that involve computers located within the same State, the cyber-crime amendment eliminates the jurisdictional requirement that a computer's information must be stolen through an interstate or foreign communication in order to federally prosecute this crime.

Third, this legislation also addresses the growing problem of the malicious use of spyware to steal sensitive personal information, by eliminating the requirement that the loss resulting from the damage to a victim's computer must exceed $5,000 in order to federally prosecute the offense. The bill carefully balances this necessary change with the legitimate need to protect innocent actors from frivolous prosecutions and clarifies that the elimination of the $5,000 threshold applies only to criminal cases.

In addition, the amendment addresses the increasing number of cyber attacks on multiple computers by making it a felony to employ spyware or keyloggers to damage 10 or more computers, regardless of the aggregate amount of damage caused. By making this crime a felony, the amendment ensures that the most egregious identity thieves will not escape with minimal punishment under Federal cyber-crime laws. The legislation also strengthens the protections for American businesses, which are more and more becoming the focus of identity thieves, by adding two new causes of action under the cyber-extortion statute—threatening to obtain or release information from a protected computer and demanding money in relation to a protected computer—so that this bad conduct can be federally prosecuted.

Lastly, the legislation adds the remedy of civil and criminal forfeiture to the arsenal of tools to combat cyber crime, and our amendment directs the U.S. Sentencing Commission to review its guidelines for identity theft and cyber crime offenses.

Senator SPECTER and I have worked closely with the Department of Justice and the Secret Service in crafting these updates to our cyber-crime laws, and the legislation we add as an amendment to the Former Vice President Protection Act has the strong support of these Federal agencies and the support of a broad coalition of business, high-tech and consumer groups. The bill as amended to include these critical cyber-crime provisions is a good, bipartisan bill that will help to better protect our Nation's leaders and to better protect all Americans from the growing threat of identity theft and other cyber crimes.

Again, I thank the bipartisan coalition of Senators who have joined Senator SPECTER and me in supporting this important bill. I urge the House of Representatives to promptly enact this important criminal legislation.

HABEAS CORPUS

Mr. LEAHY. Mr. President, last month's 5–4 Supreme Court decision in Boumediene v. Bush reaffirmed our core American values, and served as a stinging rebuke to the Bush administration's flawed power grabs over the last 6 years. The Bush administration's repeated attempts to eliminate meaningful review of its actions by the Federal judiciary have again failed to withstand Supreme Court review. This decision is a vindication for those of us who have maintained from the beginning that the administration's detention policies were not only unwise, but were also unconstitutional.

In the wake of the tragic attacks on September 11, 2001, toward the beginning of President Bush's first term in office, this country had an opportunity to come together to show that we could bring the perpetrators of heinous acts to justice, consistent with our history and our most deeply valued principles. I and others reached out to the White House to try to craft a thoughtful and effective bipartisan solution.

Instead, this White House, supported by the Republican leadership in Congress, pursued its goal of increasing executive power at the expense of the other branches. In so doing, they chose a path that disregarded basic rights, lessened our standing in the world, trampled some of our most deeply held values, and brought us no closer to delivering justice to those who have injured us.

At a recent Senate Judiciary Committee hearing, which explored the mistakes and missed opportunities of the past few years, we heard from Will Gunn, a retired U.S. Air Force colonel and the former chief defense counsel of the Military Commissions. He believes that ''many of our detention policies and actions in creating the Guantanamo military commissions have seriously eroded fundamental American principles of the rule of law in the eyes of Americans and in the eyes of the rest of the world.'' Kate Martin, the Director of the Center for National Security Studies, said that the administration's decision to ignore the law of war and constitutional requirements had proved to be ''disastrous,'' and that ''[d]isrespect for the law has harmed, not enhanced, our national security.''

I agree with these sobering assessments. I think that we are less safe as a result of the Bush administration's policies.

