

Maffei	Payne	Shea-Porter
Maloney	Pence	Sherman
Manzullo	Perlmutter	Shimkus
Marchant	Perriello	Shuler
Markey (CO)	Peters	Shuster
Markey (MA)	Peterson	Simpson
Marshall	Petri	Sires
Matheson	Pingree (ME)	Skelton
Matsui	Pitts	Slaughter
McCarthy (CA)	Platts	Smith (NE)
McCarthy (NY)	Poe (TX)	Smith (NJ)
McCaul	Polis (CO)	Smith (TX)
McClintock	Pomeroy	Smith (WA)
McCollum	Posey	Snyder
McCotter	Price (GA)	Space
McDermott	Price (NC)	Speier
McGovern	Putnam	Spratt
McHenry	Quigley	Stark
McIntyre	Rahall	Stearns
McKeon	Rangel	Stupak
McMahon	Rehberg	Sullivan
McMorris	Reichert	Sutton
Rodgers	Reyes	Tanner
McNerney	Richardson	Taylor
Meeks (NY)	Rodriguez	Teague
Melancon	Roe (TN)	Terry
Mica	Rogers (AL)	Thompson (CA)
Michaud	Rogers (KY)	Thompson (MS)
Miller (FL)	Rogers (MI)	Thompson (PA)
Miller (MI)	Rohrabacher	Thornberry
Miller (NC)	Rooney	Tiberi
Miller, Gary	Ros-Lehtinen	Tierney
Miller, George	Roskam	Titus
Minnick	Ross	Tonko
Mitchell	Rothman (NJ)	Towns
Mollohan	Roybal-Allard	Tsongas
Moore (KS)	Royce	Turner
Moore (WI)	Ruppersberger	Upton
Moran (VA)	Rush	Van Hollen
Murphy (CT)	Ryan (OH)	Velázquez
Murphy (NY)	Ryan (WI)	Viscosky
Murphy, Patrick	Salazar	Walden
Murphy, Tim	Sánchez, Linda	Walz
Myrick	T.	Wamp
Nadler (NY)	Sanchez, Loretta	Wasserman
Napolitano	Sarbanes	Schultz
Neal (MA)	Scalise	Waters
Neugebauer	Schakowsky	Watt
Nunes	Schauer	Waxman
Nye	Schiff	Weiner
Oberstar	Schmidt	Welch
Obey	Schock	Westmoreland
Olson	Schrader	Whitfield
Olver	Schwartz	Wilson (SC)
Ortiz	Scott (GA)	Wittman
Owens	Scott (VA)	Wolf
Pallone	Sensenbrenner	Woolsey
Pascrell	Serrano	Wu
Pastor (AZ)	Sessions	Yarmuth
Paul	Sestak	Young (AK)
Paulsen	Shadegg	

## NOT VOTING—19

Akin	Heger	Radanovich
Buyer	Hinchey	Tiahrt
Castor (FL)	Hoekstra	Watson
Cole	Latham	Wilson (OH)
Fallin	Loeb sack	Young (FL)
Graves (MO)	Meek (FL)	
Heller	Moran (KS)	

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1819

So (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Mr. AKIN. Mr. Speaker, on July 27, 2010, I was absent from the House and missed rollcall votes 473, 474, and 475.

Had I been present, I would have voted “no” on rollcall 473, “yes” on rollcall 474, and “yes” on rollcall 475.

## PERSONAL EXPLANATION

Ms. JACKSON LEE of Texas. Mr. Speaker, on H. Con. Res. 301, rollcall 473, I was unavoidably detained in a hearing. Had I been present, I would have voted “no.”

## CORRECTION TO APPOINTMENT AS MEMBER TO COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

The SPEAKER pro tempore (Mr. DEUTCH). Pursuant to section 201(b) of the International Religious Freedom Act of 1998 (22 U.S.C. 6431), and the order of the House of January 6, 2009, the Chair announces the following correction to the Speaker’s appointment of June 23, 2010, of the following Member on the part of the House to the Commission on International Religious Freedom:

Upon the recommendation of the minority leader:

Mr. Ted Van Der Meid, Rochester, New York, for a 2-year term ending May 14, 2012, to succeed Ms. Felice Gaer.

