

disastrous law, we should remember that Americans should have the freedom to make their own health care decisions, Mr. Speaker, and ObamaCare takes that away.

It's time to repeal ObamaCare for good, either in whole or in part.

**PAYING TRIBUTE TO HIS MAJESTY
THE LATE KING GEORGE TUPOU
V OF TONGA**

(Mr. FALEOMAVAEGA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today with sadness to pay tribute to His Majesty King George Tupou V of the Kingdom of Tonga, who passed away yesterday. I was privileged to have known His Majesty King George Tupou for many years, and I will remember him as a noble leader who was passionate about serving his people.

King George Tupou V assumed the throne in 2006, and after the death of his father, His Majesty King Taufa'ahau Tupou IV, he led the Pacific's only remaining monarchy into a more democratic form of government, introducing Tonga's first popularly elected Parliament and Prime Minister 2 years ago. He was known as a progressive leader who promoted the private sector, technological advances, and many more as an open economy.

As fellow Polynesians, the people of American Samoa share many historical and cultural ties with the people of Tonga, and we join together in giving our deepest condolences to Her Majesty Queen Mata'aho, the royal family, and the good people of Tonga.

**TWO YEARS LATER, AMERICA
WANTS A SECOND OPINION**

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Madam Speaker, this week and next, there will be two opportunities for a thoughtful, forward course on health care here in the people's House, and across the street at the highest court of the land.

The Supreme Court next week hears out arguments on the limits to Federal control in health care. A ruling is expected later this summer. Perhaps our long national nightmare will be over. And guess what? Half of America, as reported in *The Hill* today in a poll, thinks the Supreme Court will do just that.

This week, Americans will witness the House embarking on a course of their treatment for the health care law. We are going to vote to repeal the unelected and unaccountable panel that's squeezing out patient access. We will insist on medical justice reform to drive down the costs of liability coverage for doctors who make sound treatment decisions.

Madam Speaker, the last Congress force-fed the American people a new

health care law. Americans are demanding a second opinion. After revelations of unrealistic assumptions and cost overruns, Americans want a change of course, and now this Congress will act.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 5 p.m. today.

Accordingly (at 4 o'clock and 11 minutes p.m.), the House stood in recess.

□ 1703

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Ms. FOXX) at 5 o'clock and 3 minutes p.m.

**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 after 6:30 p.m.

**FOREIGN CULTURAL EXCHANGE
JURISDICTIONAL IMMUNITY
CLARIFICATION ACT**

Mr. SMITH of Texas. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 4086) to amend chapter 97 of title 28, United States Code, to clarify the exception to foreign sovereign immunity set forth in section 1605(a)(3) of such title, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 4086

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 "Foreign Cultural Exchange Jurisdictional Immunity Clarification Act".

SEC. 2. CLARIFICATION OF JURISDICTIONAL IMMUNITY OF FOREIGN STATES.

(a) IN GENERAL.—Section 1605 of title 28, United States Code, is amended by adding at the end the following:

"(h) JURISDICTIONAL IMMUNITY FOR CERTAIN ART EXHIBITION ACTIVITIES.—

"(1) IN GENERAL.—If—

"(A) a work is imported into the United States from any foreign country pursuant to an agreement that provides for the temporary exhibition or display of such work entered into between a foreign state that it is the owner or custodian of such work and the United States or one or more cultural or educational institutions within the United States,

"(B) the President, or the President's designee, has determined, in accordance with Public Law 89-259 (22 U.S.C. 2459), that such

work is of cultural significance and the temporary exhibition or display of such work is in the national interest; and

"(C) the notice thereof has been published in accordance with subsection (a) of Public Law 89-259,

any activity in the United States of such foreign state, or of any carrier, that is associated with the temporary exhibition or display of such work shall not be considered to be commercial activity by such foreign state for purposes of subsection (a)(3) of this section.

"(2) NAZI-ERA CLAIMS.—Paragraph (1) shall not apply in any case in which—

"(A) the action is based upon a claim that the work was taken in Europe in violation of international law by a covered government during the covered period;

"(B) the court determines that the activity associated with the exhibition or display is commercial activity, as that term is defined in section 1603(d) of this title; and

"(C) such determination is necessary for the court to exercise jurisdiction over the foreign state under subsection (a)(3) of this section.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'work' means a work of art or other object of cultural significance;

"(B) the term 'covered government' means—

"(i) the Nazi government of Germany;

"(ii) any government in any area occupied by the military forces of the Nazi government of Germany;

"(iii) any government established with the assistance or cooperation of the Nazi government of Germany; and

"(iv) any government that was an ally of the Nazi government of Germany during the covered period; and

"(C) the term 'covered period' means the period beginning on January 30, 1933, and ending on May 8, 1945."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any civil action commenced on or after the date of the enactment of this Act.

