

FBI Liaison within U.S. Citizenship and Immigration Services (USCIS). This office will monitor the progress of naturalization applications filed by veterans and military personnel.

It will also monitor the progress of naturalization applications filed by spouses of active duty soldiers stationed abroad. And the Liaison Office will track the naturalization process for the soldiers and their spouses and children who are eligible for citizenship under the provisions that grant posthumous citizenship to military personnel who die in service to the country.

The intent behind the establishment of this Liaison Office is to address the delays that often occur in the processing of the necessary background checks for these categories of applicants.

The haste under which this bill was added to the suspension calendar precludes any meaningful assessment of the need for such an office. However, I do not object to measures that facilitate the processing of naturalization applications of those who have honorably served our country or their spouses and children.

This bill also requires USCIS to make a decision on these applications within 6 months of filing or, in circumstances in which that is not possible, to provide the reasons why. This is not an onerous burden since USCIS will still have the flexibility needed to be sure that all required security checks and eligibility criteria are met before granting citizenship.

In this Congress, we have already passed legislation to ease the processing of naturalization applications for our soldiers. The Kendall Frederick Citizenship Assistance Act became law on June 26th of this year. That law permits soldiers to use the fingerprints they provided at the time of enlistment for their background checks.

That law also requires the Secretary of Homeland Security and the Director of the FBI to take steps to ensure that soldiers' naturalization applications are adjudicated within 180 days after the background checks have been completed. This bill furthers those goals.

The bill provides, but does not require, an earlier target date of 6 months after the filing of the application. But in cases in which that time frame cannot be met—even with the new FBI liaison office created under this bill—USCIS will need to explain why.

I have no objection to these measures, which are intended to ensure the timely adjudication of naturalization applications filed by those who have served our Nation, and urge my colleagues to support the bill.

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

Mr. CONYERS. Mr. Speaker, I yield to the gentlelady from California, ZOE LOFGREN, as much time as she may need.

Ms. ZOE LOFGREN of California. I would certainly like to commend Congressman RODRIGUEZ and Senator SCHUMER. This is a measure that I support.

Mr. Speaker, I would just like to note there is another measure that we have marked up in the Judiciary Committee that would broadly assist our American soldiers and their families. I hope that in the same spirit of collaboration we see this evening, we will be able to achieve that wonderful advance for the

fathers, mothers, wives, spouses, and sons and daughters of our brave American soldiers.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. CONYERS) that the House suspend the rules and pass the Senate bill, S. 2840. The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. SMITH of Texas. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

PROHIBITING RECOGNITION AND ENFORCEMENT OF FOREIGN DEFAMATION JUDGMENTS

Mr. CONYERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6146) to amend title 28, United States Code, to prohibit recognition and enforcement of foreign defamation judgments, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 6146

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

SECTION 1. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) The first amendment of the Constitution of the United States prohibits the abridgment of freedom of speech.

(2) Freedom of speech is fundamental to the values of American democracy.

(3) In light of the constitutional protection our Nation affords to freedom of speech, the Supreme Court has modified the elements of the common law tort of defamation to provide more protection for defendants than would be available at common law, including providing special protections for political speech.

(4) The courts of other countries, including those that otherwise share our Nation's common law and due process traditions, are not constrained by the first amendment and thus may provide less protection to defamation defendants than our Constitution requires.

(5) While our Nation's courts will generally enforce foreign judgments as a matter of comity, comity does not require that courts enforce foreign judgments that are repugnant to our Nation's fundamental constitutional values, in particular its strong protection of the right to freedom of speech.

(6) Our Nation's courts should only enforce foreign judgments as a matter of comity when such foreign judgments are consistent with the right to freedom of speech.

(b) PURPOSE.—The purpose of this Act is to protect the right to freedom of speech under the first amendment to the Constitution of the United States from the potentially weakening effects of foreign judgments concerning defamation.

SEC. 2. 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. Recognition of foreign defamation judgments.

“§ 4101. Recognition of foreign defamation judgments

“(a) FIRST AMENDMENT CONSIDERATIONS.—Notwithstanding any other provision of Federal or State law, a domestic court shall not recognize or enforce a foreign judgment for defamation that is based upon a publication concerning a public figure or a matter of public concern unless the domestic court determines that the foreign judgment is consistent with the first amendment to the Constitution of the United States.

“(b) DEFINITIONS.—For purposes of this section:

“(1) DOMESTIC COURT.—The term ‘domestic court’ means a State court or a Federal court.

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

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

(b) CLERICAL 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 Michigan (Mr. CONYERS) and the gentleman from Texas (Mr. SMITH) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan.

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, 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 Michigan?

There was no objection.

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

Mr. Speaker, this bill imposes a limited, but important, condition on enforcement of foreign defamation judgments in our courts.

It prohibits a federal or state court from enforcing a defamation judgment entered in another country for publication involving a matter of public concern, unless the court first determines that the judgment is consistent with the free-speech clause of our Constitution's First Amendment.

H.R. 6146 responds to the problem of what is sometimes called “libel tourism.” This is the disturbing practice of suing authors for defamation in foreign countries rather than in the United States, so as to avoid the speech-protective features of defamation law enshrined in our Constitution.