## APPOINTMENT AS MEMBER TO COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

The SPEAKER pro tempore. Pursuant to section 201(b) of the International Religious Freedom Act of 1998 (22 U.S.C. 6431), and the order of the House of January 6, 2009, the Chair announces the Speaker’s appointment of the following Member on the part of the House to the Commission on International Religious Freedom:

Upon the recommendation of the minority leader:

Ms. Nina Shea, Washington, D.C., for a 2-year term ending May 14, 2012, to succeed herself.

□ 1820

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken later.

## SECURING THE PROTECTION OF OUR ENDURING AND ESTABLISHED CONSTITUTIONAL HERITAGE ACT

Mr. COHEN. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 2765) to amend title 28, United States Code, to prohibit recognition and enforcement of foreign defamation judgments and certain foreign judgments

against the providers of interactive computer services.

The Clerk read the title of the bill.

The text of the Senate amendment is as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

**SECTION 1. SHORT TITLE.**

*This Act may be cited as the “Securing the Protection of our Enduring and Established Constitutional Heritage Act” or the “SPEECH Act”.*

**SEC. 2. FINDINGS.**

*Congress finds the following:*

(1) *The freedom of speech and the press is enshrined in the first amendment to the Constitution, and is necessary to promote the vigorous dialogue necessary to shape public policy in a representative democracy.*

(2) *Some persons are obstructing the free expression rights of United States authors and publishers, and in turn chilling the first amendment to the Constitution of the United States interest of the citizenry in receiving information on matters of importance, by seeking out foreign jurisdictions that do not provide the full extent of free-speech protections to authors and publishers that are available in the United States, and suing a United States author or publisher in that foreign jurisdiction.*

(3) *These foreign defamation lawsuits not only suppress the free speech rights of the defendants to the suit, but inhibit other written speech that might otherwise have been written or published but for the fear of a foreign lawsuit.*

(4) *The threat of the libel laws of some foreign countries is so dramatic that the United Nations Human Rights Committee examined the issue and indicated that in some instances the law of libel has served to discourage critical media reporting on matters of serious public interest, adversely affecting the ability of scholars and journalists to publish their work. The advent of the internet and the international distribution of foreign media also create the danger that one country’s unduly restrictive libel law will affect freedom of expression worldwide on matters of valid public interest.*

(5) *Governments and courts of foreign countries scattered around the world have failed to curtail this practice of permitting libel lawsuits against United States persons within their courts, and foreign libel judgments inconsistent with United States first amendment protections are increasingly common.*

**SEC. 3. RECOGNITION OF FOREIGN DEFAMATION JUDGMENTS.**

(a) *IN GENERAL.—Part VI of title 28, United States Code, is amended by adding at the end the following:*

**“CHAPTER 181—FOREIGN JUDGMENTS**

“Sec.

“4101. Definitions.

“4102. Recognition of foreign defamation judgments.

“4103. Removal.

“4104. Declaratory judgments.

“4105. Attorney’s fees.

**“§4101. Definitions**

“In this chapter:

“(1) **DEFAMATION.**—The term ‘defamation’ means any action or other proceeding for defamation, libel, slander, or similar claim alleging that forms of speech are false, have caused damage to reputation or emotional distress, have presented any person in a false light, or have resulted in criticism, dishonor, or condemnation of any person.

“(2) **DOMESTIC COURT.**—The term ‘domestic court’ means a Federal court or a court of any State.

“(3) **FOREIGN COURT.**—The term ‘foreign court’ means a court, administrative body, or other tribunal of a foreign country.

“(4) FOREIGN JUDGMENT.—The term ‘foreign judgment’ means a final judgment rendered by a foreign court.

“(5) STATE.—The term ‘State’ means each of the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

“(6) UNITED STATES PERSON.—The term ‘United States person’ means—

“(A) a United States citizen;

“(B) an alien lawfully admitted for permanent residence to the United States;

“(C) an alien lawfully residing in the United States at the time that the speech that is the subject of the foreign defamation action was researched, prepared, or disseminated; or

“(D) a business entity incorporated in, or with its primary location or place of operation in, the United States.