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

The Chair recognizes the gentleman from Texas.

GENERAL LEAVE

Mr. SMITH of Texas. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous materials on H.R. 4086 currently under consideration.

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

There was no objection.

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

I want to thank the gentleman from Ohio (Mr. CHABOT), a leader on the Judiciary Committee, for introducing this legislation. I also want to thank Mr. CONYERS and Mr. COHEN for their support as well.

This bill preserves the ability of U.S. museums and educational institutions to continue to borrow foreign government-owned artwork and artifacts for temporary exhibition or display. The

United States has long recognized the importance of encouraging a cultural exchange of ideas through exhibitions of artwork loaned from abroad. Cultural exchanges produce substantial benefits to the educational and cultural development of all Americans. The future success of these exchanges depends on foreign lenders having confidence that loaning artwork to U.S. institutions will not open them up to lawsuits in U.S. courts.

For 40 years, the Immunity from Seizure Act provided foreign government lenders with this confidence. However, rulings in several recent Federal cases have caused that confidence to unravel. In these decisions, the courts have determined that the Immunity from Seizure Act does not preempt the Foreign Sovereign Immunities Act, which provides U.S. courts with jurisdiction in cases against foreign countries.

The effect has been to open foreign governments up to the jurisdiction of U.S. courts simply because they loaned artwork to an American museum or educational institution. This has seriously threatened the ability of U.S. institutions to borrow foreign government-owned artwork. It has also resulted in cultural exchanges being curtailed as foreign government lenders have become hesitant to permit their artwork to travel to the United States.

The bill addresses this situation. It provides that if artwork is granted immunity by the State Department under the Immunity from Seizure Act, then the loan of that artwork cannot subject a foreign government to the jurisdiction of U.S. courts under the Foreign Sovereign Immunities Act.

This is very narrow legislation. It only applies to one of the many grounds of jurisdiction under the Foreign Sovereign Immunities Act. It requires the State Department to grant the artwork immunity under the Immunity from Seizure Act before the provisions of the bill apply. And in order to preserve the claims of victims of the Nazi government and its allies during World War II, the bill has an exception for claims brought by these victims.

If we want to encourage foreign governments to continue to lend artwork to American museums and educational institutions, we must enact this legislation. Without the protections this bill provides, rather than lending artwork to U.S. institutions, foreign governments will simply deny American loan requests. So I urge my colleagues to support this bill.

Madam Speaker, at this time I yield 2 minutes to the gentleman from Ohio (Mr. CHABOT), who is the author of this legislation and an active member of the Judiciary Committee.

Mr. CHABOT. I would like to thank my colleague, the distinguished chairman of the Judiciary Committee (Mr. SMITH of Texas) for yielding the time. He explained it much better than I can, but I'll take a stab at it myself.

H.R. 4086 is really a straightforward bill which would better clarify the re-

lationship between the Immunity from Seizure Act and the Foreign Sovereign Immunities Act. Since 1965, the Immunity from Seizure Act has provided the executive branch with authority to grant foreign artwork and other objects of cultural significance immunity from seizure by U.S. courts. The purpose of this was to encourage loaning and sharing exhibitions between U.S. and foreign museums.

However, there is now a conflict between the Immunity from Seizure Act and the Foreign Sovereign Immunities Act that has interrupted this friendly exchange. Essentially, a provision of the Foreign Sovereign Immunities Act allows U.S. courts to have jurisdiction over foreign governments when their artwork is temporarily imported into the U.S., putting foreign artwork and artifacts at risk of seizure.

□ 1710

Unfortunately, this has led, in many instances, to foreign governments declining to import into our country artwork and cultural objects for temporary exhibitions. In order to maintain the exchange of government-owned artwork and artifacts, Congress should clarify the relationship between these two acts in question.

This bill would do just that, ensuring that American museums like the Cincinnati Museum Center and the Cincinnati Art Museum, two in my district, can continue to enjoy international artwork and cultural artifacts. Enacting this legislation will remove a major obstacle to foreign loans and exchanges to American museums.

I urge my colleagues to support H.R. 4086, and I would also thank the gentleman from California (Mr. BERMAN) and the gentleman from Michigan (Mr. CONYERS) for their leadership and their support in this effort.

Mr. SMITH of Texas. Madam Speaker, we have no other speakers on this side, and I yield back the balance of my time.

Mr. BERMAN. Madam Speaker, I rise in strong support of the bill, and I yield myself such time as I may consume.

(Mr. BERMAN asked and was given permission to revise and extend his remarks.)