A much-cited recent example is the lawsuit filed by a Saudi billionaire against an American expert on terrorism, as a result of statements about his activities she made in a book entitled *Funding Evil: How Terrorism Is Financed and How to Stop It*.

The Saudi billionaire sued the American author not in the United States, where the book

was published, but in England, where a mere 23 copies of the book had been sold to on-line buyers.

He sued in England to avail himself of English libel law, which denies authors the important free-speech protections of our First Amendment. This kind of end-run on the Constitution poses an obvious threat to free speech rights in our country.

H.R. 6146, which was introduced by our colleague, STEVE COHEN of Tennessee, would go a long way toward eliminating this threat. At the same time, it would not interfere with the judicial systems of other countries, or deprive plaintiffs of their choice of forum.

It would simply require that anyone who seeks to enforce this specific type of defamation judgment in our courts to establish that the judgment does not offend our First Amendment. Many U.S. courts already impose this condition on the enforcement of foreign defamation judgments.

I urge my colleagues to support this important bill.

Mr. Speaker, I yield to the author of the measure, STEVE COHEN, the gentleman from Memphis, Tennessee, as much time as he may consume.

Mr. COHEN. I want to thank the chairman for his courtesies and the ranking member in helping bring this bill to the floor today.

Mr. Speaker, I rise today in support of H.R. 6146, which I introduced with Congressman ISSA of California. The bill is designed to address the phenomenon of libel tourism, whereby plaintiffs seek judgments from foreign courts from American authors and publishers for making allegedly defamatory statements.

The fact is, these statements in these cases would not be considered defamatory in American courts where the first amendment gives our authors and people the protection of the first amendment, but in certain jurisdictions, even countries that have similar legal systems to ours, the first amendment is not recognized, and the libel laws are much different, and plaintiffs have less burdens to prove to get judgments against defendants.

This threatens to undermine our Nation's core free speech principles, as embodied in the first amendment. U.S. law places this higher burden on defamation plaintiffs to safeguard our first amendment and protect our speech. We have seen problems with this, particularly in courts of England. The State of New York has already acted to pass a bill to protect authors and publishers in the first amendment, but there was a need to have such on a national basis.

Thomas Jefferson is memorialized with the monument here in Washington. My friend, Randy Wade, and I visited Thomas Jefferson recently. Around the top of the monument is a statement Thomas Jefferson is known for:

"I have sworn upon the altar of almighty God eternal hostility against every form of tyranny over the minds of men." To infringe on the opportunity for people to write books and publish, which is what this does, is tyr-

anny over the minds of men. I believe Jefferson would join with us today in support of this proposal.

H.R. 6146 will codify the principle that while U.S. courts will normally enforce judgments of foreign courts, they should not do so when the foreign judgments undermine our Constitution, particularly our precious first amendment.

Specifically, our bill prohibits U.S. courts from recognizing and enforcing foreign defamation judgments that do not comport with the first amendment. I believe that passage of this bill will dissuade those who would seek to circumvent our first amendment by filing actions in libel-friendly forums that do not share our protections and then threaten our authors with judgments.

I thank, again, Chairman CONYERS and Ranking Member SMITH for their assistance in bringing this bill to the floor on suspension. I also thank Congressman ISSA for his help and Congressman Peter KING.

Representative KING had a different bill on the same subject. He has shown leadership on this issue for his home State of New York, and he joined with us in this particular bill to try to get it passed here in this Congress.

Adam Cohen, no relation to me in any way whatsoever, opined in *The New York Times* that this bill needed to become law immediately. We did go into warp speed to get this to the floor.

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I am committed to working with Mr. KING next year. I have talked to Chairman CONYERS, and he is in agreement that we should have a public hearing next year on this legislation with Mr. KING's ideas that go further than this bill to discuss how far libel tourism should go. And that hearing I think would satisfy Senator SPECTER's office and others on the Senate side, to go deeper to protect our authors and the freedom of speech.

I would also like to thank the Association of American Publishers, particularly former Congresswoman Pat Schroeder, the Media Law Resource Center, and Professor Michael Brode of Emory University Law School for their input on the bill.

I urge the bill's immediate passage. I thank my chairman from the bottom of my heart who I am fortunate to serve with, and my ranking member who has been so kind to me during my first term.

Mr. SMITH of Texas. First of all, I support this legislation and I thank the gentleman from Tennessee (Mr. COHEN) for his persistent efforts in promoting this legislation.

I yield 3 minutes to my colleague, the gentleman from Texas (Mr. POE).

Mr. POE. Mr. Speaker, I thank Mr. CONYERS for pushing this legislation and the gentleman from Tennessee (Mr. COHEN) for sponsoring this legislation. I am proud to be a cosponsor of this legislation.

Mr. Speaker, there is a legal presumption in most countries, even Third

World countries, that if you accuse somebody of something, you have to prove it, whether civil or criminal. The burden of proof is on the accuser. But that is not so in all countries when it comes to libel and slander.

Take Great Britain, for example. It goes back to when the King ruled the day. If you criticized the King, even if you were right, off with your head. One of the reasons that we formed our own country was the idea of freedom of speech and freedom of press and that is why we put those two fundamental principles first in our Constitution. I have a pocket Constitution that most Members of Congress carry with them, and the first amendment protects the right of a free press and freedom of speech.

