novo review, meaning they will completely retry these cases, take new evidence. So whatever findings were made in the CSRT are not really relevant because the court is essentially going to start all over again.

I actually think some of these Senators are right on this point. I believe we could actually set up a system in which a military tribunal is sufficient to make a determination as to whether someone is an enemy combatant and would not require the sort of traditional habeas corpus that is called for as a consequence of this amendment, where the court's role is simply to see whether proper procedures were met. The problem is that the way the CSRT is currently designed is so insufficient that we can anticipate the Supreme Court overturning this underlying bill, once again, in the absence of habeas corpus review.

I have had conversations with some of the sponsors of the underlying bill who say they agree that we have to beef up the CSRT procedures. Well, if we are going to revisit the CSRT procedures to make them stronger and make sure they comport with basic due process, why not leave habeas corpus in place until we have actually fixed it up to our satisfaction? Why rush through it 2 days before we are supposed to adjourn? Because some on the other side of the aisle want to go campaign on the issue of who is tougher on terrorism and national security.

Since 9/11, Americans have been asked to give up certain conveniences and civil liberties—long waits in airport security lines, random questioning because of a foreign-sounding last name—so that the Government can defeat terrorism wherever it may exist. It is a tough balance to strike. I think we have to acknowledge that whoever was in power right now, whoever was in the White House, whichever party was in control, that we would have to do some balancing between civil liberties and our need for security and to get tough on those who would do us harm.

Most of us have been willing to make some sacrifices because we know that, in the end, it helps to make us safer. But restricting somebody's right to challenge their imprisonment indefinitely is not going to make us safer. In fact, recent evidence shows it is probably making us less safe.

In Sunday's New York Times, it was reported that previous drafts of the recently released National Intelligence Estimate, a report of 16 different Government intelligence agencies, describe:

> . . . actions by the United States Government that were determined to have stoked the jihad movement, like the indefinite detention of prisoners at Guantanamo Bay. . . .

This is not just unhelpful in our fight against terror, it is unnecessary. We don't need to imprison innocent people to win this war. For people who are guilty, we have the procedures in place to lock them up. That is who we are as a people. We do things right, and we do things fair.

Two days ago, every Member of this body received a letter, signed by 35 U.S. diplomats, many of whom served under Republican Presidents. They urged us to reconsider eliminating the rights of habeas corpus from this bill, saying:

> To deny habeas corpus to our detainees can be seen as a prescription for how the captured members of our own military, diplomatic, and NGO personnel stationed abroad may be treated. . . . The Congress has every duty to insure their protection, and to avoid anything which will be taken as a justification, even by the most disturbed minds, that arbitrary arrest is the acceptable norm of the day in the relations between nations, and that judicial inquiry is an antique, trivial and dispensable luxury.

The world is watching what we do today in America. They will know what we do here today, and they will treat all of us accordingly in the future—our soldiers, our diplomats, our journalists, anybody who travels beyond these borders. I hope we remember this as we go forward. I sincerely hope we can protect what has been called the ''great writ''—a writ that has been in place in the Anglo-American legal system for over 700 years.

Mr. President, this should not be a difficult vote. I hope we pass this amendment because I think it is the only way to make sure this underlying bill preserves all the great traditions of our legal system and our way of life.

I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate is adjourned until 9:30 a.m.

There being no objection, the Senate, at 7:39 p.m., adjourned until Thursday, September 28, 2006, at 9:30 a.m.