“§4102. Recognition of foreign defamation judgments

“(a) FIRST AMENDMENT CONSIDERATIONS.—

“(1) IN GENERAL.—Notwithstanding any other provision of Federal or State law, a domestic court shall not recognize or enforce a foreign judgment for defamation unless the domestic court determines that—

“(A) the defamation law applied in the foreign court’s adjudication provided at least as much protection for freedom of speech and press in that case as would be provided by the first amendment to the Constitution of the United States and by the constitution and law of the State in which the domestic court is located; or

“(B) even if the defamation law applied in the foreign court’s adjudication did not provide as much protection for freedom of speech and press as the first amendment to the Constitution of the United States and the constitution and law of the State, the party opposing recognition or enforcement of that foreign judgment would have been found liable for defamation by a domestic court applying the first amendment to the Constitution of the United States and the constitution and law of the State in which the domestic court is located.

“(2) BURDEN OF ESTABLISHING APPLICATION OF DEFAMATION LAWS.—The party seeking recognition or enforcement of the foreign judgment shall bear the burden of making the showings required under subparagraph (A) or (B).

“(b) JURISDICTIONAL CONSIDERATIONS.—

“(1) IN GENERAL.—Notwithstanding any other provision of Federal or State law, a domestic court shall not recognize or enforce a foreign judgment for defamation unless the domestic court determines that the exercise of personal jurisdiction by the foreign court comported with the due process requirements that are imposed on domestic courts by the Constitution of the United States.

“(2) BURDEN OF ESTABLISHING EXERCISE OF JURISDICTION.—The party seeking recognition or enforcement of the foreign judgment shall bear the burden of making the showing that the foreign court’s exercise of personal jurisdiction comported with the due process requirements that are imposed on domestic courts by the Constitution of the United States.

“(c) JUDGMENT AGAINST PROVIDER OF INTERACTIVE COMPUTER SERVICE.—

“(1) IN GENERAL.—Notwithstanding any other provision of Federal or State law, a domestic court shall not recognize or enforce a foreign judgment for defamation against the provider of an interactive computer service, as defined in section 230 of the Communications Act of 1934 (47 U.S.C. 230) unless the domestic court determines that the judgment would be consistent with section 230 if the information that is the subject of such judgment had been provided in the United States.

“(2) BURDEN OF ESTABLISHING CONSISTENCY OF JUDGMENT.—The party seeking recognition or enforcement of the foreign judgment shall bear the burden of establishing that the judgment is consistent with section 230.

“(d) APPEARANCES NOT A BAR.—An appearance by a party in a foreign court rendering a foreign judgment to which this section applies shall not deprive such party of the right to oppose the recognition or enforcement of the judgment under this section, or represent a waiver of any jurisdictional claims.

“(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to—

“(1) affect the enforceability of any foreign judgment other than a foreign judgment for defamation; or

“(2) limit the applicability of section 230 of the Communications Act of 1934 (47 U.S.C. 230) to causes of action for defamation.

“§4103. Removal

“In addition to removal allowed under section 1441, any action brought in a State domestic court to enforce a foreign judgment for defamation in which—

“(1) any plaintiff is a citizen of a State different from any defendant;

“(2) any plaintiff is a foreign state or a citizen or subject of a foreign state and any defendant is a citizen of a State; or

“(3) any plaintiff is a citizen of a State and any defendant is a foreign state or citizen or subject of a foreign state,

may be removed by any defendant to the district court of the United States for the district and division embracing the place where such action is pending without regard to the amount in controversy between the parties.

“§4104. Declaratory judgments

“(a) CAUSE OF ACTION.—

“(1) IN GENERAL.—Any United States person against whom a foreign judgment is entered on the basis of the content of any writing, utterance, or other speech by that person that has been published, may bring an action in district court, under section 2201(a), for a declaration that the foreign judgment is repugnant to the Constitution or laws of the United States. For the purposes of this paragraph, a judgment is repugnant to the Constitution or laws of the United States if it would not be enforceable under section 4102 (a), (b), or (c).

“(2) BURDEN OF ESTABLISHING UNENFORCEABILITY OF JUDGMENT.—The party bringing an action under paragraph (1) shall bear the burden of establishing that the foreign judgment would not be enforceable under section 4102 (a), (b), or (c).

