

and others, in making its final recommendations to BPA of projects to be funded through BPA's annual fish and wildlife budget. If the council does not follow the advice of the panel, it is to explain in writing the basis for its decision.

Mr. President, an important part of my amendment requires the council to consider the impacts of ocean conditions in making its recommendations to BPA to fund projects. Ocean conditions include, but are not limited to, such considerations as El Nino and other conditions that impact fish and wildlife populations. My amendment also directs the council to determine whether project recommendations employ cost effective measures to achieve its objectives. I want to make an important point here, Mr. President, the bill language expressly states that the council, after review of panel and other recommendations, has the authority to make final recommendations to BPA on project(s) to be funded through BPA's annual fish and wildlife budget. This language was included to clear up any confusion as to the council's authority to make final recommendations to BPA on projects to be funded through its annual fish and wildlife budget.

The amendment goes into effect upon the date of enactment, and it is intended that the provision be used to start the planning process for the expenditure of BPA's fiscal year 1998 fish and wildlife budget. This provision will expire on September 30, 2000.

Mr. President, in closing, I would like to thank Senator HATFIELD and Senator MURRAY, and the Northwest Power Planning Council for their input in the development of the amendment. I believe that the final language, as it appears in the fiscal year 1997 energy and water conference report, reflects a bipartisan effort to make sure that BPA ratepayer dollars are spend wisely.

I believe that my amendment is the first step to restoring accountability in the decisionmaking process for the expenditure of BPA ratepayer dollars for fish and wildlife purposes. I look forward to working, on a bipartisan basis, with my Northwest colleagues to rewrite the Northwest Power Act during the next Congress to ensure that Northwest ratepayer dollars are spent effectively for fish and wildlife, and that the people of the Northwest are given a greater role in the decision-making process.

Mr. DOMENICI. Mr. President, I understand Senator LEVIN does not need his time. In his behalf, I yield back his time. Mr. President, I understand Senator JOHNSTON will yield back his time. In that he is in another hearing, I yield back his time in his behalf.

The PRESIDING OFFICER. All time except the time of the Senator from New Mexico has been yielded back. The Senator from New Mexico retains 14 minutes.

Mr. DOMENICI. Mr. President, I ask the distinguished Senator from Penn-

sylvania how much time does he desire?

Mr. SPECTER. Mr. President, I thank my colleague from New Mexico. I would appreciate 10 minutes.

Mr. DOMENICI. Mr. President, at the suggestion of the majority leader, I yield back all time on the conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. DOMENICI. Mr. President, I ask unanimous consent that there now be a period for morning business until the hour of 11 a.m., with Senators to speak for up to 5 minutes each. If they need additional time, they can seek time from the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I ask unanimous consent I may speak in morning business for a period of up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Then, Mr. President, I further ask unanimous consent I may be recognized to comment on the intelligence authorization officer.

The PRESIDING OFFICER. Without objection, it is so ordered.

USE OF FORCE AGAINST IRAQ

Mr. SPECTER. Mr. President, I have come to the floor immediately after attending a meeting with President Clinton, the Secretary of State, the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and Members of both Houses from both parties on the subject of Iraq. I would like to comment about an issue which I raised specifically with the President, and that is my urging him to submit to the Congress of the United States the issue as to whether there should be force used against Iraq in the gulf.

In time of crisis there is no question, under our Constitution, that the President as Commander in Chief has the authority to take emergency action. Similarly, it is plain that the Congress of the United States has the sole authority to declare a war, and that involves the use of force, as in the gulf operation in 1991, which was really a war, where the President came to the Congress of the United States in January 1991, and on this floor this body debated that issue and, by a relatively narrow vote of 52 to 47, authorized the use of force. It is my strong view that the issue of the use of force in Iraq today ought to be decided by the Congress of the United States and not unilaterally by the President where there is no pending emergency and when there is time for due deliberation in accordance with our constitutional procedures.

I note when the first missile attacks were launched 2 weeks ago today, on September 3, the President did not con-

sult in advance with the Congress, which I believe was necessary under the War Powers Act. That is water over the dam. At the meeting this morning there were comments from Members of Congress about the need for more consultation. I believe the session this morning was the first time that there had been a group of Members of the House and Senate assembled to be briefed by the administration, by the President, and by the Secretary of State and Secretary of Defense.