Some of us have tried in vain for years to move this country away from this destructive course, but, ironically, it has taken a conservative Supreme Court to remind this administration that the President's claim to unlimited power to override our laws is wrong. Boumediene is only the latest example of the Supreme Court decisively rejecting the administration's illegal and misguided policies.

In 2004, the Supreme Court decided two habeas-related cases Rasul and Hamdi. In those cases, the Court rejected the Bush administration's reckless and ill-advised attempts to deprive citizens and noncitizens of their right to challenge their indefinite detention in Federal court. I said at the time that these decisions ''reaffirm the judiciary's role as a check and a balance, as the Constitution intends, on power grabs by other branches.'' I also called on the Republican-led Congress to ''stop acting as a wholly owned subsidiary of this administration and to exercise its constitutional responsibility to rein in White House unilateralism and overreaching.''

The following year the Republican-led Congress attempted to overrule the Supreme Court's Rasul decision by passing the Detainee Treatment Act, DTA. I spoke out against the habeas-stripping provisions contained in the DTA. I warned that ''in order to uphold our commitment to the rule of law, we must allow detainees the right to challenge their detention in Federal court.''

This effort to prevent people from using habeas procedures to challenge the basis for their detention in Federal court backfired. In a later decision in the Hamdan case the Supreme Court rejected the view that the DTA stripped the courts of jurisdiction over pending habeas cases. I applauded the Hamdan decision at the time as a ''triumph for our constitutional system of checks and balances.''

But once again, instead of following the Supreme Court's repeated reminders that our Government must respect our Constitution and laws, within weeks of the Hamdan decision, the last Congress, acting in complicity with the Bush administration, hastily passed the Military Commissions Act in the run-up to the 2006 mid-term elections. That bill sought, once again, to strip access to Federal courts for noncitizens determined to be enemy combatants or who were merely ''awaiting determination.'' It aimed to take away habeas rights not just for detainees held at Guantanamo Bay, but also potentially for millions of lawful permanent residents working and paying taxes in this country.

I voted no. These were my words then:

> Over 200 years of jurisprudence in this country, and following an hour of debate, we get rid of it. My God, have the Members of this Senate gone back and read their oath of office upholding the Constitution? [W]e are about to put the darkest blot possible on this Nation's conscience.

Regrettably, the Federal appellate court in Washington, DC the same court whose limited review was supposed to serve as a substitute for the Great Writ fumbled its opportunity to set things right. It held that the jurisdiction-stripping provisions did not violate the Constitution.

Those of us who recognized that Congress had committed a historic error when it recklessly eliminated the Great Writ of habeas corpus tried to reverse what had been done. But even with the support of several Republican Members of this body, Senator SPECTER and I fell 4 votes short of the 60 votes

required to overcome a Republican filibuster of our effort last year to restore habeas rights by adding the Habeas Corpus Restoration Act as an amendment to the Department of Defense authorization bill.

In its Boumediene decision, the U.S. Supreme Court fulfilled its constitutional responsibility—a responsibility in which so many others had failed and upheld the Constitution and our core American values. After Boumediene, the administration's record in the Supreme Court on habeas is now 0 for 4. Four times it has sought to erode the time-honored habeas right that protects the liberties our forebears fought and died for. And four times the Supreme Court has repudiated these ill-advised efforts.

One cannot help but wonder where we would be in the fight against terrorism today had the Bush administration spent more time trying to catch and try terrorists, and less time trying to erode our time-honored constitutional traditions.

What did a majority of the conservative Supreme Court actually say in Boumediene? First, it reiterated that the Constitution extends to Guantanamo Bay, Cuba. So the Bush administration's cynical gambit to house detainees just miles from the Florida coast to avoid judicial scrutiny and accountability for its conduct has failed as a matter of constitutional law. As the opinion of the Supreme Court correctly recognizes, the basic protections represented by the Great Writ ''must not be subject to manipulation by those whose power it is designed to restrain.''