“(b) NATIONWIDE SERVICE OF PROCESS.—

Where an action under this section is brought in a district court of the United States, process may be served in the judicial district where the case is brought or any other judicial district of the United States where the defendant may be found, resides, has an agent, or transacts business.

“§4105. Attorneys’ fees

“In any action brought in a domestic court to enforce a foreign judgment for defamation, including any such action removed from State court to Federal court, the domestic court shall, absent exceptional circumstances, allow the party opposing recognition or enforcement of the judgment a reasonable attorney’s fee if such party prevails in the action on a ground specified in section 4102 (a), (b), or (c).”

(b) SENSE OF CONGRESS.—It is the Sense of the Congress that for the purpose of pleading a cause of action for a declaratory judgment, a foreign judgment for defamation or any similar offense as described under chapter 181 of title 28, United States Code, (as added by this Act) shall constitute a case of actual controversy under section 2201(a) of title 28, United States Code.

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part VI of title 28, United States Code, is amended by adding at the end the following:

“181. Foreign judgments ..... 4101.”

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from

Tennessee (Mr. COHEN) and the gentleman from Florida (Mr. ROONEY) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee.

GENERAL LEAVE

Mr. COHEN. I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. COHEN. Mr. Speaker, I yield myself such time as I may consume.

Earlier this Congress, I introduced, together with Congressman DARRELL ISSA, H.R. 2765, to protect Americans’ First Amendment rights against the threat posed by libel tourism, a new term in our vocabulary. The House passed that bill by voice vote under suspension of the rules. The 110th Congress had also passed that bill in this House as well.

Last week, the Senate passed, by unanimous consent, an amended version of H.R. 2765, named the Securing the Protection of our Enduring and Established Constitutional Heritage Act, or SPEECH. We consider the Senate version today.

Libel tourism is the name given to the practice of doing an end-run around the First Amendment by suing American authors and publishers for defamation in the courts of certain foreign countries with defamation laws that don’t accord the same respect to free speech values as we do. Britain is a nation that particularly is a situs for these actions.

While we generally share a proud common law legal tradition with the United Kingdom, it is also true that the United Kingdom has laws that disfavor speech critical of public officials and public figures, contrary to our own constitutional tradition. As a result, the United Kingdom has become the favorite destination for libel tourists.

British defamation laws lack the constitutionally mandated speech-protective elements of U.S. law. For example, in contrast to U.S. law, British law presumes the defendant is wrong and places the burden on the defendant to prove the truth of her allegedly defamatory statement.

This feature of British law has brought condemnation, not only from American defenders of free speech, but also from the United Nations, and even from some members of the British Parliament.

In addition to Britain’s substantive defamation law, features of Britain’s procedural law tend to facilitate libel tourism, especially when it comes to the exercise of personal jurisdiction over a defamation defendant.

Under their more expansive standard, British courts have been quick to take jurisdiction over an American defendant whose book, magazine or newspaper, though principally, or even exclusively, distributed in the United

States, reaches even just a handful of readers in the United Kingdom, or whose Internet site, though based in the United States, is visited by someone in the UK.

Particular concerns have been raised that, as a result of British courts' expansive exercise of jurisdiction in libel cases, the Internet has rendered American authors and publishers especially vulnerable to libel suits in Britain.

As one commentator has described the situation: "In the Internet age, the British libel laws can bite you no matter where you live."

The Senate amendment to H.R. 2765 builds on the version of my bill that passed the House earlier this Congress, maintaining its core elements. Like the original bill, the Senate language prohibits U.S. courts from recognizing or enforcing foreign defamation judgments that are inconsistent with the First Amendment or do not comport with our due process requirements.

The Senate language also continues to prohibit the enforcement of a foreign defamation judgment against an interactive computer service if the claim of the party opposing enforcement in the judgment is inconsistent with section 230 of the Communications Act of 1934.

The purpose of this provision is to ensure that libel tourists do not attempt to chill speech by suing a third-party interactive computer service, rather than the actual author of the offending statement.

In such circumstances, the service provider would likely take down the allegedly offending material rather than face a lawsuit. Providing immunity removes this unhealthy incentive to take down material under improper pressure.

The Senate language enhances an existing attorneys' fee provision so that a court would now be required, absent exceptional circumstances, to award attorneys' fees to the party resisting enforcement of the foreign judgment if that party prevails. That provision was added in committee this year to put more teeth in the bill.

