

And I was being blasted in the press back in 1988.

I called a meeting of the entire committee and said that if the accusations relevant to me were getting in the way of the work of the committee, I would resign as Chairman.

But before I could get the last word out of my mouth, STROM stood up. "That's ridiculous," he said. "You stay as chairman. We all have confidence in you."

I said, "Don't you want me to explain?"

And STROM said, "There's no need to explain. I know you."

I will never forget what he said that day. "There's no need to explain. We know you."

I have told this story before, but to this day, I can't think of many other people who would, having a significant political advantage, not only not take it, but stand by me. That's the STROM THURMOND I know and will always admire.

I have been honored to work with him, privileged to serve with him, and proud to call him my friend. As I said earlier: A long life may well be the gift of a benevolent God, but a long life with an impact as powerful and lasting as his is the treasure of a grateful Nation.

STROM THURMOND is, without doubt, an American treasure.

The truth of the matter is that his longevity lies in his strength of character, his absolute honesty and integrity, his sense of fairness, his civility and dignity as a gentleman, and his commitment to public service.

None of these things are skills you learn. They are qualities that burn deep within leaders like STROM THURMOND. And people who know him well can sense them.

The measure of STROM THURMOND is not how long he has lived or how long he has served, but the good he has done, the record of success he has achieved, and the standard of leadership he has set.

The truth is that STROM's ongoing legacy is not about time, it is about extraordinary leadership and dedicated service to the people of South Carolina and the nation.

And for that we say, "Thank you, STROM, and a hundred more."

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### 21ST CENTURY DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the conference report accompanying H.R. 2215, which the clerk will report.

The legislative clerk read as follows:

The conference report to accompany H.R. 2215, to authorize appropriations for the Department of Justice for fiscal year 2002, and for other purposes.

#### CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the conference report to accompany H.R. 2215, the 21st Century Department of Justice Appropriations Authorization Act:

Harry Reid, Jeff Bingaman, Jean Carnahan, Hillary Clinton, Thomas Carper, Richard Durbin, Paul Sarbanes, Daniel Inouye, Bill Nelson of Florida, Jack Reed, Patrick Leahy, Benjamin Nelson of Nebraska, John Edwards, Tim Johnson, Joseph Lieberman, Byron Dorgan, Tom Daschle.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call under the rule is waived.

The question is, Is it the sense of the Senate that debate on the conference report accompanying H.R. 2215, the 21st Century Department of Justice Appropriations Authorization Act, shall be brought to a close? The yeas and nays are ordered under rule XXII, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES: I announce that the Senator from Utah (Mr. HATCH) and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

I further announce that if present and voting the Senator from Utah (Mr. HATCH) would vote "yea."

The yeas and nays resulted—yeas 93, nays 5, as follows:

[Rollcall Vote No. 229 Leg.]

YEAS—93

Akaka	Dodd	Lincoln
Allard	Domenici	McCain
Allen	Dorgan	McConnell
Baucus	Durbin	Mikulski
Bayh	Edwards	Miller
Bennett	Ensign	Murkowski
Biden	Enzi	Murray
Bingaman	Feingold	Nelson (FL)
Bond	Feinstein	Nelson (NE)
Boxer	Fitzgerald	Nickles
Breaux	Frist	Reed
Brownback	Graham	Reid
Bunning	Grassley	Roberts
Burns	Gregg	Rockefeller
Byrd	Hagel	Sarbanes
Campbell	Harkin	Schumer
Cantwell	Hollings	Sessions
Carnahan	Hutchinson	Shelby
Carper	Hutchison	Smith (OR)
Chafee	Inhofe	Snowe
Cleland	Inouye	Specter
Clinton	Jeffords	Stabenow
Cochran	Johnson	Stevens
Collins	Kennedy	Thomas
Conrad	Kerry	Thompson
Corzine	Kohl	Thurmond
Craig	Kyl	Torricelli
Crapo	Landrieu	Voinovich
Daschle	Leahy	Warner
Dayton	Levin	Wellstone
DeWine	Lieberman	Wyden

NAYS—5

Gramm	Lugar	Smith (NH)
Lott	Santorum	

NOT VOTING—2

Hatch	Helms
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The PRESIDING OFFICER (Mr. JOHNSON). On this vote, the yeas are 93,

the nays are 5. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank Senators for this overwhelming vote in bringing this debate to a close. This is a piece of legislation that passed in the other body 400 to 4. This vote shows overwhelming support in this body.

Senator HATCH, the ranking member of the Judiciary Committee, is necessarily absent. I know he supports this bill, too. And I thank, also on his behalf, those Senators who joined in this vote.

I do not know what the pleasure of the body is, Mr. President, but I am perfectly willing to move forward. I am not going to request a rollcall vote. I don't know if anyone else wishes to have one. I think to have had such an overwhelming vote—93 to 5—gives a pretty good understanding of where the body is on a piece of legislation such as this that covers everything from drug abuse in juvenile areas, to creating 20 new judges, to protecting our FBI in dangerous situations.

So, Mr. President, I am about to yield the floor, but I am perfectly willing to just go forward on the legislation. Obviously, if anybody else wants to speak on it or ask for a rollcall vote, that is their prerogative.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### IRAQ

Mr. SPECTER. Mr. President, I have sought recognition today to discuss the situation with respect to Iraq. At the outset, I compliment the President for coming to Congress. I believe that, as a matter of constitutional law, the President, as Commander in Chief, has the authority to respond to emergencies, but when there is time for discussion, deliberation, debate, and a decision, then it is the responsibility of the Congress, under the Constitution, to declare war and to take the United States to war.

Originally, there had been a contention that the President did not need congressional authorization, but the President has decided to come to Congress, and I compliment him for doing that.

I also think that the President has moved wisely in seeking a coalition of the United Nations, as President Bush in 1991 organized a coalition, came to the Congress, and had authorization for the use of force against Iraq which had invaded Kuwait. The assemblage of an international coalition is a very important item.

The issue of inspections is one which has to be pursued. To say that Saddam

Hussein is a difficult man to deal with, would be a vast understatement. He maneuvered and ousted the inspectors from Iraq some 4 years ago.

It seems to me the inspections have to be thorough, total, unannounced, intrusive, going everywhere, however, there cannot be an exclusion for the President's palaces, which are very large tracts of land and could conceal great quantities of weapons of mass destruction.