We know from the bitter experience of the Vietnam war that the United States cannot engage in military action of a protracted nature without public support, and the first place to seek the public support is in the Congress of the United States in our representative capacity. It is more than something which is desirable; it is something which is mandated by the constitutional provision that grants exclusive authority to the Congress of the United States to declare war. We have seen a transition as to what constitutes a war—in Korea, where there was no declaration of war by the Congress, in Vietnam, where there was no declaration of war by the Congress. And we have seen the adoption of the War Powers Act as an effort to strike a balance between congressional authority to declare war and the President's authority as Commander in Chief; and, as provided under the War Powers Act, where there are imminent hostilities, the President is required to consult in advance with the Congress and to make prompt reports to the Congress, although the President does have the authority to act in case of emergency.

My legal judgment is that the President does have authority as Commander in Chief to act in an emergency, even in the absence of the War Powers Act. But when there is time for action by the Congress of the United States, then that action ought to be taken by the Congress on the use of force, which is tantamount to war, which we saw in the gulf in 1991 where the Congress did act. And we may see—we all hope we do not see it—but we may see that in Iraq at the present time.

The Congress is soon to go out of session in advance of the November elections. While we are here, this issue ought to be considered by the Congress of the United States as to whether we are going to have the use of force.

In the meeting this morning, attended by many Members of the House and Senate, both Democrats and Republicans, there was considerable question raised on both sides of the aisle as to what our policy is at the present time, whether we have a coherent policy as to what we are going to do there, not only how we get in but how we get out, and what our policy ought to be.

Those policy issues are really matters which ought to be debated by the Congress of the United States and acted upon by the Congress of the United States.

We know there is a considerable problem that we face today on getting support from our allies, and that is an indispensable prerequisite, it seems to me, for action by the United States military forces. We have seen the deployment of air power all the way from Guam for missile strikes, and yet we wonder why we are not using air power from Saudi Arabia or from Turkey, and the question is raised as to whether the Saudis or the people in command of Turkey are willing to allow us to use their bases for these air strikes.

When it comes to the issue of containment, representations were made by key administration officials that there is a full and total support by the Saudis for our efforts to contain Saddam Hussein, but that when it comes to the issue of air strikes, the same cannot be said; there is less than a full measure of support from the Saudis. So that when we deal with the issue of how much force the United States of America ought to use in the gulf against Saddam Hussein, those are the issues which ought to be considered by Congress, and we ought to have a statement of particularity as to just how much support we are going to get from our allies.

We know the French, illustratively, will refuse to supply in the expanded zone to the 33d parallel. There have been reports from Kuwait that the Kuwait Government is not prepared, not really willing to have us expand our military forces there. There is some dispute about that, with representations being made by the administration that the media reports have been overblown and that there is really cooperation from Kuwait and from Bahrain and from others. But on the face of what is at least the public record, there is a serious question as to whether we do have real support among our allies. That is something which has to be considered in some detail.

In our meeting this morning, reservations were expressed by Members on both sides of the aisle, and there was a question as to what we ought to be doing with Saudi Arabia in terms of long-range policy and long-range planning. When we moved into the gulf war in 1991, it was an emergency situation, but the plan was supposed to enable the Saudis to have time to defend themselves and to take action in their own defense, and that has not happened. Every time Saddam Hussein moves, there is significant expenditure of U.S. resources and U.S. money.

In the middle of the discussion, we had the point raised about whether the defense budget is adequate and a very blunt reference to the Chief of Staff, Mr. Panetta, as to agreeing to the figures which have come from the appropriators, and that also was obviously a matter of fundamental importance by the Congress because we are the appropriators and we have had the administration take the position that the administration does not like what the Congress is doing by way of appropriations.

But the administration is coming in with a very expensive operation, and it may be justified, it may be warranted, it may be necessary, but that is a matter for the Congress to decide as to what our policy should be and how much money we are prepared to spend.