Mr. BERMAN. Madam Speaker, this bill arises from a tension between a 1963 statute providing foreign art collectors immunity from seizure and the Foreign Sovereign Immunities Act. It specifically stems from a 2007 court decision that broadened the expropriation exemption under the FSIA and allowed for suits on artwork already immunized under the 1963 law. The Los Angeles County Museum of Art and other museums have made clear to me the chilling effect of that decision on artistic exchanges.

This bill resolves the inconsistency between the Foreign Sovereign Immunities Act and the 1963 statute and protects critical cultural exchanges. Specifically, the bill would clarify that foreign states are immune from law-

suits that seek damages for artwork that may already be immune from seizure pursuant to a Presidential determination.

I support this bill for several reasons:

First, cultural and artistic exchanges are a powerful form of democracy that foster mutual understanding, and this bill would remove obstacles to such exchanges;

Second, the bill is narrowly crafted. It provides sovereign immunity only in cases in which the President already immunized the artwork in question;

Third, H.R. 4086 includes an exception for Nazi-era claims. This carve-out is consistent with longstanding American policy to seek restitution when possible for victims of the Nazi government, its allied governments and its affiliated governments.

I urge my colleagues to support the bill, and I yield back the balance of my time.

Mr. CONYERS. Madam Speaker, I strongly support H.R. 4086, the "Foreign Cultural Exchange Jurisdictional Immunity Clarification Act," as amended. This is a bipartisan bill that the Judiciary Committee ordered favorably reported by voice vote.

This bill contains a narrowly tailored fix to the expropriation exception of the Foreign Sovereign Immunities Act of 1976 that would clarify that the exception is not available in cases where:

artwork or a cultural object is imported into the United States for temporary exhibit or display pursuant to an agreement between a foreign state that owns or has custody of the work and a U.S. cultural or educational institution;

the work has been granted immunity from seizure by the President pursuant to the Immunity from Seizure Act because it is of cultural significance and its temporary exhibit or display is in the national interest; and

the President's determination has been published pursuant to IFSA.

The bill also clarifies that its provisions do not apply to Nazi-era claims regarding the ownership of art or cultural objects.

In short, this bill immunizes foreign states from lawsuits that seek damages for artwork that is already immune from seizure pursuant to a Presidential determination when the work is in the U.S. for temporary exhibition.

I am an original cosponsor of this bill for several reasons.

First, H.R. 4086 will make the FSIA consistent with the purpose underlying the Immunity from Seizure Act.

The IFSA was intended to encourage foreign states to lend their artwork and other cultural property to American museums and educational institutions for the cultural and educational benefit of the American people.

We enacted the IFSA in 1965 at the height of the Cold War to immunize certain artwork owned by the Soviet Union so that the Soviets would lend the artwork to the University of Richmond for a temporary exhibit.

We recognized then, and continue to recognize now, that as a general matter, the benefits of the cultural exchange fostered by temporary exhibits or displays of artwork outweigh the provision of a U.S. forum for disputes about the ownership of cultural property that is held by a foreign government.

The benefits of cultural exchange include an increased understanding of and appreciation for foreign cultures, a decrease in xenophobia and prejudice, and perhaps even some diplomatic benefit in fostering mutual respect between our Nation and other nations.

IFSA worked well for 40 years. Unfortunately, the court's decision in *Malewicz* [Malevich] v. City of Amsterdam broadened the scope of the FSIA's expropriation exception to the point where it undermined IFSA.

The court construed the term "commercial activity" as used in the FSIA to include the temporary exhibit of artwork in the United States. This triggered the expropriation exception to sovereign immunity even though the works at issue in *Malewicz* had been immunized from seizure by the President.

The *Malewicz* case has had a chilling effect on loans of cultural property from foreign states.

According to a letter urging my support for this bill that I received from Graham W.J. Beal, Director of the Detroit Institute of Arts, both the Russian and Czech governments are refusing to lend works of art to American museums in the wake of this court decision.

Additionally, the Metropolitan Museum of Art withdrew a loan request to a Middle Eastern museum out of fear that once the works were in the U.S., their presence would be used as grounds for a lawsuit.

H.R. 4086 resolves the inconsistency between the IFSA and the FSIA created by the *Malewicz* decision by ensuring that any work that the President has immunized from seizure pursuant to IFSA will also immunize the foreign government owner of that work from a suit for damages under FSIA.

Second, the sovereign immunity provided for under this bill is limited to a very specific set of circumstances.

H.R. 4086 does not cover every possible claim concerning the ownership of artwork owned by a foreign government. For instance, the expropriation exception could be available for any claim concerning works that have not received immunity from seizure under IFSA.