Senator SHELBY and I made a trip to the Sudan in August as part of a trip to Africa. In the Sudan, we found that there is an interest on the part of the Sudanese Government in cooperating with the United States, and they have agreed to inspections of their arms factories and their laboratories. They are no-notice inspections, where inspectors go in and break the locks, inspect, and take photographs anywhere, anytime, anywhere. I believe that has to be the format for inspections in Iraq.

I am concerned about the timing of an authorization or declaration of war. I think an authorization for the use of force is tantamount or the equivalent to a declaration of war. That authorizes the President to wage war. It is a concern of mine as to whether there is authority for the Congress under the Constitution to make this kind of a delegation.

The learned treatise written by Professor Francis D. Wormuth, professor of political science at the University of Utah, and Professor Edwin B. Firmage, professor of law at the University of Utah, engages in a very comprehensive analysis of this issue.

The background of the issue is that, when the Constitution and the three branches of Government were formulated, Article I gave certain authority to the Congress. One of the authorities that the Congress has is the authority to declare war. Article II gave authority to the executive branch, to the President, and Article III gave authority to the courts.

The core legislative responsibilities, such as a declaration of war, have been viewed as being non-delegable. They cannot be given to someone else. Professors Wormuth and Firmage say at the outset of chapter 13, on the delegation of the war power:

That Congress may not transfer to the executive . . . functions for which Congress itself has been made responsible.

The treatise further goes on at page 70 to point out—and I am leaving out references which are not directly relevant—but the two professors point out at page 70 that:

The Framers . . . never supposed that a state of war could arise except as a result of a contemporaneous decision of Congress on the basis of contemporary known facts.

In the Federalist Papers, Hamilton made an observation on this subject, and it is cited again in the treatise by the two professors noting that Hamilton in the Federalist Papers argued the system was safe precisely because the President would never be able to

exercise this power, referring to the power to declare war or the power to use force. While not cast specifically in the dialogue of delegation of power, the Federalist tracts, written by Hamilton and cited by Wormuth and Firmage, do argue about the limitations of Federal power.

The treatise by Professors Wormuth and Firmage then goes on to cite Chief Justice Marshall, who said—and again I leave out materials which are not directly relevant—it will not be contended Congress can delegate powers which are exclusively legislative.

Here you have a power, the power to declare war, which is a core congressional power. Chief Justice Marshall has been the author of many doctrines which have survived 200 years since he served as Chief Justice of the Supreme Court of United States.

The treatise by Wormuth and Firmage then goes on to quote Clay, and they cite this reference:

According to Clay, the Constitution requires that Congress appraise the immediate circumstances before the Nation voluntarily enters into a state of war.

That is at page 207. The treatise further points out, Clay's argument was that:

Congress itself cannot make a declaration of a future war dependent upon the occurrence of stipulated facts, because war is an enterprise in which all the contemporary circumstances must be weighed.

The treatise by Wormuth and Firmage goes on to point out that it is:

Impossible for Congress to enact governing standards for launching future wars.

They note it is not possible to authorize the President:

To initiate a war in a future international environment in which significant details, perhaps even major outlines, change from month to month or even from day to day. The posture of international affairs of the future cannot be known to Congress at the time the resolution is passed.

So we have the generalized declaration that core congressional functions may not be delegated as a basic requirement under the constitutional separation of powers, and then an articulation of the reasons as to why this is the law. That is because, as noted in the authorities, the circumstances may change in a matter of months or, as noted, even in a matter of days.

I am not unaware the Congress is proceeding on a timetable which is likely to eventuate a vote next week, or if not next week, shortly thereafter. As is well-known, we are in an election season, with elections on November 5. Today is October 3. The closing date of the Congress had originally been set at October 4, which would have been tomorrow, Friday. It has been extended until October 11. Nobody is sure when we will adjourn. When asked the question as to when the Senate will adjourn, I say the Senate adjourns when the last Senator stops talking. We do not know precisely when that will be.

There is a move to have a vote before we leave town. Of course, we could

come back. When there is a matter as important as a resolution authorizing the use of force, the equivalent of a declaration of war, there is no congressional responsibility that is weighed more heavily, more solemnly, or more importantly than that.

I am not naive enough to think anybody is going to go into court or that a court would consider this, what we lawyers call a justiciable issue, or decide this sort of a matter. I do think it is a matter which ought to be focused on by Members of the Senate and House of Representatives. I have not seen any public commentary on the issue.

I became very deeply involved on the legalisms of the doctrine of separation of power 8 years ago when there was a base closing commission where Congress delegated authority to a commission to decide which bases would be closed, and I think they inappropriately closed the Philadelphia Navy Yard. I studied the subject in some detail—in fact, argued the matter in the Supreme Court of the United States—so when this issue has arisen, I have been concerned about what the Congress is doing. I have studied the issue and have raised these concerns, which I want to share with my colleagues.

I am well aware of the argument that it would strengthen the President's hand to have a very strong vote from the Congress of the United States, as he is negotiating in the United Nations. Secretary of State Powell is seeking a tougher resolution before inspections start. The U.N. inspectors met with the Iraqi officials and are talking about starting inspections in 2 weeks. Secretary Powell yesterday said he would like a tougher resolution so there are more stringent requirements to be imposed on Iraq before the inspections go forward. There are difficulties in dealing with the French, the Russians, and the Chinese.

There is no doubt that a strong resolution by Congress supporting the President would give weight to the President's position. The predictions are generalized that the President can expect a very strong vote from the House of Representatives, based on what happened yesterday with the concurrence of Speaker HASTERT and Democrat Leader GEPHARDT. The sentiments of the Senate may be somewhat different, perhaps a little more deliberative, but the predictions are that a resolution will come from the Senate backing the President as well.

I think it is a momentous matter. It is one which we need to consider. We need to consider all of the alternatives short of the use of force. We need to consider whether our objectives can be attained without sending American men and women into battle; without exposing Iraqi civilians to casualties; without undertaking the problems of war—the attendant body bags, collateral damage, and the death of civilians, which is inevitable. We need to find a way to rid Iraq and the world of Saddam Hussein, and have the appropriate

assurances that there are not going to be weapons of mass destruction which threaten the United States or our neighbors.

