In testimony before the Church Committee, the late Clark Clifford acknowledged:

> The lack of proper controls has resulted in a free-wheeling course of conduct on the part of operations within the intelligence community that has led to spectacular failures and much unfortunate publicity.

That was one of the architects of the National Security Act of 1947 speaking.

Three decades after its enactment, Mr. Clifford was complaining about continuing imperfections and the damage that had been done to our country.

I am very concerned that 30 years from now Congress will be struggling to rectify the problems we will be creating with the hastily considered enactment of this legislation as it is written, creating the Department of Homeland Security, according to the legislation that is written and before the Senate.

How much harm could be done in the meantime cannot be imagined. I am referring to damage to the rights and the liberties that we hold most dear: civil rights, labor rights, labor protections, civil liberties of all Americans.

I will go into those further. I intended to get into some of them this afternoon. I will not do so. I am talking about damage to our constitutional process.

I see one other Senator, the distinguished Senator on the Republican side of the aisle. I assume he would like to take the floor, if I give it up. I didn't intend to give it up until we adjourned. But if the distinguished Senator wishes me to yield to him 5 minutes before I adjourn the Senate, I will adjourn in the absence of the majority whip and the majority leader. But I will do so by their request.

Does the Senator wish me to yield for a question?

Mr. SESSIONS. Mr. President, I thank the Senator from West Virginia.

Mr. BYRD. Does he wish me to yield for a statement?

Mr. SESSIONS. I would like to make a statement. I had hoped to speak for 10 or 15 minutes. I understand we have a problem. I have been here since before noon. I know the Senator had his time reserved, as he has every right to do. I was hoping I would have a few moments to talk about the important developments with regard to the President's position on the United Nations and Iraq. I believe it is important to make some remarks today.

The PRESIDING OFFICER (Mr. DAYTON). The Chair is here for the duration, as long as it may take to complete his remarks.

Mr. BYRD. Mr. President, this is the Senator to whom the Senator from Alabama is addressing his remarks. This Senator will answer the Senator.

Mr. President, since there is another Presiding Officer at the moment, the distinguished Senator from Minnesota, who has been in his individual chair in the Chamber—he sits over here to my left—all afternoon during all of the time that this Senator has been talking about the homeland security matter. He is still here. I thank him. He has taken the chair to relieve Senator WYDEN. I am glad of that. I am still not going to impose on the Senate. But I am going to hold the floor until the Senator from Alabama gets through with his statement.

I ask unanimous consent, Mr. President, that I may yield to the distinguished Senator from Alabama, Mr. SESSIONS, for not to exceed 15 minutes.

I ask unanimous consent that the Senator may proceed on the statement only, that I may retain my rights to the floor, and that he may proceed for not to exceed 15 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank the Senator from West Virginia. I appreciate his leadership in the Senate, his concern for our constitutional order, and his serious historical understanding of the separation of powers. We might not always agree on where those separations are, but I certainly respect his dedication to preserving those separations.

PRESIDENT BUSH'S ADDRESS TO THE UNITED NATIONS

Mr. SESSIONS. Mr. President, I believe it is important today to talk about the remarks President Bush made at the United Nations. I believe he has made a courageous call on the United Nations to defend its credibility in its dealings with Iraq by ensuring that Iraq does not continue to update its weapons of mass destruction and does not continue to violate with impunity the 16 U.N. resolutions of which he is in violation. I think those remarks were a true example of world leadership.

President Bush spoke as one who knows right from wrong, who has honest convictions, and he has the courage to express and to act on them. In direct words, he detailed the incontrovertible case that Saddam Hussein deliberately used his promises at the time of his defeat in the Gulf War as a considered strategy to cause the allies to stop their hostilities before removing him from power, which has proven to be a trick. Since then, his actions have clearly confirmed his deception and have shown his insincerity, his duplicity, and his complete rejection of the U.N. resolutions—his rejections, indeed, of the United Nations itself and of the United States and the nations that joined together to defeat him in 1991. He rejects them. He does not respect them and his promises made to them.

Those agreements, he has said he will follow, but he has never intended to follow them because he doesn't give them respect or credibility.

The ''Economist'' magazine of London said it is well and good to talk about multilateralism, but it asked, ''what happens when people agree to things and do not do them?'' That brings up a problem, particularly when their failure to do so deals with matters that threaten the peace of the world.

I don't think anyone can deny that Saddam Hussein's consistent policy has been to defeat, obstruct, and get around the agreements he has made.

Some tell us that the world—the international community—is all against us. They say we are acting unilaterally. Some leaders around the world have indeed said that. But the truth is that President Bush is consulting regularly with world leaders. His speech to the U.N. struck the right balance. And progress is being made in obtaining support around the world—with not enough help, I am afraid, from this Congress.

