to na-
6 tionals of the United States who as members of the
7 United States Armed Forces were held as prisoners
8 of war by Japan during World War II and were
9 forced to provide labor without compensation and
10 under inhumane conditions.

11 (8) The people of the United States owe a deep
12 and eternal debt to members of the United States
13 Armed Forces held as prisoners of war by Japan
14 during World War II for their heroism and sacrifice
15 on the nation's behalf in the first days after Japan's
16 ignominious aggression against the United States at
17 Pearl Harbor, Bataan, and Corregidor.

18 (9) The pursuit of justice by members of the
19 United States Armed Forces held as prisoners of
20 war by Japan during World War II who were forced
21 to provide labor without compensation and under in-
22 humane conditions through lawsuits filed in the
23 courts of the United States, where otherwise sup-
24 ported by applicable standards established by Fed-
25 eral, State, or international law, is consistent with

1 the interests of the United States and should not be
2 deemed preempted by any other provision of law or
3 the Treaty.

4 (10) Japanese records relating to chemical and
5 biological experiments conducted on members of the
6 United States Armed Forces held as prisoners of
7 war by Japan during World War II that were turned
8 over to the United States Government after the war
9 have been withheld from such United States pris-
10 oners of war and their physicians, despite repeated
11 requests for disclosure of such records by the pris-
12 oners of war themselves, the Department of Vet-
13 erans Affairs, and the Congress.

14 **SEC. 3. SUITS AGAINST JAPANESE NATIONALS.**

15 (a) IN GENERAL.—In any action in a Federal court
16 brought by one or more members of the United States
17 Armed Forces held as a prisoner of war by Japan during
18 World War II against one or more Japanese nationals (in-
19 cluding entities organized or incorporated under Japanese
20 law or any affiliates of such entities organized or incor-
21 porated under the laws of any State) seeking compensa-
22 tion for mistreatment or failure to pay wages in connection
23 with labor performed in Japan by such United States pris-
24 oners of war to the benefit of such Japanese nationals (or
25 their predecessors) during World War II, the court—

1 (1) shall apply the applicable statute of limita-
2 tions of the State in which the action is pending;
3 and

4 (2) shall not construe section 14(b) of the Trea-
5 ty of Peace with Japan as constituting a waiver by
6 the United States of claims by nationals of the
7 United States, including claims by members of the
8 United States Armed Forces, so as to preclude the
9 pending action.

10 (b) **RULE OF CONSTRUCTION.**—Subsection (a) pro-
11 vides for the facilitation of actions against Japanese na-
12 tionals described in such subsection and shall not be con-
13 strued as providing for the facilitation of actions against
14 the present Government of Japan or the people of Japan.

15 (c) **SUNSET.**—Paragraph (1) of subsection (a) shall
16 cease to apply at the end of the 10-year period beginning
17 on the date of the enactment of this Act.

18 **SEC. 4. APPLICABILITY OF RIGHTS UNDER ARTICLE 26 OF**
19 **THE TREATY OF PEACE WITH JAPAN.**

20 It is the policy of the United States Government to
21 ensure that all terms under any war claims settlement
22 agreement between Japan and any other country that are
23 more beneficial than those terms extended to the United
24 States under the Treaty of Peace with Japan are extended
25 to the United States in accordance with article 26 of the

1 Treaty with respect to claims by nationals of the United
2 States who as members of the United States Armed
3 Forces were held as prisoners of war by Japan during
4 World War II and were forced to provide labor without
5 compensation and under inhumane conditions.

6 **SEC. 5. AVAILABILITY OF INFORMATION RELATING TO CER-**
7 **TAIN CHEMICAL AND BIOLOGICAL TESTS**
8 **CONDUCTED BY JAPAN DURING WORLD WAR**
9 **II.**

10 (a) AVAILABILITY OF INFORMATION TO THE SEC-
11 RETARY OF VETERANS AFFAIRS.—Notwithstanding any
12 other provision of law, the Secretary of Veterans Affairs
13 may secure directly from any department or agency of the
14 United States information relating to chemical or biologi-
15 cal tests conducted by Japan on members of the United
16 States Armed Forces held as prisoners of war by Japan
17 during World War II, including any such information pro-
18 vided to the United States Government by Japan. Upon
19 request of the Secretary of Veterans Affairs, the head of
20 that department or agency shall furnish that information
21 to the Secretary.

22 (b) AVAILABILITY OF INFORMATION TO INTERESTED
23 MEMBERS OF THE ARMED FORCES.—Any information re-
24 ceived by the Secretary of Veterans Affairs under sub-
25 section (a) with respect to an individual member of the

1 United States Armed Forces held as a prisoner of war
2 by Japan during World War II may be made available to
3 such individual to the extent otherwise provided by law.

4 **SEC. 6. DEFINITIONS.**

5 In this Act:

6 (1) TREATY OF PEACE WITH JAPAN; TREATY.—
7 The terms “Treaty of Peace with Japan” and
8 “Treaty” mean the Treaty of Peace with Japan,
9 signed at San Francisco on September 8, 1951 (3
10 UST 3169).

11 (2) STATE.—The term “State” means the sev-
12 eral States, the District of Columbia, and any com-
13 monwealth, territory or possession of the United
14 States.

15 (3) APPLICABLE STATUTE OF LIMITATIONS.—
16 The “applicable statute of limitations” of a State
17 means, with respect to a court action, the law of
18 that State which establishes the time within which
19 such an action may be brought.

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