There is a very serious concern as to what will happen with neighboring Israel. General Scowcroft, former National Security Council, wrote an article which appeared in the Wall Street Journal in August, raising a concern about an Armageddon, with the possibility of a nuclear conflict if Iraq and Saddam Hussein unleash weapons of mass destruction on Israel, and as to what the retaliation may be.

The consequences are very difficult to figure out. If we can find a way to get rid of Saddam Hussein; have the assurances that the world will not be subjected to his maniacal impulses and his irrational tendencies, which includes his use already of chemical weapons in the Iran war and on his own people, the Kurds; if we can find a way to do that short of war, that certainly ought to be our objective. I raise this constitutional issue so that my colleagues may consider it, as well.

Mr. SPECTER. I ask unanimous consent I may proceed for an additional 5 minutes on an unrelated subject, the confirmation of Judge James Gardner.

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

CONFIRMATION OF JUDGE JAMES GARDNER

Mr. SPECTER. Mr. President, yesterday in what is called wrap-up in the Senate, by unanimous consent a Pennsylvania judge was confirmed. I had not known that his confirmation was imminent, however, I am very glad it was and I am very glad it was accomplished. I thank the managers, including the Senator from Nevada.

I make a comment or two about Judge Gardner who was endorsed by Senator SANTORUM and me and passed our bipartisan nonpolitical nominating panel. Senator SANTORUM and I have maintained the practice which Senator Heinz and I had many years ago on submitting applicants to a commission which studies them, in addition to review by the American Bar Association and by the FBI.

Judge Gardner graduated magna cum laude from Yale University, received his JD degree from Harvard University Law School, which is obviously an excellent educational background. He then joined a big firm in Philadelphia, Duane, Morris & Heckscher, and later went to Allentown where he became a member of the law firm of Gardner, Gardner, & Racines.

He began his career in public service as Solicitor to the Lehigh County Treasury and later served as assistant district attorney in Lehigh County. I must say that being assistant D.A. is very good training for anything. People ask me what is the best job I ever had, being a Senator or district attorney, and I say the best job I ever had was assistant district attorney, getting to the courtroom and trying cases.

He has been on the Court of Common Pleas of Lehigh County for some 21

years, presided over 265 jury trials, and written nearly 1,000 legal opinions, 138 of which have been published.

He is very active in community affairs. He is on the Board of Directors of the Boys and Girls Club of Allentown and the Allentown Police Athletic League. He has been awarded the Meritorious Service Medal from the President of the United States, and the Pennsylvania Bar Association's Special Achievement Award.

We have a practice of trying to accommodate litigants by having various stations in Pennsylvania: one in Johnstown, one in Bethlehem and in Lancaster, and of course we have the district court sitting in Harrisburg, in Wilkes-Barre, Scranton, and also Williamsport. Judge Gardner will be handling the station in Allentown to accommodate litigants so that they do not have to travel long distances to have their cases heard.

I yield the floor.

Mr. REID. I ask the Senator from Kansas how long he wishes to speak.

Mr. BROWNBACK. I thank the Senator from Nevada. I would like to speak for 15 minutes. I think there are other people who would like to speak, as well.

Mr. REID. We have spoken to the minority side. Senator BYRD wishes to use his hour postcloture. I ask unanimous consent he be allowed to do that beginning at 1:10, following the statement of the Senator from Kansas. Postcloture, he is entitled to that. I ask he be allowed to speak during that postcloture on any matter he wishes to talk about.

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

The Senator from Kansas.

Mr. BROWNBACK. Mr. President, we are on the judicial reauthorization bill that just received cloture. I was happy to see that taking place. I draw attention to the body to one particular provision that is important. It is J-1 visas. These visas are granted to people who were born in another country, other than the United States, but trained according to medical standards in the United States, in passing medical boards in the United States, and then able to serve throughout the United States. I know the Presiding Officer's State and my State are dependent on people born in foreign countries being able to provide medical services in Kansas.

We have 105 counties and 20 that would be medically underserved if not for this feature called J-1 visas for medically underserved counties to have medical personnel, as I previously described.

Within the provision of the judicial reauthorization bill, it allows for 30 J-1 visas on a per State, per year basis to work with recruitment of medical personnel. My State of Kansas is dependent on this feature. Twenty of our 105 counties would be medically underserved if not for J-1 visas. There was a problem within the old program that the oversight was not sufficient.

After September 11, a number of people were concerned about who was getting into the United States under these J-1 visas: Are they properly supervised and properly observed, or is there potential for untoward elements that would come in this way that might seek to do harm to the United States? That was an area of concern. We were concerned about everyone coming to the United States at that point. This was another area where people had deep concerns.

This program, as we have revised it, has supervision in place to watch this program and to meet the needs of States like Kansas where we have significant areas of medically underserved populations and at the same time meet the security needs of the United States so we do not allow in an individual who seeks to do harm to the rest of the United States.

I worked in the Judiciary Committee. We worked on the Immigration Subcommittee. This bill got through the House of Representatives. Congressman JERRY MORAN from my State worked over there. We have met everyone's concerns to get this passed through the needs of States such as my own, particularly for rural States because this is a chronic issue, with significantly underserved areas, aging population in some counties that need more and more services and have more and more difficulty getting medical personnel into the areas. This is working under the J-1 category for medical doctors. We are using it for medical technologists. In the future we will need it for broader categories within health care as well, potentially for physical therapists and nurses, to get adequate personnel in places that are needed. It will be a valuable feature, looking into the future.

Overall, the judicial reauthorization is a good bill, one that we should pass. It is significant. We have not had one of these reauthorizations for some period of time. It is certainly the time to be doing this, to bring this issue forward. I commend the chairman and ranking member and those who have worked very hard in the conference committee to move this issue forward.

IRAQ

Mr. BROWNBACK. As we look and move forward on the issue of Iraq and war with Iraq and the potential of providing the President military authorization, I hope the body and the Members and people across the country and across the world look at the potential of a post-Saddam Iraq. Former Senator Kerrey of Nebraska and I worked, when he was in the Senate, with a group called the Iraqi National Congress, an umbrella group of opposition leaders, to try to bring to the forefront opposition groups, bring them together, and move forward with the track that once Saddam is out, moving forward with a democracy, with human rights, civil liberties for the people of Iraq.