The purpose of the provision is to dissuade libel tourists from putting American authors and publishers through the burden and expense of defending a meritless enforcement action and to compensate authors and publishers when they are forced to do so.

The most significant change made by the Senate, which I support, is the addition of a declaratory judgment remedy for a U.S.-based author or publisher who is the target of a foreign defamation judgment.

This provision would allow the U.S.-based party against whom a foreign defamation judgment is entered to seek a declaratory judgment in Federal court, finding that the foreign judgment is repugnant to the Constitution or laws of the United States under one of the grounds listed in the bill.

The declaratory judgment remedy provides an added measure of protec-

tion for the free speech rights of American authors and publishers.

Last Thursday, The New York Times hailed the passage of this bill by the Senate, where it was sponsored by Senator LEAHY, as a great move forward for First Amendment rights that are so important to our American way of life.

I thank Judiciary Committee Chairman JOHN CONYERS, Ranking Member LAMAR SMITH, the members of the Judiciary Committee, and the cosponsors of this bill for their support.

And I greatly thank Senators PATRICK LEAHY, JEFF SESSIONS and ARLEN SPECTER for their longstanding and committed leadership on this issue. And I should say particularly, Senator LEAHY, such a gentleman, in moving this bill forward.

I urge my colleagues to support this legislation.

[From The New York Times, July 22, 2010]

#### A VICTORY FOR WRITING

It is a rare achievement these days for the Senate to pass anything of real substance by a unanimous vote. But an important bill that protects Americans from the whims of foreign libel judgments was passed earlier this week by unanimous consent. Once it passes the House and is signed into law, it will provide a safeguard to authors and publishers threatened with ruinous foreign judgments.

In the United States, a plaintiff alleging libel must prove that a statement is false and defamatory, and public figures have to show that a writer acted with actual malice in making a false statement. But these protections, rooted in the First Amendment, do not exist in places like Britain, Australia and Singapore, where the burden is often on the author, once accused of libel, to show that a statement is true.

To sidestep American protections, subjects of books have sued publishers and authors in British courts where they have a better chance of winning. The practice, known as libel tourism, counts on a system in which American courts will enforce British fines and penalties.

The bill passed by the Senate on Monday would prohibit American courts from enforcing foreign defamation judgments if the judgments are inconsistent with First Amendment protections. In other words, if a British court finds that an American author has committed libel but has not conducted the trial with the same legal standards as an American court, the judgment against the author would be void in the United States. Americans who are found overseas to have committed libel can also sue in federal court to have that judgment found to be "repugnant to the Constitution" or American law.

These kinds of cases have come up far too often. One of the best known examples was that of Rachel Ehrenfeld, who wrote a 2003 book called "Funding Evil: How Terrorism Is Financed—and How to Stop It," that accused a Saudi businessman, Khalid bin Mahfouz, of providing financial support to Al Qaeda before the Sept. 11, 2001, attacks. After Mr. Mahfouz sued for libel in Britain—a charge that Ms. Ehrenfeld refused to defend—a British judge ordered her to pay £10,000 each to Mr. Mahfouz and his two sons, and more than £100,000 in legal costs, a total equaling about \$230,000 at the time. She refused to pay, and the case led the New York State Legislature to pass a bill similar to the Speech Act in 2008.

The House has already passed a similar bill and is expected shortly to support the

version approved by the Senate, giving authors in the rest of the country the same protections that exist in New York. The next step is for the new British government to take the hint and follow through on the promise it made earlier this month to review and overhaul its libel laws. No one in either country wins if writers cannot express themselves freely.

I reserve the balance of my time.

Mr. ROONEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Thomas Jefferson observed that "the only security of all is in a free press. The agitation it produces must be submitted to. It is necessary to keep the waters pure."

It's safe to say that Jefferson would not take kindly to libel tourists, the subject of H.R. 2765.

In the wake of 9/11, the American media has become increasingly alarmed over a phenomenon called libel tourism. Libel tourism is the practice of suing for libel in a country with weaker free speech protections than the United States. Surprisingly, most of these suits are filed in Great Britain as its libel and slander laws provide great writers and journalists less protection than those here in the United States system.