Second, the Supreme Court held that the administration's detention procedures put in place back in 2005 are a constitutionally inadequate substitute for habeas corpus. The Court found that the so-called combatant status review tribunals established to determine if detainees held at Guantanamo Bay have correctly been identified as enemy combatants are hopelessly flawed. I have maintained all along that it is unfair and un-American to detain anyone without judicial recourse based on proceedings that do not allow those held even the most basic due process rights.

Third, the Supreme Court held that the provisions of the Military Commissions Act that strip away all habeas rights for the Guantanamo detainees and others are unconstitutional.

The Supreme Court's opinion written by Justice Kennedy is quite eloquent and moving. While recognizing the executive authority and responsibility to apprehend and detain those who pose a real danger to our security, Justice Kennedy went on to note:

> Security subsists, too, in fidelity to freedom's first principles. Chief among those are freedom from arbitrary and unlawful restraint and the personal liberty that is secured by adherence to the separation of powers.

He wisely counsels that the Constitution is fundamental, that ''[o]ur basic charter cannot be contracted away,'' and that the Constitution is not something the administration is able ''to switch on and off at will.'' He rightly concludes:

> The laws and Constitution are designed to survive, and remain in force, in extraordinary times. Liberty and security can be reconciled; and in our system they are reconciled within the framework of the law. The Framers decided that habeas corpus, a right of first importance, must be a part of that framework, a part of that law.

The Supreme Court reaffirmed American values, our fundamental adherence to our Constitution and the rule of law, and our great strength in so doing.

What is surprising is not that the U.S. Supreme Court would follow through on the earlier holdings of its opinions by Justice O'Connor and Justice Stevens, himself a decorated combat veteran, but that the decision was not unanimous.

Justice Scalia's dissent reads like a threatening partisan statement from Vice President CHENEY's office rather than an independent judicial review of the case. He uses language about Islam that was rightly condemned as wrong and counterproductive by this administration's own intelligence community, and he repeats the administration's tragically mistaken mantra by lumping the various factions of Islam, including those in Iraq, as a monolithic ''enemy'' collectively responsible for the attacks on the United States on September 11. Most disappointing is that his hyperbolic rhetoric is hard to square with his own acknowledgement in the 2004 Hamdi case that habeas corpus is ''the very core of our liberty secured in our Anglo-Saxon system of separation of powers'' and that ''indefinite imprisonment on reasonable suspicion is not an available option of treatment for those accused of aiding the enemy, absent a suspension of the writ.''

What role should Congress play as the Federal judiciary begins to implement the Boumediene decision? According to Attorney General Mukasey in his recent remarks on the future of habeas, Congress should jump in the fray again in an election year. Although he does not even have legislation to propose, he asks Congress to act hastily to minimize judicial oversight and maximize executive power. The Attorney General seems to have adopted the Bush administration's mantra: ''Don't trust the courts.''

The Attorney General has it exactly wrong. Congress made a mistake in 2005 when it bent to the will of the Bush administration by passing the Detainee Treatment Act, which created the detainee review process that the Supreme Court has now determined is hopelessly inadequate. Congress made a mistake in 2006 when it bent to the will of the Bush administration by passing the Military Commission Act, which, as we now know, violated the U.S. Constitution in its efforts to stop the Federal courts from reviewing executive detention decisions.

It would be foolish to bend to the will of the Bush administration once again to try to weaken or circumvent the Boumediene decision. Worse, by hastily legislating now, we would risk perpetuating the terrible policy judgments of years past that have led us so far astray in the fight against terrorism.

I trust our Federal courts to get it right. Had we relied on them to dispense American justice, perhaps we would have accomplished more in the fight against terrorism over the last several years. Our courts have proven themselves up to the task of trying the likes of Zacarias Moussaoui and Jose Padilla in difficult, complex and sensitive federal proceedings where unlike the restricted rights available in habeas proceedings these defendants enjoyed the full panoply of constitutional protections. These men now stand convicted of terrorism-related offenses and they will spend the rest of their lives in prison, as they should. Just as I would not have questioned Attorney General Mukasey's ability to deal with terrorism-related prosecutions when he was a judge in Manhattan, I do not question the ability of the Federal judges in Washington, DC, to handle the habeas petitions from the detainees in Guantanamo Bay, Cuba responsibly and diligently—particularly where our courts have proved up to the task in so many actual criminal trials.