I think a lot of times we get caught too much in the downside potential. It

is not only whether we can get Saddam out. It is not only what are going to be the problems of doing this. Sometimes we do not see the upside potential.

There is clear downside potential in taking on Saddam Hussein, there is no question about that—potential loss of lives of our troops, our people, terrorist threats, potential loss of life in the region, loss of life in Iraq. It is undeniable.

It is also unquestionable and undeniable that Saddam Hussein has killed a number of people already, gassed his own people, attacked Iran, gassed the Iranian people. He has continued to rule by fear. He has killed people within his own Cabinet and his own family. This is a man who is familiar with evil and has exercised it.

What about after Saddam Hussein? What then? You have a country in that region that has a history of rudimentary democracy. From 1921 until 1958, they had a constitutional monarchy, where you had a monarch but you also had a parliament that was elected by the people. They had control over budgets and ministers in the various areas of the Cabinet. It is not the level of our democracy today, but probably the level of the English democracy in the mid-1800s. They had a functioning democracy where they elected people and they had real legitimate authority within that. There is that basis.

This is one of the oldest civilizations in the world where Iraq is. They would say this is the cradle of civilization, it has been there for thousands of years—and it has. It is an urban society. Eighty percent of the population are in urban areas. It is a well educated populace that is there. It is also sitting on 10 percent of the world's oil supply. So it has the ability to generate enough income to rebuild and grow itself.

My point in saying all of that is that post-Saddam, when you get this man, who has brought so much evil to that region of the world and to the rest of the world, out of there, you have the basis of a real, growing, healthy, vibrant, democratic, free-market society. People are going to be free, and they are going to have liberty, and there is going to be great joy there for that possibility, and to be able to move forward in a region of the world that has not known much in the way of democracy.

Outside of Israel and Turkey, you don't have democracies in that region of the world. You don't have any freedoms. You have a lot of resources, but you have a lot of poverty. That is because systems matter, and they have had systems that have been totalitarian in nature.

Iraq has a history that is different. Until 1958, when there was a military coup, this was an operating country with many democratic features within it. They can build on that. Once that is established in Iraq, you move forward and press for democracy, and that is going to infect the entire region for de-

mocracy, human rights, religious freedom, pluralism, tolerance, free markets. Then it is going to be able to spread throughout.

As former Secretary Henry Kissinger said at a hearing we had last week, he views that if we go in and deal with Iraq, it is going to have a very positive, salutary effect on the war on terrorism. It is going to say to a number of countries that we are serious about dealing with terrorists, we are serious that countries that house and support terrorists are our enemies; you are either with us or against us in the war on terrorism.

If we do not go at Iraq, our effort in the war on terrorism dwindles into an intelligence operation. If we go at Iraq it says to countries that support terrorists—and there remain six in the world that fit our definition of state-sponsored terrorists—you say to those countries that we are serious about terrorism and we are serious about you not supporting terrorism on your own soil. This is going to be a big statement we will make.

It is with a great deal of difficulty and it is with a great deal of cost. But the option of doing nothing is far worse than the option of doing something and acting now. The upside potential of our acting and helping allow the Iraqi people their freedom to be able to move forward with a democracy is significant upside potential, within that region, for liberty and freedom to expand throughout that area.

We will have this debate on granting military authority to the President, which is going to be a significant debate in this body. Hopefully, we will look at all the issues, and I think we will. Particularly, we should look at things such as: Is Saddam Hussein going to be able to get weapons of mass destruction to terrorists and out of the country to attack other people during this period of time?

I hope we will also look at the downside of not doing something and the upside of helping people pursue freedom and liberty, such as what has the potential of taking place in Iraq and pursuing a democracy there.

I point out to people who are not familiar with this, Saddam Hussein does not control the whole country. He doesn't control the north of Iraq, the Kurdish region. It was reported that a number of Kurdish troops who are there are outside of his control. He has sporadic control in the south of the country. He controls it during the day; at other times, he doesn't. His main control is in the center, in the Baghdad region of the country. This is not a homogeneous population, nor is it completely under his authoritarian rule. We will be able to work with populations in both the north and south to build pressure on him in the center of this country when we move forward, addressing and dealing with Saddam Hussein.

It is a big issue. It is a big issue for the country. It is a big issue for the

world. It is a big issue for liberty. It is a big issue, dealing with a very militant, politicized strain of Islam in that region, and particularly in Iraq, that Saddam Hussein seeks to exploit. You know, he would not view himself associated with it, but he is certainly working to exploit that at this point in time. This is an important argument and discussion for this country and for the world.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. EDWARDS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### RUSH TO IRAQ RESOLUTION IGNORES UNANSWERED QUESTIONS

Mr. BYRD. Mr. President, Titus Livius, one of the greatest of Roman historians, said:

All things will be clear and distinct to the man who does not hurry; haste is blind and improvident.

“Blind and improvident”—“Blind and improvident.”

Congress would be wise to heed those words today, for as sure as the Sun rises in the East, this country is embarking on a course of action with regard to Iraq that is both blind and improvident. We are rushing into war without fully discussing why, without thoroughly considering the consequences, or without making any attempt to explore what steps we might take to avert the conflict.

The newly bellicose mood that permeates this White House is unfortunate—unfortunate—all the more so because it is clearly motivated by campaign politics. Republicans are already running attack ads against Democrats on Iraq. Democrats favor fast approval of a resolution so they can change the subject to domestic economic problems.

Before risking the lives—I say to you, the people out there who are watching through those electronic lenses—before risking the lives of your sons and daughters, American fighting men and women, all Members of Congress—Democrats and Republicans alike—must overcome the siren song of political polls and focus strictly on the merits and not the politics of this most grave, this most serious undertaking—this most grave, this most serious issue that is before us.

The resolution—S.J. Res. 46—which will be before this Senate is not only a product of haste, it is also a product of Presidential hubris. This resolution is breathtaking—breathtaking—in its scope. It redefines the nature of defense. It reinterprets the Constitution to suit the will of the executive branch. This Constitution, which I hold in my hand, is amended without going through the constitutional process of amending this Constitution.

S.J. Res. 46 would give the President blanket authority to launch a unilateral preemptive attack on a sovereign nation that is perceived to be a threat to the United States—a unilateral preemptive attack on a sovereign nation that is perceived to be a threat to the United States.

