

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.

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**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.

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**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 867(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 service-member'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-marital 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.

But from time to time, policymakers ought to review and contemplate proposals for change. I am told the particular section of the code this bill would amend has not been altered or subjected to a congressional review in a quarter of a century. And yet the bill before us proposes far-reaching and significant changes in terms of expanded appellate rights for servicemembers convicted of wrongdoing.

I would support consideration of this measure in the regular order. But the regular order requires a review and consideration of the relative merits of the legislation by subcommittee and committee members with subject matter expertise; a hearing with witnesses who can present expert testimony and offer guidance as to the necessity, effect and scope of any proposals in the bill; a markup or markups after notice to the public and the stakeholders most likely to be impacted by changes; and a committee report that is written and made available to the public and future Congresses that explains the intent and rationale of the proposed changes.

Regrettably, the committee and House leadership have decided to short-circuit the process and dispense with every single one of these steps. This is despite the fact that the bill was introduced by its sponsors and referred to the Courts Subcommittee, with no action, more than a year ago.

The regular order did not fare any better in the other body where the committee of jurisdiction took up the measure just 2 weeks ago and reported it without a hearing, a report, or any other substantial process or record.

Because of the haste with which this proposal is being considered, one might infer there are no questions that ought to be addressed or there are questions that might expose this bill as bad policy if Congress wasn't rushing to judgment.

The truth is when a similar measure was introduced last Congress, the general counsel of the Department of Defense raised major questions about the wisdom and necessity of that bill, as well as its likely impact on the department.

In a letter dated February 6, 2006, General Counsel William J. Haynes, II, wrote that the Department of Defense "opposes the proposed legislation."

He noted the department's view that "there is demonstrable inequity that needs to be rectified"; that "opening this additional avenue of Supreme Court appeal will require legal reviews and briefs from numerous counsel on the military departments' Government and Defense Appellate Divisions, the Department of Defense Office of General Counsel, as well as within the Office of the Solicitor General and the Supreme Court," and that the legislation provides no "clear safeguards" to preclude the possible abuse by petitioners of this new avenue for appellate review.

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I am particularly concerned by this last point as well as the fact that the bill is written to permit an appellant to repeal the case to the Supreme Court even when the Court of Appeals for the Armed Forces has declined to review it on the merits, let alone to issue a final decision.

Unfortunately, by refusing to permit the subcommittee and committee members to study the issues and properly discharge their responsibilities, the House leadership is forcing Members to make assumptions without any evidence. Just as a court should not convict someone of an offense without due process and evidence beyond a reasonable doubt, Members of Congress should not be placed in the position of changing long-standing policies without some formal process and actual consideration of the evidence for and against the proposal.

The Democratic leadership increasingly has resorted to extraordinary tactics to move legislation. In so doing, they do a disservice to the Members of the House and of the people we represent.

In closing, Mr. Speaker, the unasked questions and lack of process compel me for the time being to oppose this legislation.

I yield back the balance of my time.

Mr. CONYERS. 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 bill, H.R. 3174.

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

A motion to reconsider was laid on the table.

#### FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed and agreed to without amendment bills and a concurrent resolution of the House of the following titles:

H.R. 1157. An act to amend the Public Health Service Act to authorize the director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

H.R. 1532. An act to amend the Public Health Service Act with respect to making progress toward the goal of eliminating tuberculosis, and for other purposes.

H.R. 6946. An act to make a technical correction in the NET 911 Improvement Act of 2008.

H. Con. Res. 195. Concurrent resolution expressing the sense of the Congress that a National Dysphagia Awareness Month should be established.

The message also announced that the Senate agreed to the amendment of the House to the bill (S. 2162) "An Act to

improve the treatment and services provided by the Department of Veterans Affairs to veterans with post-traumatic stress disorder and substance use disorders, and for other purposes".

The message also announced that the Senate agreed to the amendment of the House to the bill (S. 3023) "An Act to amend title 38, United States Code, to improve and enhance compensation and pension, housing, labor and education, and insurance benefits for veterans, and for other purposes".

#### NEED-BASED EDUCATIONAL AID ACT OF 2008

Ms. ZOE LOFGREN of California. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 1777) to amend the Improving America's Schools Act of 1994 to make permanent the favorable treatment of need-based educational aid under the antitrust laws.

The Clerk read the title of the bill.

The text of the Senate amendment is as follows:

##### Senate amendment:

On page 2, strike lines 5 and 6 and insert the following: "Section 568(d) of the Improving America's Schools Act of 1994 (15 U.S.C. 1 note) is amended by striking '2008' and inserting '2015'."

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from California (Ms. ZOE LOFGREN) and the gentleman from Texas (Mr. SMITH) each will control 20 minutes.

The Chair recognizes the gentlewoman from California.

##### GENERAL LEAVE

Ms. ZOE LOFGREN of California. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and to include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Ms. ZOE LOFGREN of California. I yield myself such time as I may consume.

The Need-Based Educational Aid Act, sponsored by our colleagues BILL DELAHUNT of Massachusetts and Ranking Member LAMAR SMITH of Texas, extends an antitrust exemption that permits colleges to agree to award financial aid on a need-blind basis and to use common principles of needs analysis in making their determinations. This exemption also permits the use of a common aid application form in exchange of student financial information through a third party.

In 1992, Congress passed the first exemption. It has expired several times, and it is now set to expire in 4 days. We hope to avoid that by passing this bipartisan legislation.

I reserve the balance of my time.

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