What has occurred, though, throughout the courts in Great Britain in a libel case, in other words somebody writes something about somebody else, if the person that is the subject matter doesn't like it, they file a lawsuit in Great Britain, and the burden is on the person who wrote the document to prove it is true. The burden is not on the accuser like it would be in the United States. That applies not only in libel cases but slander cases. And it has taken place especially in books about Islamic terrorism throughout the world.

Writers critical of Islamic terrorists are being sued by wealthy sheiks and Saudi billionaires, specifically Khalid bin Manfouz, who was accused in "Alms for Jihad" of financing Islamic terrorists through Muslim charities. What he did, he got mad about the Cambridge University Press, and he threatened to sue Cambridge University Press. What happened in England, which I hope never happens with our press, they got so nervous about it that they started taking all of the books off the shelves, and they started destroying the books. In fact, they sent word throughout the world, if you have this book, "Alms For Jihad," destroy the book. Kind of like the burning of books during World War II under the Nazis. So the Cambridge University Press gave in because the libel laws are different than they are in the United States.

It has also occurred here in the United States with a similar book called, "Funding Evil," written by Rachel Ehrenfeld. What she did was write a book in the United States, published in the United States. But some books, 23, worked their way to England. Here we go again. This author was sued in the courts of England and had the burden of proof to prove that her statements were true. Well, she filed suit against the people who sued her, once again bin Manfouz, and that lawsuit is now pending in our courts.

The SPEAKER pro tempore. The gentleman's time has expired.

Mr. SMITH of Texas. I yield 1 additional minute.

Mr. POE. So our courts are hearing this matter and it is all about the freedom of speech and the freedom of press.

That is a human right. That is a universal right in this world, whether the courts in Great Britain recognize it or not. And it is important that people be free to write the truth and not suffer the consequences from it and certainly not have to prove what they say is true just because somebody objects.

This legislation is good to protect the publishers and writers in the United States that if they are sued in foreign courts, that those judgments will not be upheld unless that law, that judgment would be upheld in courts in the United States.

This is important legislation. I would like to put into the RECORD an article from the San Francisco Chronicle talking about this entire concept of libel tourism.

[From the San Francisco Chronicle, Aug. 29, 2008]

LIBEL TOURISM: WHERE TERRORISM AND CENSORSHIP MEET

(By Cinnamon Stillwell)

It has become popular for those with competing political agendas to allege threats to free speech, whether real or imagined. Yet, there is a very real threat to free speech that has received little attention in the public sphere. It's called libel tourism and it has become a major component in the ideological arm of the war on terrorism.

At question is the publication of books and other writings that seek to shed light on the financing of Islamic terrorism. Increasingly, American authors who dare enter this territory are finding themselves at risk of being sued for libel in the much more plaintiff-friendly British court system in what amounts to an attempt to censor their work on an international level.

The latest case of libel tourism to rear its ugly head involves the book "Alms for Jihad," which was published by Cambridge University Press in 2006. Co-written by former State Department analyst and USAID relief coordinator for Sudan J. Millard Burr and UC Santa Barbara professor emeritus of history Robert O. Collins, "Alms for Jihad" delves into the tangled web of international terrorist financing and, chiefly, the misuse of Muslim charities for such purposes.

Among those the book fingers for involvement is Saudi billionaire Khalid bin Mahfouz, the former chairman of Saudi Arabia's largest bank, National Commercial Bank. Bin Mahfouz has come under similar scrutiny on previous occasions, including being named a defendant in a lawsuit filed by family members of victims of the Sept. 11 terrorist attacks. He even has a section of his Web site devoted to trying to refute such charges.

With this in mind, Cambridge University Press lawyers looked over the manuscript for "Alms for Jihad" carefully before giving it the go-ahead. According to Collins, the passages involving bin Mahfouz are, in fact, quite "trivial" compared to the wealth of information contained in the book on how such funds are used to finance conflicts around the globe.

Yet, it is bin Mahfouz's inclusion in "Alms for Jihad" that has proven to be the most problematic, for he soon threatened Cambridge University Press with a libel lawsuit. Before the suit could commence, Cambridge University Press capitulated and announced in July that not only was it taking the unprecedented step of pulping all unsold copies of "Alms for Jihad," but it was asking libraries all over the world to remove the book

from their shelves. Cambridge University Press issued a formal apology to bin Mahfouz and posted a public apology at its Web site. It also agreed to pay his legal costs and unspecified damages, which, according to bin Mahfouz, are to be donated to UNICEF.

Authors Burr and Collins, however, did not take part in the apology, nor were they a party to the settlement, and they continue to stand by their scholarship. As Collins put it, "I'm not going to recant on something just from the threat of a billionaire Saudi sheik . . . I think I'm a damn good historian." The authors were aware that Cambridge University Press's decision was based not so much on a lack of confidence in the book as on a fear of incurring costly legal expenses and getting involved in a lengthy trial. The British court system is known as a welcoming environment for "libel tourists" such as bin Mahfouz. The Weekly Standard elaborates: "Bin Mahfouz has a habit of using the English tort regime to squelch any unwanted discussion of his record. In America, the burden of proof in a libel suit lies with the plaintiff. In Britain, it lies with the defendant, which can make it terribly difficult and expensive to ward off a defamation charge, even if the balance of evidence supports the defendant."