This is an unprecedented and unfounded interpretation of the President's authority under the Constitution of the United States, not to mention the fact that it stands the charter of the United Nations on its head.

Representative Abraham Lincoln, in a letter to William H. Herndon, stated:

Allow the President to invade a neighboring nation whenever he shall deem it necessary to repel an invasion, and you allow him to do so whenever he may choose to say he deems it necessary for such purpose—and you allow him to make war at pleasure. Study to see if you can fix any limit to his power in this respect, after you have given him so much as you propose. If, to-day, he should choose to say he thinks it necessary to invade Canada, to prevent the British from invading us, how could you stop him? You may say to him, "I see no probability of the British invading us" but he will say to you "be silent; I see it, if you don't."

The provision of the Constitution giving the war-making power to Congress, was dictated, as I understand it, by the following reasons. Kings had always been involving and impoverishing their people in wars, pretending generally, if not always, that the good of the people was the object. This, our Convention understood to be the most oppressive of all Kingly oppressions; and they resolved to so frame the Constitution that no one man should hold the power of bringing this oppression upon us. But your view destroys the whole matter, and places our President where kings have always stood.

If he could speak to us today, what would Lincoln say of the Bush doctrine concerning preemptive strikes?

In a September 18 report, the Congressional Research Service had this to say about the preemptive use of military force:

The historical record indicates that the United States has never, to date, engaged in a "preemptive" military attack against another nation. Nor has the United States ever attacked another nation militarily prior to its first having been attacked or prior to U.S. citizens or interests first having been attacked, with the singular exception of the Spanish-American War. The Spanish-American War is unique in that the principal goal of the United States military action was to compel Spain to grant Cuba its political independence.

The Congressional Research Service also noted the Cuban Missile Crisis of 1962:

... represents a threat situation which some may argue had elements more parallel to those presented by Iraq today—but it was resolved without a "preemptive" military attack by the United States.

Article I, section 8, of the Constitution grants Congress the power to declare war and to call forth the militia "to execute the Laws of the Union, suppress Insurrections and repel Invasions." Nowhere—nowhere—in this Constitution, which I hold in my hand—nowhere in the Constitution is it written the President has the author-

ity to call forth the militia to preempt a perceived threat. And yet the resolution which will be before the Senate avers that the President "has authority under the Constitution to take action in order to deter and prevent acts of international terrorism against the United States, as Congress recognized in the joint resolution on Authorization for Use of Military Force" following the September 11 terrorist attack.

What a cynical twisting of words. What a cynical twisting of words. The reality is Congress, exercising the authority granted to it under the Constitution, granted the President specific and limited authority to use force against the perpetrators of the September 11 attack. Nowhere—nowhere—was there an implied recognition of inherent authority under the Constitution to "deter and prevent" future acts of terrorism. It is not in there. It is not in that Constitution. There is no inference of it. There is no implication of it for that purpose.

Think, for a moment, of the precedent that this resolution will set, not just for this President—hear me now, you on the other side of the aisle—not just for this President but for future Presidents. From this day forward, American Presidents will be able to invoke Senate Joint Resolution 45 as justification for launching preemptive military strikes against any sovereign nations they perceive to be a threat.

You better pay attention. You are not always going to have a President of your party in the White House. How will you feel about it then?

Other nations will be able to hold up the United States—hold up the USA—as the model to justify their military adventures. Do you not think, Mr. President, that India and Pakistan, China and Taiwan, Russia and Georgia, are closely watching the outcome of this debate? Do you not think future adversaries will look to this moment to rationalize the use of military force to achieve who knows what ends?

Perhaps a case can be made Iraq poses such a clear and immediate danger to the United States that preemptive military action is the only way to deal with that threat. To be sure, weapons of mass destruction are a 20th century and 21st century horror the Framers of the Constitution had no way of foreseeing. But they did foresee the frailty of human nature. And they saw the inherent danger of concentrating too much power in one individual. They saw that. That is why the Framers bestowed on Congress—not the President—the power to declare war.

As James Madison wrote, in 1793:

In no part of the Constitution is more wisdom to be found, than in the clause which confides the question of war or peace to the legislature, and not to the executive department. Beside the objection to such a mixture of heterogeneous powers, the trust and the temptation would be too great for any one man. . . .

That was James Madison: "the trust and the temptation would be too great for any one man."

Mr. President, Congress has a responsibility to exercise with extreme care the power to declare war. A war against Iraq will affect thousands—if not tens of thousands, and even hundreds of thousands—of lives and perhaps alter the course of history. It will surely affect the balance of power in the Middle East. It is not a decision to be taken in haste, as we are being pushed today, as we are being stampeded today to act in haste. Put it behind us, they say, before the election.

It will surely affect the balance of power in the Middle East. It is not a decision to be taken in haste under the glare of election-year politics and the pressure of artificial deadlines. And yet any observer can see that is exactly, that is precisely what the Senate is proposing to do—the Senate and the House.

What a shame. Fie upon the Congress. Fie upon some of the so-called leaders of the Congress for falling into this pit.

The Senate is rushing to vote on whether to declare war on Iraq without pausing to ask why. We don't have time to ask why. We don't have time to get the answers to that question: Why? Why is war being dealt with not as a last resort but as a first resort?

Why is Congress being pressured to act now, as of today, I believe 33 days before a general election, when a third of the Senate and the entire House of Representatives are in the final, highly politicized weeks of election campaigns? Why?

As recently as Tuesday, October 1—this past Tuesday—the President said he had not yet made up his mind. As late as this past Tuesday, he had not yet made up his mind about whether to go to war with Iraq. And yet Congress is being exhorted, is being importuned, is being adjured to give the President open-ended—open-ended—authority now—give it to him now—to exercise whenever he pleases in the event that he decides to invade Iraq.

Where are we? Where are our senses? Why is Congress elbowing past the President to authorize a military campaign that the President may or may not even decide to pursue? Aren't we getting a little ahead of ourselves?

The last U.N. weapons inspectors left Iraq in October of 1998. We are confident that Saddam Hussein retains some stockpiles of chemical and biological weapons and that he has since embarked on a crash course to build up his chemical and biological warfare capability. Intelligence reports also indicate that he is seeking nuclear weapons but has not yet achieved nuclear capability.