But who would ever deny that Saddam Hussein is a unilateralist? With whom did he consult before he invaded Kuwait in 1991? With whom did he consult before he utilized poison gas to kill thousands of his own citizens, the Kurds, in the 1990s?

Who did he consult with, what other nation did he consult with, when he plotted to assassinate the former President of the United States of America? Who has he consulted with, as he deals to construct, develop, and produce weapons of mass destruction?

So I would like, Mr. President, to just make a few comments here to bring us some perspective that I think is very important at this time on the kind of support we have around the world.

First of all, I think one of the clearest-headed nations—a nation that consistently gets it right around the world on matters of foreign policy—the United Kingdom, is in total support of the United States. Indeed, it was reported in the paper today that they were moving troops into the Middle East, and prepared to use them, if necessary, with us.

So the Foreign Minister of the U.K., commenting on President Bush's speech to the U.N. said it was ''tough and effective'', and the speech received quite good remarks from the British leadership.

The Belgian Foreign Minister, heretofore a critic of the United States action, Louis Michel, said, after the speech: ''Now we have to press Iraq.'' He added, if the U.N. ''doesn't deliver, it will be uncomfortable for some European countries not to support the United States.'' That was in today's Washington Times.

Kofi Annan, the Secretary General of the U.N., who has criticized the United States recently, also ''urged Council members yesterday to take action or lose legitimacy.''

Even France, which has been pretty outspoken against the United States actions, accusing the United States of unilateral activities, has said: ''We

don't have sympathy for the Iraq regime.'' And their Foreign Minister further added that ''he defies the authority of the Security Council, raises the threat of proliferation of weapons of mass destruction and, therefore, jeopardize the stability of the region.''

The Danish Prime Minister's views were remarkable. A few days ago, on September 11, in an op-ed piece here in the Washington Times, Anders Fogh Rasmussen, the Danish Prime Minister, said, in a strong statement of affection and support for the United States wrote:

Our common values, shared destiny and visions have been further fortified by the horrors of September 11.

On the first anniversary of that somber date, Danes will think back with sympathy and sorrow on the victims of the terrorist attacks against the United States and their bereaved families. One year later, our solidarity with America is undiminished.

September 11 was a defining moment calling for determined action in defense of humanity and fundamental freedoms. Acting can entail dangers but the dangers of inaction are far, far greater. In the face of today's new threat, the only way to pursue peace is to pursue those who threaten it.

He goes on to add:

America and Denmark see eye-to-eye on the real challenges facing us today. In the fight against terrorism, Denmark was, is and will be fully behind the United States. Our best soldiers have been in Afghanistan on the ground and in the mountains, fighting alongside U.S. special operations forces. The danger is far from over and the international community must not waver now.

So said the Prime Minister of Denmark.

Representatives of the Romanian Government have been in town recently, and they have expressed strong support for the United States position in Iraq.

Norway, the Norwegian Foreign Minister, after the speech by President Bush, made these comments: ''We are challenged to live up to our responsibilities.'' And then he said something that I think is true for most of the world leaders: ''I guess we'll have to choose among a lot of bad options, really.''

Nobody wants to choose. Nobody wants to have a war. We wish it were not so. But we have bad options here. And the President is confronting us with the truth, the history of violations by Saddam Hussein. He is forcing world leaders. He is forcing the U.S. Congress. And, frankly, as I have gone back and studied the history of Saddam Hussein, and the violations are more explicit, more repeated, more deliberate than I had remembered actually.

So I think that is where we are today. And one reason it is appropriate for the United States to be most aggressive in leading this effort is that we are the ones—the United States military—that is overwhelmingly enforcing, as best we can, the resolutions of the United Nations in Iraq today.

Many people do not realize that our planes are enforcing a no-fly zone over Iraq today. They fly every day. They are attacked on a regular basis. And we respond and retaliate on a regular basis, attacking Iraq. And they have surface-to-air missiles that they utilize against our aircraft. So far they have not been able to knock down one of our aircraft.

I say to the Presiding Officer, I know that is a matter of concern to you as a member of the Armed Services Committee. But it is a real matter of significance that we are carrying this burden. How long do they want us to carry it?

The Economist magazine, in an article on this entire matter, voting in their editorial for war, said that the ''box is leaking,'' our ability to contain him cannot continue. And who did they suggest are suffering most? The people of Iraq, the children of Iraq, because of this diabolical leader that they have.

So, yes, we have to take action. We cannot continue to delay. We have troops there in the region that are specifically there to make sure he does not expand again as he did when he attacked Iran. And that war cost 1 million lives in Saddam's failed attempt to defeat Iran and take that territory from Iran; in addition to the gulf war.

He moved, after the gulf war, 80,000 troops down on the Kuwait border, causing us to have to respond out of fear he might once again attack Kuwait.