I was particularly disappointed to hear the Attorney General attempt to play on Americans' fears by suggesting that, in the wake of a Supreme Court decision affirming our core values, our national security will be somehow jeopardized if Congress does not act. He knows that no detainee has been set free as a result of the Boumediene decision, and that the government will have ample opportunity to justify its detention decisions on favorable standard of proof. He knows that Federal courts have successfully conducted terrorism cases using procedures derived from the Classified Information Procedures Act to ensure that classified information is safeguarded, and there have been no leaks of information where those procedures have been employed. And he knows that the federal court in Washington, DC, is taking steps to streamline and consolidate habeas proceedings to avoid unnecessary litigation.

In fact, the Federal bench in Washington, DC, is working hard to follow the rule of the Supreme Court by ensuring a prompt, safe and orderly disposition of the 250 or so detainee habeas petitions. The judges, the Department of Justice, and lawyers for the detainees are now working to resolve key issues that will allow the cases to proceed in the months ahead.

The court has also taken steps on its own to consolidate common issues before one judge former Chief Judge Thomas F. Hogan—to streamline the review process as much as possible. In the meantime, for those detainees who have been charged under the law of

war, the district court has ruled that the military commissions may proceed as planned, and that the right to habeas corpus will crystallize only once there is a final judgment.

The Bush administration can hardly complain if it takes the Federal district judges presiding over these habeas cases some time to resolve them. After all, it was the Bush administration that tried to avoid court scrutiny at all costs for the last 7 years. The Supreme Court having rejected this effort, the courts must now be permitted to do their jobs.

Is there anything that Congress should do at this time? One thing that Congress could and in my view should do is to pass the Habeas Corpus Restoration Act that Senator SPECTER and I introduced in the wake of the passage of the Detainee Treatment Act, and with which we sought to modify the Military Commissions Act. A bipartisan majority of the Senate voted with us last year when we were seeking to add it to the Department of Defense authorization bill, but we were forestalled by a filibuster. I trust that those who said they were not ready to join us last year because of the pendency of the Supreme Court case will join us now and do the right thing. It was Congress's mistake to pass the habeas stripping provisions of the Detainee Treatment Act and the Military Commissions Act, and we should correct it by passing our bill to amend the law. The Supreme Court has already declared those provisions unconstitutional and ineffective. In my view, it is a shame that the Supreme Court had to step in before we corrected our mistake.

These unconstitutional habeas-stripping provisions are a blot on the Senate, and on the Congress, and should not reside in our laws. We should reverse the Senate's action and correct its error. I do not want to see another Senate apologize years down the road for passing laws designed to strip habeas rights, as we have seen belated apologies for America's treatment of Native Americans, the internment of Japanese Americans, and other grievous errors in our past. I do not want a future Senate to look back with shame or have to issue an apology for unconstitutional legislation coming from this great body. Congress should pass the provisions of the Habeas Corpus Restoration Act.

Thereafter we will need to join together in the weeks and months ahead to rethink the misconceived legal framework that has been devised by this administration. We will need to work together—with each other, with the House and with the new administration—to supplement our laws, consistent with our Constitution and core values, and to restore our leadership in the world and more effectively defend our Nation. We can recapture the bipartisanship that we demonstrated in the days immediately following 9/11 and move forward, not as Democrats or Republicans, but as Americans.

The Supreme Court was explicit that its decision in Boumediene only reached the unconstitutional attempt to strip habeas corpus review from these detainees and that the Detainee Treatment Act and combatant status review tribunal process remain intact.

Likewise, the Attorney General and Department of Justice have said that the military commissions will continue, and a federal judge in Washington, DC, recently ruled against a detainee's effort to secure habeas review before his military commission was to commence.