It is now October in this year of Our Lord 2002. Four years have gone by in which neither this administration nor the previous one felt compelled to invade Iraq to protect against the imminent threat of weapons of mass destruction, until today, until now, until

33 days before election day. Now we are being told that we must act immediately. We must put this issue behind us. We must put this question behind us. We must act immediately, we are told, before adjournment and before the elections.

Why the rush? Is it our precious blood which will spew forth from our feeble veins? No. Those of you who have children, those of you who have grandchildren, those of you who have great-grandchildren should be thinking: It is the precious blood of the men and women who wear the uniform of these United States; that blood may flow in the streets of Iraq.

Yes, we had September 11. But we must not make the mistake of looking at the resolution before us as just another offshoot of the war on terror.

We know who is behind the September 11 attacks on the United States. We know it was Osama bin Laden and his al-Qaida terrorist network. We have dealt with al-Qaida and with the Taliban government that sheltered it. We have routed them from Afghanistan. We are continuing to pursue them in hiding. So where does Iraq enter into the equation? Where?

No one in the administration has been able to produce any solid evidence linking Iraq to the September 11 attack. Iraq had biological and chemical weapons long before September 11. We knew it then. We helped to give Iraq the building blocks for biological weapons. We know it now.

Iraq has been an enemy of the United States for more than a decade. If Saddam Hussein is such an imminent threat to the United States, why hasn't he attacked us already? The fact that Osama bin Laden attacked the United States does not de facto mean that Saddam Hussein is now in a lock-and-load position and is readying an attack on these United States. Slow down. Think. Ask questions. Debate.

In truth, there is nothing in the deluge of administration rhetoric over Iraq that is of such moment that it would preclude the Senate from setting its own timetable and taking the time for a thorough and informed discussion of this crucial issue. What is the matter with us? We are the elected representatives. We are the most immediate elected representatives of the American people across this land. What is wrong with our taking the time to ask questions?

The American people want questions asked. It is not unpatriotic to ask questions. Why shouldn't we ask questions? Why do we have to be rushed into voting on S.J. Res. 46? We should have an informed discussion of this crucial issue.

The President is using the Oval Office as a bully pulpit to sound the call to arms, but it is from Capitol Hill that such orders must flow. Read the Constitution of the United States. The orders must flow from Capitol Hill, not from the Oval Office.

The people, through their elected representatives in Congress, must

make that decision. Why don't we have time? Why don't we take time? We make a huge mistake in deciding this issue in an effort to "get it behind us." We are not going to get this issue behind us. It is not going to be put behind us.

It is here that debate must take place and where the full spectrum of the public's desires, concerns, and misgivings must be heard. If Senators will have the backbone to speak out, to ask questions, to demand the answers to questions, the American people are waiting. They are listening. They want answers to their questions.

I hear no clamor to go to war from my people. I hear only the telephones incessantly ringing, saying: Keep asking questions. We want to know why. Stand up for us, Senator.

It is here that debate must take place. We should not allow ourselves to be pushed into one course or another in the face of a full-court publicity press from the White House. We have, rather, a duty to the Nation and to the sons and daughters of this Nation to carefully examine all possible courses of action and to consider the long-term consequences of any decision to act.

As to the separation of powers, Justice Louis Brandeis observed:

The doctrine of the separation of powers was adopted by the Convention of 1787, not to promote efficiency but to preclude the exercise of arbitrary power.

No one supports Saddam Hussein. If he were to disappear tomorrow, no one would shed a tear around the world, other than possibly tears of thanksgiving. I would not. My handkerchief would remain dry. But the principle of one government deciding to eliminate another government, using force to do so, and taking that action in spite of world disapproval is a very disquieting thing.

Where does it end? What nation will be next? I am concerned that it has the effect of destabilizing the world community of nations. I am concerned that it fosters a climate of suspicion and mistrust in U.S. relations with other nations. The United States is not a rogue nation given to unilateral action in the face of worldwide opprobrium.

We are about to change the face of the United States, a nation which believes in liberty, justice, and human rights. What are we about to change? What is it going to be? What is the new image of the United States going to be? That of a bully, ready to draw both guns and start shooting immediately? This is preemptive action, isn't it?

I am concerned about the consequences of a United States invasion of Iraq. It is difficult to imagine that Saddam Hussein, who has been ruthless in gaining power, ruthless in staying in power, would give up without a fight. He is a man who has not shirked from using chemical weapons against his own people. I fear he would use everything in his arsenal against an invasion force, or against an occupation force, up to and including whatever chemical,

biological, or nuclear weapons he might still have.

Iraq is not Afghanistan, impoverished by decades of war, internal strife, tribal conflict, and stifling religious oppression. Though its military forces are much diminished—and ours are somewhat diminished—Iraq has a strong central command and much greater governmental control over its forces and its people. It is a large country that has spent years on a wartime footing, and it still has some wealth.

Nor do I think the Iraqi people would necessarily rise up against Saddam Hussein in the event of a United States invasion, even if there is an undercurrent of support for his overthrow. The Iraqi people have spent decades living in fear of Saddam Hussein and his network of informers and security forces. There has been no positive showing, that I know of, in the form of riots or large and active internal opposition groups, that popular sentiment in Iraq supports a governmental overthrow or the installation of a democratic or republican form of government. There is no tradition of democracy in Iraq's long history. There is, however, a natural instinct to favor the known over the unknown, and in this instance the United States is an unknown factor.

The President and his Cabinet have suggested that this would be a war of relatively short duration. If that is true—which I doubt—why would the Iraqi populace rush to welcome the United States forces? In a few weeks, they might have to answer to the remnants of Saddam Hussein's security forces. A prudent Iraqi would just put his or her head under the bed covers and not come out until the future became clear. Who knows, we might be lucky. We have been pretty lucky thus far in some of our adventures. We might be. But we might not be lucky. A United States invasion of Iraq that proved successful, and that resulted in the overthrow of the government, would not be a simple effort. The aftermath of that effort would require a long-term occupation.

The President has said he would overthrow Saddam Hussein and establish a new government that would recognize all interest groups in Iraq. This would presumably include the Kurds to the north and the Shiite Muslims to the south because the entire military and security apparatus of Iraq would have to be replaced. The United States would have to provide interim security throughout the countryside.