Bin Mahfouz has indeed availed himself of the British court system on many occasions, having either sued or threatened suit against Americans and others at least 36 times since 2002, according to Rachel Ehrenfeld, author and director of the American Center for Democracy.

Ehrenfeld should know, as her own book, "Funding Evil: How Terrorism is Financed—And How to Stop It," was also targeted by bin Mahfouz through the British court system. Bin Mahfouz sued Ehrenfeld for libel in 2004, soon after her book's publication in the United States, even though only 23 copies ever made it to the United Kingdom.

Ehrenfeld would not, as she put it in the New York Post, "acknowledge a British court's jurisdiction over a book published here" and a trial was never held, but the court ruled in favor of bin Mahfouz by default. It also awarded bin Mahfouz \$225,913 in damages and ordered Ehrenfeld to apologize publicly and to destroy all unsold copies of the book.

Instead, Ehrenfeld chose to fight back. No doubt aware of the larger implications at work, she took her case to the United States and, giving bin Mahfouz a taste of his own medicine, sued him in a New York federal court on the basis that "his English default judgment is unenforceable in the United States and repugnant to the First Amendment."

Civil liberties lawyer Harvey Silverglate has described her case as "one of the most important First Amendment cases in the past 25 years" and sure enough, in June of this year, the Second Circuit Court of Appeals agreed that it deserved a hearing. The court will begin hearing arguments this fall in what could turn out to be a pivotal case involving the clash between First Amendment rights and foreign libel rulings.

Ehrenfeld may indeed have a strong case. She maintains that bin Mahfouz has a long history of involvement in terrorist financing. The bulk of it, she wrote in 2005, revolves around the now-defunct Muwafaq (Blessed Relief) Foundation, which was founded by bin Mahfouz and "identified by the U.S. Treasury Department as providing logistical and financial support to al Qaeda, HAMAS, and the Abu Sayyaf organizations." Ehrenfeld recapped her concerns more recently: "The data in both *Alms for Jihad* and *Funding Evil* is all well-documented by the media and the U.S. Congress, courts, Treasury Department and other official state-

ments. Further corroboration comes from French intelligence officials at the General Directorate of External Security (DGSE), as reported in the French daily, *Le Monde*. For example, the DGSE reported that, in 1998, it knew bin Mahfouz to be an architect of the banking scheme built to benefit Osama bin Laden, and that both U.S. and British intelligence services knew it, too."

For this reason, and also to create a precedent, Ehrenfeld has been the only defendant so far not to settle with bin Mahfouz. And she refuses to "acknowledge the British Court and its ruling" to this day.

Ehrenfeld's success thus far countering bin Mahfouz mirrors other indications that libel tourism may be backfiring. The largely Internet-based furor over the attempt to squelch "Alms for Jihad" and what is widely seen as Cambridge University Press' cave-in has caused the book's price to skyrocket. A copy of the book sold on eBay this month for \$538. As noted at the blog Hot Air, "By suing publisher Cambridge University Press into submission, Khalid bin Mahfouz has turned an obscure scholarly book on the financial workings of terrorism into a prized, rare book."

In addition, the American Library Association is rising to the occasion. Rather than going along with the Cambridge University Press settlement stipulation that American libraries remove "Alms for Jihad" from their shelves, the American Library Association's Office for Intellectual Freedom issued the following statement earlier this month: "Unless there is an order from a U.S. court, the British settlement is unenforceable in the United States, and libraries are under no legal obligation to return or destroy the book. Libraries are considered to hold title to the individual copy or copies, and it is the library's property to do with as it pleases. Given the intense interest in the book, and the desire of readers to learn about the controversy first hand, we recommend that U.S. libraries keep the book available for their users."

Reportedly, Collins and Burr got the publishing rights to the book back from Cambridge University Press and, according to the Library Journal, have had "several offers from U.S. publishers." It appears the "Alms for Jihad" saga is far from over and free speech may yet win the day.

In another victory for free speech, as well as an instructive example of what such libel suits look like when attempted in the United States, a recent case involving Yale University Press proves useful. It involved a book written by Matthew Levitt, the director of the Stein Program on Terrorism, Intelligence and Policy at the Washington Institute for Near East Policy, titled "Hammas: Politics, Charity, and Terrorism in the Service of Jihad."

In his book, Levitt disputes the notion, popular among Hamas apologists, that the group's terrorist and social service pursuits can be seen as separate. In the process, he implicates the Dallas charity KinderUSA, which allegedly raises funds for Palestinian children, in terrorist financing. The group has personnel connections to the now-closed Holy Land Foundation for Relief and Development, which has been under investigation by federal authorities for funding Hamas. KinderUSA has also come under investigation and as a result, in 2005 suspended operations temporarily.

All of this information is available to the public and the book was thoroughly fact-checked prior to publication. Levitt, who is a witness in the ongoing trial of the Holy Land Foundation, explained further that he "conducted three years of careful research for Hamas, and the book was the subject of academic peer review."