I think we will need to review both processes. The military commission system is so deeply flawed that after close to seven years it has only just started its first trial. The world will never view those proceedings as fair or consistent with the rule of law. We are too strong and confident a nation to seek vengeance or be driven by fear. America is great in part because it does not shirk from its legal obligations but embraces them and lives by them. When America acts, as it did, to circumvent the law by holding prisoners off shore, to contract out torture to third parties, or to suspend the Great Writ, we are not the America envisioned by our Founders and preserved by every previous generation of Americans.

I look forward to working in the next session with Senator FEINSTEIN on her initiative to close the Guantanamo Bay facility, and begin to erase the damage it has done to the United States' reputation around the world. She has sponsored legislation to move us in that direction. I want to commend Senator WHITEHOUSE for his legislative proposal to establish a congressional commission to make nonpartisan recommendations to Congress on how best to proceed in the future. I know that Senators DURBIN and SPECTER introduced military commission bills back in 2002, around the same time that I did. We will need to work across committee lines and across the aisle, to involve not only the reconstituted Department of Justice, but also the Departments of Defense and State as we go forward. We will need to reconsider where else we went wrong and how to set the entire system on better, stronger foundations.

AIR FORCE OFFICE OF SPECIAL INVESTIGATIONS

Mr. SPECTER. Mr. President, I have sought recognition to recognize the Air Force Office of Special Investigations on its 60th anniversary, August 1, 2008.

The Office of Special Investigations was created in 1948 at the suggestion of the 80th Congress. The secretary of the Air Force, Stuart Symington, consolidated and centralized the investigative services of the U.S. Air Force to create an organization that would conduct independent and objective criminal investigations. Since 1948, the Office of Special Investigations has evolved to meet the changing needs of the Air Force. It has matured into a highly effective war-fighting unit while maintaining the standards of a greatly respected Federal law enforcement agency. The Office of Special Investigations has truly adapted to fulfill the needs of the U.S. Air Force in the 21st century.

At present, 3,200 men and women serve in the Air Force Office of Special Investigations. In more than 220 offices around the globe, these men and women perform the investigative work of the U.S. Air Force wherever and whenever they are needed. I am proud to be counted among the alumni of the Air Force Office of Special Investigations. I served as a young lieutenant in the Office of Special Investigations from 1951 through 1953 and was assigned to the Pennsylvania, West Virginia, and Delaware District. My experience allowed me to serve my country, hone my investigative skills, and prepare for a career in law and in Government.

It gives me great pleasure, to recognize and salute the Air Force Office of Special Investigations on the occasion of its 60th anniversary. In a time of unprecedented change and challenges, the Air Force Office of Special Investigations has answered the call of the Air Force, the Department of Defense, and the Nation.

JOBS, ENERGY, FAMILIES AND DISASTER RELIEF ACT

Mr. SPECTER. Mr. President, I have sought recognition to discuss my vote on July 28 against cloture—to end debate—on the motion to proceed to S. 3297, the so-called Reid omnibus bill or ''Coburn package.'' As I stated on the Senate floor Monday, July 28, it is my inclination that the majority leader called for a vote on cloture on proceeding to this bill in order to dislodge the pending legislation on oil speculation. By using his position of power, he seeks to force the Senate to prematurely move away from the No. 1 issue facing the people from my State and the Nation namely energy legislation.

I did not support cloture to move to the Reid omnibus bill not because I do not support many of its provisions, rather because I believe we should complete work on energy legislation before moving on to other matters. Further, I am seeking my right as a U.S. Senator to offer amendments to a bill in a fair and balanced legislative process.

For instance, Senator KOHL and I had a bipartisan amendment prepared to offer to the speculation bill that would have brought OPEC nations under U.S. antitrust laws to prohibit them from meeting in a room, lowering production and supply, and thus raising prices. Unfortunately, this effort was denied by the majority leader's blocking of amendments by filling the so-called amendment tree, disallowing mine and a number of other amendments that ought to be considered.