This kind of nation building cannot be accomplished with the wave of a wand by some fairy godmother—even one with the full might and power of the world's last remaining superpower behind her.

To follow through on the proposal outlined by the President would require the commitment of a large number of U.S. forces—forces that cannot be used for other missions, such as homeland defense—for an extended period of time. It will take time to confirm that Iraq's programs to develop



weapons of mass destruction are well and truly destroyed. It will take time to root out all of the elements of Saddam Hussein's government, military and security forces, and to build a new government and security elements. It will take time to establish a new and legitimate government and to conduct free and fair elections. It will cost billions of dollars—your dollars, the taxpayers of America—to do this as well. And the forces to carry out this mission and pay for this mission will come from the United States. There can be little question of that.

If the rest of the world doesn't want to come with us at the outset, it seems highly unlikely that they would line up for the follow-through, even though their own security might be improved by the elimination of a rogue nation's weapons of destruction.

So if the Congress authorizes such a mission, we must be prepared for what will follow. The Congressional Budget Office has already made some estimations regarding the cost of a possible war with Iraq. In a September 30 report, CBO estimates that the incremental costs—the costs that would be incurred above those budgeted for routine operations—would be between \$9 billion and \$13 billion a month, depending on the actual force size deployed. Prosecuting a war would cost between \$6 billion and \$9 billion a month. Since the length of the war cannot be predicted, CBO could give no total battle estimate. After hostilities end, the cost to return U.S. forces to their home bases would range between \$5 billion and \$7 billion, according to the CBO. And the incremental costs of an occupation following combat operations varies from \$1 billion to \$4 billion a month. This estimate does not include any cost of rebuilding or humanitarian assistance.

That is a steep price to pay in dollars. But dollars are only a part of the equation. There are many formulas to calculate costs in the form of dollars, but it is much more difficult to calculate costs in the form of human lives—in the form of deaths on the battlefield and death from the wounds and diseases that flow from the den of battle.

Iraq may be a weaker nation militarily than it was during the Persian Gulf war, but its leader is no less determined and its weapons are no less lethal. During the Persian Gulf war, the United States was able to convince Saddam Hussein that the use of weapons of mass destruction would result in his being toppled from power. This time around, the object of an invasion of Iraq is to topple Saddam Hussein, so he has no reason to exercise restraint.

Now, we are being told by the White House, let him be assassinated: The cost of one bullet would be much less than the cost of a war. Now this Nation is embarking, isn't it, on a doctrine of assassination of other leaders of the world? Is the ban on assassinations being lifted? What do we hear from the

White House? Are we going to revert to the age of the Neanderthals, the cave-men?

The questions surrounding the wisdom of declaring war on Iraq are many, and they are serious. The answers are too few and too glib. This is no way to embark on war. The Senate must address these questions before acting on this kind of sweeping use-of-force resolution. We do not need more rhetoric from the White House War Room. We do not need more campaign slogans or fundraising letters. We, the American people need information and informed debate, because it is their sons, it is their daughters, it is their blood, it is their treasure, it is their children, men and women who are killed in the heat of battle.

Before rushing to war, we should focus on those things that pose the most direct threat to us—those facilities and those weapons that form the body of Iraq's weapons of mass destruction program. The United Nations is the proper forum to deal with the inspection of these facilities and the destruction of any weapons discovered.

If United Nations inspectors can enter the country, inspect those facilities, and mark for destruction the ones that truly belong to a weapons program, then Iraq can be decimated without unnecessary risk or loss of life. That would be the best answer for Iraq. That would be the best answer for the United States. That would be the best answer for the world. But if Iraq again chooses to interfere with such an ongoing and admittedly intrusive inspection regime, then, and only then, should the United States, with the support of the world, take stronger measures.

This is what Congress did in 1991 before the Persian Gulf war. The United States at that time gave the United Nations the lead in demanding that Iraq withdraw from Kuwait. The U.S. took the time to build a coalition of partners. When Iraq failed to heed the U.N., then and only then did Congress authorize the use of force. That is the order in which the steps to war should be taken.

Everyone wants to protect our Nation. Everyone wants to protect our people. To do that in the most effective way possible, we should avail ourselves of every opportunity to minimize the number of American troops we put at risk. Seeking, once again, to allow the United Nations inspecting regime to peacefully seek and destroy the facilities and equipment employed in the Iraqi weapons of mass destruction program would be the least costly and the most effective way of reducing the risk to our Nation, provided that it is backed up by a credible threat of force if Iraq, once again, attempts to thwart the inspections.

We can take a measured, stepped-up approach that would still leave open the possibility of a ground invasion if that, indeed, should become the last resort and become necessary. But there is no way to take that step now.

Mr. President, I urge restraint. Let us draw back from haste. President Bush gave the United States the opening to deal effectively with the threat posed by Iraq. The United Nations embraced his exhortation and is working to develop a new and tougher inspection regime with firm deadlines and swift and sure accountability. Let us be convinced that a reinvigorated inspection regime cannot work before we move to any next step. Let us, if we must employ force, employ the most precise and limited use of force necessary to get the job done.

Let us guard against the perils of haste, lest the Senate fall prey to the dangers of taking action that is both blind and improvident.

Mr. President, a paraphrase of Jefferson would be that the dogs of war are too vicious to be unleashed by any one man alone; that the Framers of the Constitution thought the representatives of the people in the legislative branch ought to make these determinations.

Let us sober up. Let us sober ourselves. Let us take hold of ourselves. Let us move back from this engine of haste and destruction, this desire to get it over, this desire to get it behind us before the elections.

Here we have a resolution, S.J. Res. 46, nine pages of beautifully flowered "whereases," nine pages. Here we have a resolution by which the Senate of the United States and the House of Representatives would be abdicating, pushing aside our responsibility to make decisions about going to war.

This is an abdication of our responsibilities. Here it is; what a shame; what a rag; it is enough to make those eagles up there scream, the eagles beside the clock—for a period that is unlimited in time. Hear me, hear me now, listen to this resolution on which we are going to vote. For a period of time that is unlimited, the President of the United States is authorized to make war anywhere he determines is in some way linked to the threat posed by Iraq—anytime, anywhere, and in any way.

Get that. That is what this amounts to. This is a blank check, nine pages. A blank check. A blank check with whereas clauses serving as figleaves. That is what it is, a blank check with beautifully flowered whereas clauses serving as figleaves. This is a blank check. There it is.