In the meeting today, the question was raised rather bluntly about the credibility of the administration in expanding the no-fly zone to the south when the actions come against the Kurds in the north, and there seems to be a consensus that the action taken thus far by the administration has not weakened Saddam Hussein but has strengthened Saddam Hussein and that he did, in fact, receive cover when certain Kurdish leaders invited him in; and there is a distinction to be made about what the United States will do for a vital U.S. interest contrasted with what we might do for humanitarian purposes, and that while U.S. military personnel may be placed in harm's way where we have an issue of a vital national interest, there may be a difference of opinion if we are dealing with a humanitarian consideration.

Mr. President, all of this boils down to the judgment, my judgment, that the American people today are not informed about what the administration is seeking to do in the gulf and what the administration is seeking to do against Saddam Hussein, and the Congress has not been consulted in advance of the initial missile strikes and has been, in my view, inadequately informed as we have proceeded. When you deal with the use of force, which is tantamount to war, that is a matter to be decided by the Congress of the United States, leaving to the President his constitutional authority as Commander in Chief to act in cases of emergency. But at this time we do not have an emergency. We have time for deliberation in the Congress, for debate in this Chamber and the floor of the House of Representatives to decide what our policy should be, what we are prepared to spend, and how we ought to proceed. That is why in the meeting I asked the President to submit to the Congress his request for an authorization for the use of force so that matter could be decided by the Congress in accordance with constitutional provisions.

Mr. President, I noted that I made that request to the President, and I commented about a letter which I had sent to the President yesterday on that subject. I ask unanimous consent that the text of that letter be printed in the RECORD.

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

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, September 16, 1996.

HON. WILLIAM JEFFERSON CLINTON,
President of the United States, The White
House, Washington, DC.

DEAR MR. PRESIDENT: I am writing to you to express my growing concerns over the escalation of U.S. military activity in and

around the Persian Gulf and to urge you to promptly seek a resolution from Congress authorizing the use of force in the Gulf. There is no emergency which would require escalation of the use of force by you in your role as Commander-in-Chief. The constitutional role of Congress as the sole authority to declare war should be respected, as it was in 1991, with the Congress determining national policy on our objectives, the conditions of allied burden sharing, an exit strategy and an overall policy which is lacking at the present time. A further statement of my reasons follows.

First, let me repeat my publicly stated support for the policy of containment of Saddam Hussein's regime and for the practice of United States military involvement in the enforcement of the United Nations' ordered no-fly zone in southern Iraq. No less than in 1991, when I voted to support the use of force in the Gulf War, the United States has vital interests in this region which must be protected.

Second, I strongly support the bravery and professionalism of our military men and women who are carrying out your orders at substantial risk to their lives.

All this having been said, I believe your current course of gradual escalation against Iraq, starting with the missile attacks on September 4, (for which you sought no prior authorization from Congress) constitutes the involvement of our armed forces in the sorts of hostile and potentially hostile situations so as to trigger the limit of your authority as commander-in-chief established by the War Powers Act.

Moreover, this present course of escalation—especially the reported possible dispatch of 3-5,000 ground troops to Kuwait—could well lead to a renewal of full scale war between the United States and Iraq. For example, if, heaven forbid, our Army units were to sustain losses from any form of Iraqi attack, this country would be duty-bound to respond with massive force.

I know you understand, particularly in view of this country's bitter experiences with undeclared wars in Korea and Vietnam, the paramount importance of the constitutional principle that only Congress can declare war. It is an unavoidable concomitant of this principle that the President cannot have unilateral authority to set up a tripwire which, if breached, would surely commit this nation to war. Your present posture toward Iraq, however, may be creating just such a tripwire.

Beyond the always vital matter of honoring basic constitutional principle, I urge you to promptly seek Congressional authority for the use of force against Iraq because, just as in 1991, this democratic exercise is by far the best way to clarify both the legitimate means and the legitimate ends which underlie our national policy towards Saddam Hussein.

A congressional debate now will focus you and the Congress, and ultimately the American people, on what our policy should be at this time in the Persian Gulf. It will define national understanding and hopefully shape a national consensus on the key questions which must be answered as the potential for deeper conflict grows—questions such as the proper burden sharing we must demand from our allies in the region and around the world and, most importantly, about an exit strategy to ensure a way back home, in reasonable time and at reasonable cost, for the troops we so rapidly send today into harm's way.

Thank you for your consideration.

Sincerely,

Arlen Specter.