But this didn't stop KinderUSA and the chair of its board, Dr. Laila Al-Marayati, from filing a libel suit in California in April against Levitt, Yale University Press, and the Washington Institute for Near East Policy. They disputed a particular passage from the book, as well as alleging that Yale University Press did not subject it to fact-checking. But, in filing the suit in California, they were faced with a formidable challenge: the state's anti-SLAPP statute. According to Inside Higher Education: "KinderUSA asked the court for an injunction on its request that distribution of the book be halted, and also sought \$500,000 in damages. But in July, Yale raised the stakes by filing what is known as an "anti-SLAPP suit" motion, seeking to quash the libel suit and to receive legal fees. SLAPP is an acronym for "strategic lawsuit against public participation," a category of lawsuit viewed as an attempt not to win in court, but to harass a nonprofit group or publication that is raising issues of public concern. The fear of those sued is that groups with more money can tie them up in court in ways that would discourage them from exercising their rights to free speech. Anti-SLAPP statutes, such as the one in California with which Yale responded, are tools created in some states to counter such suits."

Not only did Yale University Press stand by its author, but, in the end, its aggressive response to KinderUSA paid off. It was announced this month that the libel suit has been dropped and no changes to the book or payments to the plaintiffs will be forthcoming. KinderUSA claims that it dropped the suit because of the costs involved, but it's more likely it felt that it could not win. If the case had been brought in the United Kingdom, the outcome could have been far different.

This is why Americans must be vigilant about protecting their free speech rights, even when the threats at hand do not fit into the politically correct playbook. Certainly not all Muslim charities and Saudi businessmen are involved in financing terrorism, but the overwhelming amount of evidence pointing to existing links deserves attention, as do the fervent attempts by interested parties to silence those trying to bring the truth to light. It is crucial that they not succeed.

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

Mr. SMITH of Texas. Mr. Speaker, my Texas colleague described the merits of this legislation so well, I will simply make my prepared statement a part of the RECORD.

Mr. Speaker, in the wake of 9-11, the American media has become increasingly alarmed over a phenomenon called "libel tourism." The term refers to the subject of a critical news story suing the American author or reporter of the story in a plaintiff-friendly overseas forum.

This mostly occurs in the United Kingdom, since English libel and slander laws offer less protection to journalists compared to the U.S. system that features the protection offered by the First Amendment.

Persons identified in news stories as terrorists or terrorist sympathizers have brought some of the higher-profile suits. In fact, H.R. 6146 is a legislative response to a New York case in which a Saudi billionaire sued an American author in the UK for defamation, based on the author's allegations that he had subsidized terrorist activities.

What is the legal hook that allowed a British court to claim jurisdiction over the case? Twenty-three copies of the author's book de-

tailoring the billionaire's activities were purchased online in Great Britain.

The reporter chose not to appear before the court, which subsequently found her liable and ordered her to pay \$225,000 in damages, apologize to the plaintiff, and destroy any remaining copies of the offending book.

Such a result is doubly troublesome. First, an author must worry about satisfying a judgment that would bankrupt most Americans. And second, an author must contend with the fall-out of being shunned by the publishing community.

This is not an imagined result. It is a real threat to anyone wishing to earn a living by reporting and commenting on controversial subjects. And it's an outcome incompatible with our constitutional history and its commitment to the free-flow of ideas and to the robust debate contemplated by the First Amendment.

H.R. 6146 combats libel tourism by proscribing enforcement of any foreign defamation case if it is not "consistent with the First Amendment" This proposal tracks U.S. case law, which holds that a foreign judgment will not be enforced in an American court if the foreign judgment is offensive to State or Federal law.

H.R. 6146 does not overreach. It constitutes a straightforward and sensible response to the practical legal problems caused by libel tourism by codifying a principle already reflected in U.S. law.

Mr. Speaker, I commend the primary authors of the bill, my colleagues on the Judiciary Committee, Representatives STEVE COHEN and DARRELL ISSA, for their hard work and persistence in addressing this important subject.

I also want to acknowledge our colleague, Representative PETER KING, the Ranking Member of the Homeland Security Committee, for his work on the issue.

I urge my colleagues to support H.R. 6146. Mr. UDALL of Colorado. Mr. Speaker, as a cosponsor of this bill, I rise to urge its approval by the House.

The bill responds to as increasingly serious threat to freedom of speech—the phenomenon often called "libel tourism."

That term is used to describe lawsuits brought in other countries—especially the United Kingdom—by people claiming to have been defamed by publications that would not be considered defamatory in the United States.

As explained in a recent news article about the practice—

Britain is a legal refuge because of defamation standards rooted in common law. They essentially assume that any offending speech is false and the writer or author must prove that it is in fact true to prevail against the charge. In the United States, with its First Amendment protection for free speech, the situation tilts in the opposite direction: To succeed, libel plaintiffs must prove that the speech is false and published with a reckless disregard for the truth.

A notable example involves the case of Rachel Ehrenfeld, an Israeli-born writer living in the United States and her legal battle with a billionaire Saudi entrepreneur, Khalid Salim bin Mahfouz over her 2003 book on terrorist financing, "Funding Evil," which asserted that Bin Mahfouz and his family provided financial support to Islamic terrorist groups. The book was not sold in the United Kingdom, but Mr. Bin Mahfouz's lawyers argued that more than 20 copies of her book had been purchased

there online and that therefore the British courts had authority to hear his defamation complaint.

Ms. Ehrenfeld did not respond and because she offered no defense, the judge ruled that she had to pay a judgment of \$225,000, apologize for false allegations, and destroy existing copies of the book. Mr. Bin Mahfouz has not sought to collect on the judgment, but Ms. Ehrenfeld says it has affected her ability to publish further books. And last year Cambridge University Press agreed to destroy all copies of "Arms for Jihad" and to write to 100 libraries around the world seeking to add an explanatory sheet to archived books.