So how do courts handle foreign judgments that clash with the American legal values?

A foreign ruling will not be enforced in a U.S. court if the ruling offends State public policy or the Constitution.

The House version of H.R. 2765, which we passed unanimously in June 2009, contains three major provisions. First, it states that a U.S. court, either State or Federal, shall not enforce a foreign judgment for defamation if the judgment is inconsistent with the First Amendment.

Second, it clarifies that a foreign ruling denying an American citizen due process guarantees will also not be enforced.

And, third, H.R. 2765 prevents enforcement of foreign rulings that conflict with the U.S. telecommunications law that protects consumers' rights to criticize corporate misconduct on Internet bulletin boards.

□ 1830

This version, as amended by the Senate, includes essential provisions to help deter libel tourists from bringing these suits in the first place. Among these is a feature that allows a U.S. citizen who loses a foreign suit to bring a declaratory action in Federal court to determine whether the foreign verdict is "repugnant to the Constitution or the laws of the United States."

Mr. Speaker, this bipartisan legislation provides appropriate and necessary protection for U.S. journalists and authors and represents the strongest policy response to libel tourism. The issue has been thoroughly considered by the House Judiciary Committee. I urge the Members to support H.R. 2765 as amended by the other body.

I reserve the balance of my time.

Mr. COHEN. Mr. Speaker, I yield myself such time as I may consume.

I just want to reflect on the fact that this bill probably couldn't have gotten as far as it had without the outstanding work of the gentleman from Massachusetts (Mr. DELAHUNT). The gentleman from Massachusetts has been an invaluable member of the Judiciary Committee for many years, contributed much to First Amendment rights, and participated as the vice chairman of the Commercial and Administrative Law subcommittee this year, an invaluable role that he actively engaged in.

On this bill in particular, he was very instrumental in its passage. I thank him for his service on this particular bill and in general. All the publishers and the authors also should know that the gentleman from Massachusetts was very involved in this bill.

With that, I would like to reserve the balance of my time for the purpose of closing.

Mr. ROONEY. Mr. Speaker, I yield back the balance of my time.

Mr. COHEN. Mr. Speaker, it is with great pleasure that this bill comes to a conclusion. We passed this in the 110th Congress, we couldn't get the Senate to agree on the language, and we did it in this Congress. It was a victory for writing, said the New York Times, a rare achievement for the Senate to pass this particular bill by a unanimous vote. It was an important bill that protects Americans from the whims of foreign libel judgments. This bill will safeguard authors and publishers threatened with ruinous foreign judgments. These particular First Amendment rights have been jeopardized in places like Britain, Australia and Singapore where the burden was shifted.

So it is important, as the New York Times suggested in what is an outstanding editorial endorsing and praising the passage of this bill, mentioning Ms. Rachel Ehrenfeld who wrote a 2003 book "Funding Evil: How Terrorism is Financed—and How to Stop It," where she was the object of a libel tourism action by an individual that got a judgment against her which was improper. She has been a very active and important citizen in seeing that this bill was passed along with the publishers over the years.

It's important that we pass this. The New York Times editorial was so complete, it only failed to mention Mr. DELAHUNT's role in the passage of the bill. I wish it would have. With that, I would ask for the unanimous passage of the bill.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Tennessee (Mr. COHEN) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 2765.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

### NATIONAL CRIMINAL JUSTICE COMMISSION ACT OF 2010

Mr. SCOTT of Virginia. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5143) to establish the National Criminal Justice Commission, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 5143

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

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "National Criminal Justice Commission Act of 2010".

#### SEC. 2. FINDINGS.

Congress finds that—

(1) it is in the interest of the Nation to establish a commission to undertake a comprehensive review of the criminal justice system;

(2) there has not been a comprehensive study since the President's Commission on Law Enforcement and Administration of Justice was established in 1965;

(3) that commission, in a span of 18 months, produced a comprehensive report entitled "The Challenge of Crime in a Free Society," which contained 200 specific recommendations on all aspects of the criminal justice system involving Federal, State, tribal, and local governments, civic organizations, religious institutions, business groups, and individual citizens; and

(4) developments over the intervening 45 years require once again that Federal, State, tribal, and local governments, civic organizations, religious institutions, business groups, and individual citizens come together to review evidence and consider how to improve the criminal justice system.