Similarly, the expropriation exception remains available for a work that is not in the United States on temporary exhibit or display pursuant to an agreement.

Additionally, H.R. 4086 leaves untouched the other exceptions to sovereign immunity provided for in the FSIA, including the general "commercial activity" exception.

Third, I can support H.R. 4086 because it makes an exception for Nazi-era claims.

This carve-out is consistent with longstanding American policy to seek restitution when possible for victims of the Nazi government, its allied governments, and its affiliated governments.

In light of the unique historical sensitivities surrounding the Nazi government's deliberate campaign to steal artwork from its victims, H.R. 4086 rightfully ensures that victims of the Nazis are not foreclosed from pursuing damages for stolen art, even at the cost of foreclosing cultural exchange.

H.R. 4086 is an exceedingly modest bill that will nonetheless foster tremendous benefits for the American people.

I applaud Representative STEVE CHABOT, the sponsor of this bill, as well as my fellow co-sponsors, Judiciary Chairman LAMAR SMITH and Representative STEVE COHEN, for their leadership on this issue.

I urge my colleagues to support this bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 4086, 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.

ALLOWING ISRAELI ELIGIBILITY FOR CERTAIN VISAS

Mr. SMITH of Texas. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3992) to allow otherwise eligible Israeli nationals to receive E-2 nonimmigrant visas if similarly situated United States nationals are eligible for similar nonimmigrant status in Israel.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 3992

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

SECTION 1. NONIMMIGRANT TRADERS AND INVESTORS FROM ISRAEL.

Israel shall be deemed to be a foreign state described in section 101(a)(15)(E) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)) for purposes of clauses (i) and (ii) of such section if the Government of Israel provides similar nonimmigrant status to nationals of the United States.

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

The Chair recognizes the gentleman from Texas.

GENERAL LEAVE

Mr. SMITH of Texas. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous materials on H.R. 3992 currently under consideration.

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

There was no objection.

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

H.R. 3992 is legislation that was introduced by our colleague, HOWARD BERMAN, which I have cosponsored, and I appreciate his leadership on this issue. The Judiciary Committee approved this legislation by voice vote. The bill adds Israel to the list of countries eligible for E-2 visas.

E-2 visas are temporary visas available for foreign investors. A foreign national may be admitted initially for a period of 2 years under an E-2 visa and can apply for extensions in 2-year increments. The U.S. has entered into treaties of commerce that contain language similar to the E-2 visas since at least 1815, when we entered into a Con-

vention to Regulate Commerce with the United Kingdom.

Currently, the nationals of over 75 countries are eligible for E-2 status, from Albania to the Ukraine. In fiscal year 2010, over 25,000 aliens, including dependents, were granted E-2 visas.

In the past, countries became eligible for the E-2 program through treaties signed with the U.S. However, in 2003, the Judiciary Committee reached an understanding with the U.S. Trade Representative that, from now on, no immigration provisions were to be included in future trade agreements. As a result, specific legislation would be required to add countries to the E-2 program.

In order to qualify for an E-2 visa, an investor has to have a controlling interest in and demonstrate that they will develop and direct the enterprise. In addition, the investor has to invest and put at risk a substantial amount of capital. This is measured by a proportionality test: the higher the cost of the business, the lower the proportion of its total value the investment has to represent. In addition, the investment has to be large enough to ensure the investor's financial commitment to the enterprise and that the investor will successfully develop and direct it.

I urge my colleagues to support H.R. 3992, and I again thank my colleague, Congressman BERMAN of California, for introducing a commonsense bill that helps spur job creation and economic growth here at home and also invest in our relationship with one of our closest allies. The investments in business enterprises fostered by this bill benefit the economies of both the United States and Israel, and they also will create jobs and strengthen the already strong friendship between the United States and Israel.

Madam Speaker, I reserve the balance of my time.

Mr. BERMAN. Madam Speaker, I rise in support of H.R. 3992, a bill that places Israel on the list of countries eligible to receive E-2 treaty investor visas, and I yield myself as much time as I may consume.

I would like to begin by thanking Chairman SMITH for his strong support of this bipartisan legislation and for moving it quickly through the Judiciary Committee and to the floor. I also want to thank, along with Chairman SMITH, Chairman GALLEGLY and Ranking Member LOFGREN of the Immigration Subcommittee, as well as Chairman ROS-LEHTINEN of the Foreign Affairs Committee, for their support and authorship of this legislation.

This legislation will encourage further investment by Israeli business leaders in the United States and lead to the creation of more jobs for American workers. The scope of the legislation is narrow, but at a time when so many Americans are looking for work and families are struggling to make ends meet, every little bit helps.

Israel is one of our closest allies and a leading investor in the U.S. economy.