Evidently Mr. Bin Mahfouz has filed more than 24 lawsuits against writers and authors, and his advisers have created a special Web site tracking the legal suits and apologies issued by writers and publishers.

The bill now before the House responds to this threat to free speech. It would bar any U.S. court (State or Federal) from recognizing or enforcing a foreign defamation judgment unless it determined that the judgment "is consistent with the First Amendment." Thus, someone who had won a defamation judgment abroad would have to prove the case under U.S. standards before it could be enforced here. This will provide important protection for Americans and others who exercise the First Amendment right of free speech in our country.

I urge approval of the bill.

Mr. KING of New York. Mr. Speaker, today I rise in support of H.R. 6146, legislation that will prohibit the recognition and enforcement of foreign defamation judgments based upon a publication that concerns a public figure or a matter of public concern. This bill, like legislation (Free Speech Protection Act) that I introduced earlier this year attempts to deal with the issue of "libel tourism" that threatens not only Americans' First Amendment freedom of speech but also their ability to inform the general public about existential threats; namely, who are the terrorists and who are their supporters. As the Ranking Member on the House Committee on Homeland Security I am regularly briefed on dangers to the homeland and know how grave these threats are. We cannot allow foreigners the opportunity to muzzle Americans for speaking the truth about these dangers!

Libel tourism is a recent phenomenon in which certain individuals are obstructing the free expression rights of Americans (and the vital interest of the American people) by seeking out foreign jurisdictions ("libel shopping") that do not provide the full extent of free-speech protection that is enshrined in our First Amendment. Some of these actions are intended not only to suppress the free speech rights of journalists and others but also to intimidate publishers and other organizations from disseminating or supporting their work.

Unlike in the United States where the burden of proof is on the plaintiff to show that the publication was not only false but also malicious, in countries such as the United Kingdom it is the reverse: The defendant is required to appear in court and prove what he has written was 100 percent factual. And some of the "tourists" claims of jurisdiction are tenuous at best. In many cases, not only are none of the individuals (author, litigant, or publisher) associated with the case living in the venue of jurisdiction, but neither are the books

published there. These “tourists” stretch the law by claiming a handful of copies of the book were purchased over the internet in that country. The author must then hire an attorney, travel to the foreign country, and defend himself or likely face a default judgment against him. Consequences include (but are not limited to) fines, public apologies, pulping of books, and the removal of them from bookstores and libraries.

We cannot change nor would we want to change other countries’ (libel) laws. We must respect their rule of law as they ought to respect ours. However, we cannot allow foreign citizens to exploit these courts to shield personal reputations when it directly contradicts Americans’ First Amendment protected speech, especially when the subject matter is of such grave importance as terrorism and those who finance it. We rely on a variety of sources for intelligence and we cannot allow foreign litigants and foreign courts to tell us who can write and who can publish what. That is a dangerous path we do not want to follow.

Furthermore, the governments and courts of some foreign countries have failed to curtail this practice, permitting lawsuits filed by persons who are often not citizens of those countries, under circumstances where there is often little or no basis for jurisdiction over the Americans against whom such suits are brought.

Some of the plaintiffs bringing such suits are intentionally and strategically refraining from filing their suits in the United States, even though the speech at issue was published in the United States, to avoid the Supreme Court’s First Amendment jurisprudence and frustrate the protections it affords Americans.

But this issue is also very troubling for the authors, journalists, and even publishers who attempt to write on these subjects. Already we have seen examples of authors having difficulty getting their articles or books published because of publishing houses’ fear of being sued overseas. Some companies have even gone as far as to pay large settlements to avoid having to go to court. So not only are authors being injured for the works they have previously written but they and their publishers are being intimidated from writing future works on these important topics. The free expression and publication by journalists, academics, commentators, experts, and others of the information they uncover and develop through research and study is essential to the formation of sound public policy and thus to the security of Americans.

The Americans against whom such suits are brought must consequently endure the prohibitive expense, inconvenience, and anxiety attendant to being sued in foreign courts for conduct that is protected by the First Amendment, or decline to answer such suits and risk the entry of costly default judgments that may be executed in countries other than the United States where those individuals travel or own property.

In turn, the American people are suffering concrete and profound harm because they, their representatives, and other government policy-makers rely on the free expression of information, ideas and opinions developed by responsible journalists, academics, commentators, experts, and others for the formulation of sound public policy, including national security policy.

Having said that, the United States respects the sovereign right of other countries to enact

their own laws regarding speech, and seeks only to protect the First Amendment rights of Americans in connection with speech that occurs, in whole or part, in the United States.

