residents. They can be designated as enemy combatants if they have contributed money to a Middle Eastern charity, and they can be held indefinitely in a military prison.

Not to worry, say the bill's defenders. The president can't detain somebody who has given money innocently, just those who contributed to terrorists on purpose.

But other provisions of the bill call even this limitation into question. What is worse, if the federal courts support the president's initial detention decision, ordinary Americans would be required to defend themselves before a military tribunal without the constitutional guarantees provided in criminal trials.

Legal residents who aren't citizens are treated even more harshly. The bill entirely cuts off their access to federal habeas corpus, leaving them at the mercy of the president's suspicions.

We are not dealing with hypothetical abuses. The president has already subjected a citizen to military confinement. Consider the case of Jose Padilla. A few months after 9/11, he was seized by the Bush administration as an ''enemy combatant'' upon his arrival at Chicago's O'Hare International Airport. He was wearing civilian clothes and had no weapons. Despite his American citizenship, he was held for more than three years in a military brig, without any chance to challenge his detention before a military or civilian tribunal. After a federal appellate court upheld the president's extraordinary action, the Supreme Court refused to hear the case, handing the administration's lawyers a terrible precedent.

The new bill, if passed, would further entrench presidential power. At the very least, it would encourage the Supreme Court to draw an invidious distinction between citizens and legal residents. There are tens of millions of legal immigrants living among us, and the bill encourages the justices to uphold mass detentions without the semblance of judicial review.

But the bill also reinforces the presidential claims, made in the Padilla case, that the commander in chief has the right to designate a U.S. citizen on American soil as an enemy combatant and subject him to military justice. Congress is poised to authorize this presidential overreaching. Under existing constitutional doctrine, this show of explicit congressional support would be a key factor that the Supreme Court would consider in assessing the limits of presidential authority.

This is no time to play politics with our fundamental freedoms. Even without this massive congressional expansion of the class of enemy combatants, it is by no means clear that the present Supreme Court will protect the Bill of Rights. The Korematsu case—upholding the military detention of tens of thousands of Japanese Americans during World War II—has never been explicitly overruled. It will be tough for the high court to condemn this notorious decision, especially if passions are inflamed by another terrorist incident. But congressional support of presidential power will make it much easier to extend the Korematsu decision to future mass seizures.

Though it may not feel that way, we are living at a moment of relative calm. It would be tragic if the Republican leadership rammed through an election-year measure that would haunt all of us on the morning after the next terrorist attack.

Mrs. CHRISTENSEN. Mr. Speaker, I rise in opposition to S. 3930, the Military Commission Act of 2006 because it is too broad, overly inclusive and potentially unconstitutional. While I also vividly remember the horrors of the 9/11 terrorist attacks, I believe that Congress should carefully and constitutionally craft a bill which effectively punishes all terrorists and potential terrorists while at the same time maintaining the safety and security of our citizens from future terrorist attacks.

The definition of an ''unlawful combatant'' in Section 948(a.) of this bill is indicative of its over-inclusiveness. It creates legal loopholes and in my view, leaves even U.S. Citizens vulnerable to being classified as unlawful combatants. This definition does not exclude nor does it seek to exclude U.S. Citizens from being indefinitely detained. The President or one of his designees can simply determine that a fellow U.S. Citizen is an ''unlawful enemy combatant'' and this would suffice as sufficient evidence to detain this citizen indefinitely without any access to his family, an attorney or any form of judicial review.

Furthermore, the term ''purposefully and materially supported hostilities'' is overly broad and would lead to many innocent acts being transformed into terrorist activities.

In an article, Aziz Huq astutely demonstrates the broadness of the term by showing how a fictional character that owns a bodega and allowed Lebanese immigrants to use its services to send money to ''West Beqaa'', an area within the Hezbollah controlled area of Lebanon protectorate is found to have ''purposefully and materially supported hostilities. This scenario is not very far-fetched, this piece of legislation has the potential to impact the very foundation of civil liberties and fundamental freedoms on which this country is built. It will impact the American Citizen's freedom of speech, freedom of association and the list could go on.

The bill also further undermines U.S. credibility in the eyes of the international community by granting the President the authority to interpret Art. III of the Geneva Convention an international treaty to which the U.S. is a signatory. This language sets a bad precedence in the international community and only frustrates the goals of established international laws, norms and customs.

If the U.S. President is allowed to reinterpret and apply an international treaty, what would stop other nations from doing the same? Additionally, as noted in his letter to Senator MCCAIN, former U.S. Secretary of State Colin Powell, posited that allowing the President to interpret the Geneva Convention would expose U.S. soldiers to more dangers. Colin Powell emphatically opposed this provision.

S. 3930 also violates separation of powers and the constitutional protection this provides, by stripping the federal court of its habeas review. The independence of the judiciary is one of the fundamental principles on which this democracy is built. Under this bill, the normal appeals process would not be available to the detained ''unlawful enemy combatant.'' Instead the detainee who wishes to appeal an adverse decision has to appeal to a newly established ''Court of Military Commission Review''.

Terrorists must be brought to justice and we must act accordingly to secure our country and our citizens. However, these same goals can be achieved in a constitutional manner. I urge my colleagues to oppose this unworthy bill.

Mr. MICHAUD. Mr. Speaker, the final language for the bill was brought to the floor quickly and without thorough review by the House. I believe that it is important to have a system to try accused terrorists for their war crimes in a quick and fair way. In my original review of the bill, I believed that it took steps to protect fundamental human rights, prevent torture and provide for a fair legal process.

As I have heard from more and more legal experts and from my constituents, it is clear that this bill does not create a system that meets our high American standards for a fair trial and human rights.

Make no mistake; I believe that convicted terrorists must be punished for their war crimes. But it must be done in such a way that the American people are confident that our values are upheld. I do not believe that this bill makes this clear to the American people or to the international community that looks to us as a place of human rights and fairness.

Some people may question me for changing my vote. I believe that elected officials must have the strength to recognize new information and to take it into account to make the right decision. I wish President Bush would do the same thing with our policies in Iraq.

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

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 1054, the Senate bill is considered read and the previous question is ordered.

The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the Senate bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

CONFERENCE REPORT ON H.R. 5122, JOHN WARNER NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2007

Mr. HUNTER of California (during consideration of H. Res. 1053) submitted the following conference report and statement on the bill (H.R. 5122) to authorize appropriations for fiscal year 2007 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes:

[Conference Report will appear in Book II of CONGRESSIONAL RECORD dated September 29, 2006.]

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

Mr. COLE of Oklahoma. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1053 and ask for its immediate consideration.