

Washington Post wrote that the brief "raises the possibility that any of the millions of immigrants living in the United States could be subject to indefinite detention if they are accused of ties to terrorist groups."

In fact, the situation is more stark even than the Washington Post story suggested. The Justice Department's brief says that the Government can detain any noncitizen declared to be an enemy combatant. But the law this Congress passed says the Government need not even make that declaration; they can hold people indefinitely who are just awaiting determination whether or not they are enemy combatants. It gets worse. Republican leaders in the Senate followed the White House's lead and greatly expanded the definition of "enemy combatants" in the dark of night in the final days before the bill's passage, so that enemy combatants need not be soldiers on battlefield. They can be people who give money, or people that any group of decision-makers selected by the President decides to call enemy combatants. The possibilities are chilling.

The administration has made it clear that they intend to use every expansive definition and unchecked power given to them by the new law. Last month's Justice Department brief made clear that any of our legal immigrants could be held indefinitely without recourse in court. Earlier in November, the Justice Department went to court to say that detainees who had been held in secret CIA prisons could not even meet with lawyers because they might tell their lawyers about the cruel interrogation techniques used against them. In other words, if our Government tortures somebody, that person loses his right to a lawyer because he might tell the lawyer about having been tortured. A law professor was quoted as saying about the government's position in that case: "Kafka-esque doesn't do it justice. This is 'Alice in Wonderland.'" We are not talking about nightmare scenarios here. We are talking about today's reality.

We have eliminated basic legal and human rights for the 12 million lawful permanent residents who live and work among us, to say nothing of the millions of other legal immigrants and visitors who we welcome to our shores each year. We have removed the check that our legal system provides against the Government arbitrarily detaining people for life without charge, and we may well have made many of our remaining limits against torture and cruel and inhuman treatment obsolete because they are unenforceable. We have removed the mechanism the Constitution provides to check Government overreaching and lawlessness.

This is wrong. It is unconstitutional. It is un-American. It is designed to ensure that the Bush-Cheney administration will never again be embarrassed by a U.S. Supreme Court decision reviewing its unlawful abuses of power. The conservative Supreme Court, with

seven of its nine members appointed by Republican Presidents, has been the only check on the Bush-Cheney administration's lawlessness. Certainly the outgoing rubberstamp Republican Congress has not done it, or even investigated it. With passage of the Military Commissions Act, the Republican Congress completed the job of eviscerating its role as a check and balance on the administration.

Abolishing habeas corpus for anyone who the Government thinks might have assisted enemies of the United States is unnecessary and morally wrong. It is a betrayal of the most basic values of freedom for which America stands. It makes a mockery of the Bush-Cheney administration's lofty rhetoric about exporting freedom across the globe.

Admiral John Hutson testified before the Judiciary Committee that stripping the courts of habeas jurisdiction was inconsistent with American history and tradition. He concluded, "We don't need to do this. America is too strong." Even Kenneth Starr, the former independent counsel and Solicitor General to the first President Bush, wrote that the Constitution's conditions for suspending habeas corpus have not been met, and that doing so would be problematic.

Under the Constitution, a suspension of the writ may only be justified during an invasion or a rebellion, when the public safety demands it. Six weeks after the deadliest attack on American soil in our history, the Congress that passed the PATRIOT Act rightly concluded that a suspension of the writ would not be justified. Yet 6 weeks before a midterm election, the Bush-Cheney administration and the Republican Congress deemed a complete abolition of the writ their highest priority. Notwithstanding the harm the administration has done to national security with its mismanaged misadventure in Iraq, there was no new national security crisis. There was only a Republican political crisis. The people have now spoken, and it is time to reverse the dangerous choices this Congress made.

Rolling back the Military Commissions Act's disastrous habeas provision will set the stage for us to approach that issue in a way consistent with our needs and our values. We should take steps to ensure that our enemies can be tried efficiently and quickly and to prevent our courts from being tied up with frivolous suits. But abolishing the writ of habeas corpus for millions of legal immigrants and others, denying their right to get into court to challenge indefinite detention on the Government's say-so, is not the answer.

I hope that others will hear the call of the American people for a new direction and work to correct these and other problems with the new law, including the gutting of the War Crimes Act, which I was proud to help spearhead with strong bipartisan support in 1997.

I will keep working on these issues until we restore the checks and balances that make our country great. We can ensure our security without giving up our liberty.

By Mr. CRAPO:

S. 4082. A bill to make a conforming amendment to the Federal Deposit Insurance Act with respect to examinations of certain insured depository institutions, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. CRAPO. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 4082

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

SECTION 1. AMENDMENT TO THE FEDERAL DEPOSIT INSURANCE ACT.

Paragraph (10) of section 10(d) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)(10)) is amended by striking "\$250,000,000" and inserting "\$500,000,000".

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 622—SUPPORTING THE GOALS AND IDEALS OF A "NATIONAL CHILDREN AND FAMILIES DAY", AS ESTABLISHED BY THE NATIONAL CHILDREN'S MUSEUM, ON THE FOURTH SATURDAY OF JUNE

Mr. WARNER (for himself and Mr. ALLEN) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 622

Whereas research shows that spending time together as a family is critical to raising strong and resilient kids;

Whereas strong healthy families improve the quality of life and development of children;

Whereas it is essential to celebrate and reflect upon the important role that all families play in the lives of children and in the future of the United States; and

Whereas the country's greatest natural resource is its children: Now, therefore, be it

Resolved, That the Senate supports the goals and ideals of a "National Children and Families Day" on the fourth Saturday of June, as established by the National Children's Museum, to—

(1) encourage adults to support, listen to, and encourage children throughout the United States so that those children may achieve their hopes and dreams;

(2) reflect upon the important role that all families play in the lives of children; and

(3) recognize that strong, healthy families improve the quality of life and development of children.