That is why earlier this year I introduced the Free Speech Protection Act, H.R. 5814, to defend U.S. persons who are sued for defamation in foreign courts. This legislation allows U.S. persons to bring a Federal cause of action against any person bringing a foreign libel suit if the writing does not constitute defamation under U.S. law. It would also bar enforcement of foreign libel judgments and provide other appropriate injunctive relief by U.S. courts if a cause of action is established. H.R. 5814 would award damages to the U.S. person who brought the action in the amount of the foreign judgment, the costs related to the foreign lawsuit, and the harm caused due to the decreased opportunities to publish, conduct research, or generate funding. Furthermore, it would award treble damages if the person bringing the foreign lawsuit intentionally engaged in a scheme to suppress First Amendment rights. It allows for the expedited discovery if the court determines that the speech at issue in the foreign defamation action is protected by the First Amendment. Finally, nothing in this legislation would limit the rights of foreign litigants who bring good faith defamation actions to prevail against journalists and others who have failed to adhere to standards of professionalism by publishing false information maliciously or recklessly. The Free Speech Protection Act does, however, attempt to discourage those foreign libel suits that aim to intimidate, threaten, and restrict the freedom of speech of Americans. I am proud to have worked closely with Senators ARLEN SPECTER and JOE LIEBERMAN who have introduced companion legislation in the Senate.

I support the passage of H.R. 6146, a Federal version of New York State’s “Rachel’s Law,” which will provide protection to U.S. authors, journalists, and publishers against the domestic enforcement of defamation judgments from foreign countries with less free speech protections than the U.S. The protection of free speech enshrined in the First Amendment is one of America’s most cherished rights, and it is unacceptable that First Amendment rights of Americans can be potentially undermined or restricted by foreign court judgments based on lower free speech standards.

The impetus for a Federal “Rachel’s Law” is the case of Dr. Rachel Ehrenfeld, a U.S. citizen and Director of the American Center for Democracy. Dr. Ehrenfeld’s 2003 book, “Funding Evil: How Terrorism is Financed and How to Stop It,” which was published solely in the United States by a U.S. publisher, alleged that a Saudi Arabian subject and his family financially supported al Qaeda in the years preceding the attacks of September 11. He sued Dr. Ehrenfeld for libel in England though because under English law, it is not necessary for a libel plaintiff to prove falsity or actual malice as is required in the U.S. After the English court entered a judgment against Dr. Ehrenfeld, she sought to shield herself with a declaration from both Federal and State courts that her book did not create liability under American law, but jurisdictional barriers prevented both the Federal and New York State courts from acting. Reacting to this problem, the Governor of New York, on May 1, 2008, signed into law the “Libel Terrorism Protection Act”, commonly known as “Rachel’s Law.”

I support H.R. 6146 because it prohibits U.S. (domestic) courts from enforcing these outrageous defamation suits. We must stand up to the terrorists and their financiers, supporters, and sympathizers. However, this bill does not go far enough nor does it resolve the problem of “libel tourism.” Foreign litigants will still be allowed to file these libel suits overseas without the worry of being countersued here in the U.S. If this bill passes, they will never see a dime of those hefty judgments they were awarded, but that’s not what they are after in the first place. They want the default judgment. They want the publicity. They want the apology. And they want these books to disappear. But most of all they want to intimidate. They want to make sure people are afraid of writing anything about them. And it’s working. Journalists are even afraid of writing about this legislation! That’s their goal here. Not to collect the money. Many of them are already wealthy, and if they really cared about collecting a monetary judgment they would file these suits in the U.S. in the first place. They choose not to, however, because they know they would never win in a U.S. court.

Finally, I support H.R. 6146 because it is a first step in the right direction. I am a cosponsor of this bill and thank Representatives STEVE COHEN and DARRELL ISSA for introducing it. H.R. 6146 is an important and necessary part of any “libel tourism” bill. Unfortunately, it doesn’t put an end to the problem and doesn’t provide any deterrence from these suits being filed in the first place. But it is my hope that during the 111th Congress we can have hearings on this important issue and that Representatives COHEN and ISSA, along with Senators SPECTER and LIEBERMAN and I, can sit down together and craft a bill that we can all agree on and that will solve this problem once and for all.

Mr. ISSA. Mr. Speaker, I rise today in support of H.R. 6146, a bill to stifle the practice of libel tourism.

The right to free speech in the United States is of fundamental importance. It is arguably the cornerstone of our democracy and the hammer that keeps our government and its officials in check.

We must not take our right to free speech for granted, for our level of freedom is not honored in many countries around the world. China is an easy example of government-controlled speech, as demonstrated recently by the restrictions placed on the international press during the Olympic Games. But other countries are more of a surprise.

Our friend and ally, Great Britain, takes a much more liberal position on libel laws than the United States. They allow judgments against defendants that would not pass muster in our domestic courts, and for this reason many plaintiffs in libel suits involving American defendants seek redress in British courts.

For example, the book, “Alms for Jihad”, written by a former State Department analyst and a University of California Santa Barbara professor, looked into the network of global finances aiding international terrorism. The book mentioned a Saudi billionaire as being involved at some level, a claim not without controversy, but also not without legitimate research by the authors.

The threat of lawsuit by the billionaire in the British courts alone caused Cambridge University Press to shred all unsold copies of “Alms for Jihad” in addition to asking libraries the world over to pull the book.

We cannot allow libel laws in other countries to censor the writings of American authors when laws within the United States find the writings legitimate. Doing so will erode our right to free speech in the United States, an outcome I believe we all find abhorrent.

I cosponsored H.R. 6146 with Congressman STEVE COHEN to help eliminate this threat. The bill instructs courts within the United States not to enforce libel judgments of foreign courts unless the domestic court finds the judgment is consistent with the First Amendment. This is a fairly simple mechanism, but one that we expect to help control the threat of censorship arising from libel tourism.