#### SEC. 3. ESTABLISHMENT OF COMMISSION.

There is established a commission to be known as the "National Criminal Justice Commission" (referred to in this Act as the "Commission").

#### SEC. 4. PURPOSE OF THE COMMISSION.

The Commission shall undertake a comprehensive review of the criminal justice system, encompassing current Federal, State, local, and tribal criminal justice policies and practices, and make reform recommendations for the President, Congress, State, local, and tribal governments.

#### SEC. 5. REVIEW AND RECOMMENDATIONS.

(a) GENERAL REVIEW.—The Commission shall undertake a comprehensive review of all areas of the criminal justice system, including Federal, State, local, and tribal governments' criminal justice costs, practices, and policies.

(b) FINDINGS AND RECOMMENDATIONS.—After conducting a review of the United States criminal justice system as required by section 5(a), the Commission shall make findings regarding such review and recommendations for changes in oversight, policies, practices, and laws designed to prevent, deter, and reduce crime and violence, reduce recidivism, improve cost-effectiveness, and ensure the interests of justice at every step of the criminal justice system.

(c) REPORT ADVISORY IN NATURE.—No finding or recommendation made by the Commission in its report shall be binding on any Federal, State, Tribal, or local unit of government. The findings and recommendations of the Commission are advisory in nature.

(d) STATE AND LOCAL GOVERNMENT.—In making its recommendations, the Commis-

sion should consider the financial and human resources of State and local governments. Recommendations shall not infringe on the legitimate rights of the States to determine their own criminal laws or the enforcement of such laws.

(e) PUBLIC HEARINGS.—The Commission shall conduct public hearings in various locations around the United States.

(f) CONSULTATION WITH GOVERNMENT AND NONGOVERNMENT REPRESENTATIVES.—

(1) IN GENERAL.—The Commission shall—

(A) closely consult with Federal, State, local, and tribal government and nongovernmental leaders, including State, local, and tribal law enforcement officials, legislators, public health officials, judges, court administrators, prosecutors, defense counsel, victims' rights organizations, probation and parole officials, criminal justice planners, criminologists, civil rights and liberties organizations, formerly incarcerated individuals, professional organizations, and corrections officials; and

(B) include in the final report required by subsection (g) summaries of the input and recommendations of these leaders.

(2) UNITED STATES SENTENCING COMMISSION.—To the extent the review and recommendations required by this section relate to sentencing policies and practices for the Federal criminal justice system, the Commission shall conduct such review and make such recommendations in consultation with the United States Sentencing Commission.

(g) REPORT.—

(1) REPORT.—Not later than 18 months after the first meeting of the Commission, the Commission shall prepare and submit a final report that contains a detailed statement of findings, conclusions, and recommendations of the Commission to Congress, the President, State, local, and tribal governments.

(2) GOAL OF UNANIMITY.—It is the sense of the Congress that, given the national importance of the matters before the Commission, the Commission should work toward unanimously supported findings and recommendations.

(3) PUBLIC AVAILABILITY.—The report submitted under this subsection shall be made available to the public.

(4) VOTES ON RECOMMENDATIONS IN REPORT.—Consistent with paragraph (2), the Commission shall state the vote total for each recommendation contained in its report to Congress.

#### SEC. 6. MEMBERSHIP.

(a) IN GENERAL.—The Commission shall be composed of 14 members, as follows:

(1) 1 member shall be appointed by the President, who shall serve as co-chairman of the Commission.

(2) 1 member shall be appointed by the minority leader of the Senate, in consultation with the minority leader of the House of Representatives, who shall serve as co-chairman of the Commission.

(3) 2 members appointed by the majority leader of the Senate, in consultation with the Chairman of the Committee on the Judiciary.

(4) 2 members appointed by the minority leader of the Senate, in consultation with the ranking member of the Committee on Judiciary.

(5) 2 members appointed by the Speaker of the House of Representatives, in consultation with the Chairman of the Committee on Judiciary.

(6) 2 members appointed by the minority leader of the House of Representatives, in consultation with the ranking member of the Committee on Judiciary.

(7) 2 members, who shall be State and local representatives, shall be appointed by the