We have Patriot batteries in Saudi Arabia designed to shoot down Saddam's Scud missiles. I visited a Patriot battery with my legislative assistant, LTC Archie Galloway. And we visited the Alabama National Guard unit that mans a Patriot battery on duty to shoot down Iraqi Scud missiles, if need be at our expense, this very day.

So that is not a problem that has been on the front burner of most of the nations of the world. They are not deeply involved in these matters. They are not paying that cost every day, as we are. They are not confronting the reality of Saddam Hussein's duplicity.

But the President is leading us to understand. So I think it is now important for this Congress to speak. Are we with the President or are we against him? We don't need to be rushed, but we need to get busy in discussing this issue. It is not a new issue.

Most of the evidence is there for the world to see, and has been there for many, many years. So we need to make clear whether we will support the President or not. And if we do not, what are we saying? Are we undermining Secretary of State Colin Powell's ability to negotiate with foreign nations? Are we encouraging the Socialist left in Europe to believe that if they object and fight and complain that they can ultimately prevail, and the United States will fail to act? Are we encouraging radical groups in moderate Arab nations to put more and more pressure on the Arab leaders of those countries who might at least privately be sympathetic to our efforts, by failing to support clearly the President of the United States?

I believe we will act to support the President. I believe this Congress will move. We need to do it before we recess. If we do not, it will be unhealthy for our country. Am I confident we will vote in support of the President and his proposals and give him authority to take the action necessary to preserve and protect our security interests? Yes, I am. Let me tell you why.

There are several important factors. In 1998, this Senate detailed, as I indicated on the floor of the Senate earlier in the week, a list of direct violations of United Nations resolutions by Saddam Hussein. On August 14, 1998, the President of the United States, President Clinton, signed Public Law 105–235 which declared that:

The Government of Iraq is in material and unacceptable breach of its international obligations.

It urged the President to ''take appropriate action in accordance with the Constitution and relevant laws of the United States to bring Iraq into compliance with its international obligations.''

The PRESIDING OFFICER. The Senator's 15 minutes have expired.

Mr. SESSIONS. I ask unanimous consent for 1 more minute.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I still have the floor, do I not?

The PRESIDING OFFICER. The Senator has the floor.

Mr. BYRD. Mr. President, inasmuch as I still have the floor and the distinguished Democratic whip has asked me to adjourn the Senate in his absence, I will yield to the Senator 1 additional minute. I have a few brief comments with regard to what the Senator has said. I will be glad to yield, if there is no other objection, to the Senator for an additional minute without losing my right to the floor.

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

The Senator from Alabama.

Mr. SESSIONS. I thank the Senator from West Virginia for his courtesy.

It is time for this Congress to relook at our record of involvement with Iraq and study it, to take new testimony, have new hearings, and to stand up, and put up or shut up. We need to be with the President or not with the President. I am convinced this Congress will be with the President. We do not need to undermine his ability to be effective in policies that we support by delaying our support for them.

I urge this Senate to move expeditiously, to not wait on the U.N., which is not elected by the people of the United States to decide this issue but to decide ourselves that we support the President's policies; make that clear, give him the authority he needs to be effective in protecting the United States and this world from a savage and dangerous criminal, Saddam Hussein.

I thank the Senator from West Virginia and yield the floor.

HOMELAND SECURITY ACT OF 2002—Continued

Mr. BYRD. I thank the distinguished Senator from Alabama. I have long had as my friends Senators from Alabama. When I came to the Senate, there were Senators Sparkman and Lister Hill. There have been a succession of Senators from Alabama. Especially, I want to mention the late Senator James Allen from Alabama. I have had very good relations with the Senators from Alabama.

I consider myself as being on the same footing, same level of good relations with the distinguished Senator from Alabama who has just addressed the Senate.

I do want to comment briefly on two or three things that he said.

He first indicated, when I yielded to him, that he and I had often agreed on matters and that there were times when we might disagree as to our interpretations of the Constitution. That can be very true.

Today, I have been talking about a phrase which, when joined with the preceding language, amounts to a sentence, a clause: The Congress shall have power to declare war.

There is no reason for anybody to misinterpret that. I hope the Senator from Alabama wouldn't misinterpret what is in plain view, written in plain English, and has been in that Constitution now for over 200 years. I hope there is no matter of misinterpreting that plainly spoken clause in the United States Constitution: The Congress shall have power to declare war.

I hope we don't have to argue about how to interpret those plainly written, well-understood words from the English language that Congress shall have the power to declare war. That is what I have been talking about.

The distinguished Senator went on to say, we need to be with the President of the United States; we need to support the President of the United States.

I like to be with the President of the United States on most matters. And in the final analysis, I may be with the President on this one. But it is not a matter of being with the President or supporting the President. I maintain that we need to be with the Constitution of the United States. We need to support the Constitution of the United States. It is not damn the torpedoes, full speed ahead; it is not damn the Constitution, full speed ahead.