Without the fear of foreign judgments against legitimate writings, American authors should feel safe continue to promote national and international discourse and debate.

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

The SPEAKER pro tempore (Mr. ALTMIRE). The question is on the motion offered by the gentleman from Michigan (Mr. CONYERS) that the House suspend the rules and pass the bill, H.R. 6146, as amended.

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

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. HASTINGS of Florida (during debate on H.R. 6146), from the Committee on Rules, submitted a privileged report (Rept. No. 110-897) on the resolution (H. Res. 1514) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

EQUAL JUSTICE FOR OUR MILITARY ACT OF 2007

Mr. CONYERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3174) to amend titles 28 and 10, United States Code, to allow for certiorari review of certain cases denied relief or review by the United States Court of Appeals for the Armed Forces.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 3174

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 "Equal Justice for Our Military Act of 2007".

SEC. 2. CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES.

(a) IN GENERAL.—Section 1259 of title 28, United States Code, is amended—

(1) in paragraph (3), by inserting "or denied" after "granted"; and

(2) in paragraph (4), by inserting "or denied" after "granted".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 867a(a) of title 10, United States Code, is amended by striking "The Supreme Court may not review by a writ of certiorari under this section any action of the Court of Appeals for the Armed Forces in refusing to grant a petition for review."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. CONYERS) and the gentleman from Texas (Mr. SMITH) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan.

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which 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 Michigan?

There was no objection.

Mr. CONYERS. I yield myself such time as I may consume.

Mr. Speaker, the Equal Justice for Our Military Act amends the Federal judicial code to allow members of the United States Armed Services to petition for review by the United States Supreme Court in certain cases when they have been denied relief by the Court of Appeals for the Armed Forces.

Many Americans would be shocked to learn that soldiers serving their country in uniform are blocked from equal access to the Supreme Court.

But the truth is that current law provides virtually no avenue through which active service members who have been convicted by court-martial of certain serious offenses, or who face discharge or dismissal, to ask our Nation's highest court to review their case.

Currently, the Supreme Court can only hear cases where the U.S. Court of Appeals for the Armed Forces, the highest court of the military justice system, has either conducted a review of a court-martial, or has granted a servicemember's petition for extraordinary relief.

What this means is that when the court of appeals denies review, which it does nearly 90 percent of the time, the Supreme Court is barred from reconsidering the case at the request of the servicemember.

Adding insult to injury, while a servicemember is not able to obtain Supreme Court review if he or she loses at the court of appeals, if the court of appeals rules against the government, the Government can seek review in the Supreme Court.

And a former servicemember who is tried under the Military Extraterritorial Jurisdiction Act in civilian court for crimes committed while on active duty also has full right to petition for Supreme Court review.

The Equal Justice for Our Military Act corrects this unfair one-sidedness by allowing an active servicemember to file a writ of certiorari to the Supreme Court in any case where the Court of Appeals for the Armed Forces has denied review of a court-martial conviction or has denied a petition for extraordinary relief.

I would like to commend the author of this bill, our colleague SUSAN DAVIS of California, for her leadership in working to correct this ongoing injustice, so that our active servicemembers have the same fundamental protection that Americans take for granted.

I urge my colleagues to support this legislation.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Mrs. DAVIS).

Mrs. DAVIS of California. Mr. Speaker, I rise today on behalf of our troops by urging passage of H.R. 3174, the Equal Justice For Our Military Act, a bill giving our servicemembers equal access to the United States Supreme Court.

We all know when American men and women decide to serve their Nation in the Armed Forces, they make many sacrifices, from lost time with their families to irreplaceable loss of lives. Servicemembers also sacrifice one of the fundamental legal rights that all civilian members enjoy.

Members of the military convicted of offenses under the military justice system do not have the legal right to appeal their cases to the U.S. Supreme Court. After exhausting their appeals through the United States Court of Appeals for the Armed Forces, they have no recourse. In fact, the playing field is weighted in favor of the military, granting the automatic right of Supreme Court review to the Department of Defense when a servicemember wins a case. But servicemembers are denied the same right in nearly every case the government wins against them.

It is unjust to deny the members of our Armed Forces access to our system of justice as they fight for our freedom around the world. They deserve better.

As the chairwoman of the Subcommittee on Military Personnel, a long time advocate for servicemembers and a Representative from San Diego, one of the largest military communities in the Nation, I feel an obligation to fight to ensure that the members of our military are treated fairly.

I introduced, along with Armed Services Chairman Ike Skelton, H.R. 3174 to correct this inequity. This bill has been endorsed by the American Bar Association, the Military Officers Association of America, and many other legal and military advocates. In addition, the Congressional Budget Office has stated that this bill does not affect direct spending.

It is fundamentally unjust, Mr. Speaker, to deny those who serve on behalf of our country one of the basic rights afforded to all other Americans. I hope that all of my colleagues will stand with me in strong support of this legislation to attain equal treatment for those who fight for us.

Mr. SMITH of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the vast majority of servicemembers serve with distinction and honor, and are never subjected to disciplinary action under the Uniform Code of Military Justice. But when disciplinary action is necessary, the UCMJ and the military justice system provide a high degree of protection for the accused. In many cases, these protections extend well beyond those provided by the civil justice system.