I want to be with the Constitution. Count me on the side of the Constitution. I want to support the Constitution first, last, and all the time, I say to the Senator. And maybe I will be with the President in due time. But I am not one who says this is a matter that has to be hurried before the election. What is this? Is this the October surprise in August or in September? This is a matter of great moment. And hinging on the decisions of this Senate may be the lives of many citizens.

In the second book of Samuel, I remember the story there which is told of a rich man and a poor man who lived in the same city. The rich man had huge herds of sheep, cattle, and lambs. The poor man had one little lamb. The poor man had one little ewe lamb. Everywhere that poor man went, that little lamb went. That little lamb was the sole possession the poor man had. When he ate, he fed that little lamb from his bowl, from his pot, or whatever it might have been. The poor man cared for that little lamb and it loved him. He shared his food and he shared his shelter with that little lamb.

Presently, a traveler visited the rich man, and the rich man wanted to present a feast to the traveler. He wanted to show courtesy and all of the niceties of being a man of hospitable nature. He wanted to spread food before the stranger. Did he take from his lambs, his herds? He had huge herds. He had vast possessions. He had barns in which he stored the product of the fields. He had vast lands. He had servants. He was well off. He had many, many lambs.

Did he take one of the lambs from his own herd? No. He took the one little lamb that the poor man had and served it up, may I say to the distinguished Senator from Alabama. He served that little lamb, the only lamb that the poor man had. He didn't ask for it. He just took it. He took that little lamb from the poor man and served it up to his guest.

Now, why do I say this? Why do I refer to second Samuel today? There are many mothers in this land who won't get to vote on this matter. There are many mothers in this land who have but one little lamb. I know we have a volunteer military now, and those who volunteer understand what their responsibilities are. They know they may have to sacrifice their lives, and they volunteered to do it. Nevertheless, there are those in the service who are the little lambs of mothers who are at home at night thinking about their little lambs and praying for their little lambs.

Now, here we are about to be faced with a proposition in which these representatives—these mothers of the sons and daughters who are in the services—will not be asked for their vote. There are those who apparently are under the impression that the Congress doesn't need to be asked for its vote—the Congress, the elected Representatives under this Constitution.

Yet some have suggested that the President has the authority. He can go. Some say he is right and he should attack unilaterally. That is what we have been talking about in the last few weeks. People were under the impression that this might be a unilateral attack by the United States against a sovereign state that was not attacking the United States. Of course, we all agree about this imp who is head of that government. But that is a sovereign state. That state is not attacking us.

I am not arguing that Iraq it is not a threat, but is it such a threat, is it so impending, is it so immediate that the Commander in Chief, who is the civil authority over the military in our system of government, can send men and women in the military to war, send them to give their lives, to shed their blood, without asking the Congress? Is he the alpha and the omega, the beginning and the end, of this decision?

The President is the Commander in Chief. He is not a four-star general. Under our system, it is meant to be that way. He is not a four-star general. This is a republic, a constitutional republic, and we have a legislative branch and a judicial branch. These are separate branches. Are we, the Congress, going to stand by and say I am with my President, right or wrong?

No, I don't subscribe to that. Every Senator in this body knows I have spoken out in opposition to Democratic Presidents—President Clinton being one. I am not speaking from the standpoint of a Democrat. I am speaking from the standpoint of a duly elected Representative of the American people who have sent me here to this body under a constitutional system that observes a separation of power. No, don't tell me you are either with the President or against the President. That is what I have just heard.

I am with the Constitution. Mark me down for the Constitution.

Now, I will have both ears open and hear the arguments that are made. I have already applauded the President for going to the United Nations. I think the U.N. has been derelict in its duty. It has stood by supinely while 16 of its resolutions have been ignored. I don't disagree with that; the President did the right thing in doing that. There should not have been all this talk in the newspaper, on the television, and on the radio, and through the media—the many men and women of the Government taking the attitude, apparently, that the President has the authority to go to war if he wants to; he has the authority. That is not so.

We are not talking about a mere skirmish. We are not talking about a situation in which another country has attacked our country or launched an attack on our military forces. This is not a skirmish that we have looming out here. This is war. The weapons that may be unleashed in this war will not have been unleashed, perhaps, in previous wars. But we still have a Constitution. I don't care how many, or how loud they may talk or speak. I am going to be at least a single voice saying that we live, we work, we act by the Constitution of the United States when it comes to declaring war and making war. You can have a thousand voices, but they will not drown out mine.

I am going to be heard, if God gives me the privilege of standing on this floor and speaking. I don't know how long God may give me that privilege. But as long as I can speak, I will. I am not the greatest defender of the Constitution that ever lived. I know a lot