Look at it, nine pages, a blank check that does not simply remove us as representatives of the people from decisionmaking about the use of force now or the use of force in Iraq. It removes us as representatives of the people from making decisions about the use of war so far in the future as we can see. It removes us. You cannot make anything outside of it. It is plain.

I know it is obfuscated and it is all sugar-coated with these figleaves of "whereases." That means, let's say in the year 2014, the Congress will have no role in determining whether military

force should be used in some country linked with Iraq or some purpose related to Iraq. The President can send military forces into war wherever he determines, and it may not be the President we now have. It undoubtedly will be another President because this goes on into the future, as far as the human eye can see.

Under the Constitution, we are abdicating the congressional power to the President of the United States. He can send military forces into war wherever he determines it is in some way related to the "continuing threat" posed by Iraq. This resolution, this power, this blank check, does not terminate if the regime is changed in Iraq. This resolution, this power, does not terminate if inspectors are allowed throughout Iraq. This resolution does not terminate if Iraq is disarmed and all of its weapons and weapons facilities are removed. No. The power goes on. You better read it—read it and weep.

This resolution says that we, the Congress of the United States, are turning over our constitutional responsibility to the President for as long as there is some threat as the President determines; use whatever military forces he wants; wherever he wants to use them; as long as he determines it is necessary to react to the threat posed by Iraq and those working, no doubt, with Iraq, others that he can see as their allies.

Do we want to do that? Do we want to abdicate congressional responsibility under the Constitution of the United States to this President or any President of any political party? Is that what we want? Do we want to be able to just wash our hands of it and say it is all up to the President; we turned it all over to the President?

This resolution—it is nine pages—changes the constitutional presumption that the Congress makes the determination about whether to go to war and for the foreseeable future gives it to a single person elected by a minority of the people.

Ronald Reagan, for example, was elected by one-fourth of the eligible voters of this country. So we turn this momentous power, this unimaginable power, over to one person, the President of the United States, elected by a minority of the people. The whereas clauses are pretty. Oh, they are pretty, pretty, pretty, pretty, pretty, pretty whereas clauses, but they are just window dressing. That is all. They are just figleaves.

All that is necessary is the President's own determination. Why do we take up all this space? Why do we take up nine pages? Why waste all this paper? It is nine pages of beautifully phrased "whereases." If we want to pass this resolution, we can pass it by cutting it down to one sentence. That is all we need, one sentence. We do not have to have all of this window dressing, all this sugar coating, on this bitter pill. One sentence is all we need. One page is all we need.

That sentence could simply say, and it would be legally the same as this document—hear me—we could say the President is authorized to use the Armed Forces of the United States for as long as he wants, wherever he wants, and in any manner he wants, without any approval by Congress, as long as he determines it is necessary to defend against a threat posed by Iraq, in his own determination.

Let me read that again. Let's dispose of the 9 pages. All we need is one sentence in order to do exactly what the 9 pages would do. All that is necessary is the President's own determination. We can save a lot of space. We can save a lot of paper if we want to pass this resolution by cutting it down to one sentence, and that sentence could simply say—and it would be legally the same as this 9-page document—the President is authorized to use the Armed Services of the United States for as long as he wants, wherever he wants, in any manner he wants, without any approval by Congress, as long as he determines it is necessary to defend against a threat posed by Iraq, in his own determination. Nothing else is needed but that sentence.

The rest of it is of no legal consequence, just window dressing. That is the blank check part of this resolution.

Let us guard against the perils of haste, lest the Senate fall prey to the dangers of taking action that is both blind and improvident.

I yield the floor.

The PRESIDING OFFICER (Mrs. CLINTON). The Senator from California.

Mrs. BOXER. Madam President, I ask unanimous consent that under the conference report rules I be allowed to speak for up to an hour and do it on the subject of Iraq.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

IRAQ

Mrs. BOXER. Madam President, I say to my friend from West Virginia, the distinguished Senator, a great leader in the Senate, that he has been a voice of sanity and reason. He has been a voice that the Americans have wanted to hear.

This is one of the most solemn duties we have, and the fact that it was going to be rushed and the fact that it came right before an election and the fact that we have so many unanswered questions, those things are weighing on this Senator's shoulders. I am so pleased the Senator from West Virginia, from his perspective, as someone who has served so well and for so long, was able to speak out as he has.

I do not know where we will wind up on this, but I do know we are going to have alternatives. I think the fact that we will have alternatives, in many ways, is because the Senator from West Virginia from day 1—remember the day 1—when our President did not even want to come to Congress, when his staff was saying to the President it was not necessary, that the Senator from

West Virginia, Mr. BYRD, said, just a moment, read the Constitution.

So before I begin, I thank my friend for his remarks.

Mr. BYRD. Madam President, I thank the distinguished Senator from the great State of California for her gracious remarks. I thank her, too, for what she stands for, for standing up for the Constitution and for representing the people of her great State so well, so consistently, and so effectively.

Mrs. BOXER. Madam President, it means a great deal to me that the Senator has said these words.

One of the most sacred, one of the most humbling, one of the most important—let me say the most important—roles Congress has to play is determining whether our country should send its sons and daughters to war.

The role of Congress in war and peace must not be ignored. We can read it right out of the Constitution. Article I, section 8, says the following: The Congress shall have power to declare war.

What has made me proud is that the American people understand this. I believe they understand it better than some in the administration who started off in August saying the President did not have to come to Congress in order to go to war with Iraq. To be specific, on August 26, the Washington Post quoted a senior administration official who said:

We don't want to be in the legal position of asking Congress to authorize the use of force when the President already has the full authority. We don't want, in getting a resolution, to have conceded that one was constitutionally necessary.

It is clear the American people will not support a war against Iraq without the agreement of Congress. According to a USA Today-CNN poll, 69 percent of the American people favored military action with the support of Congress; only 37 percent favored military action if Congress opposed the move. It is also important to point out that 79 percent of the American people support the use of force if it were supported by the United Nations; only 37 percent favored action without United Nations support.

This is not a minor point. This administration did not want to come to Congress; and then, when it decided to do so because—frankly, they understood the views of the American people—they sent over a resolution which was the most incredible blank check I have ever seen. Its provisions basically said that even if Iraq complied with inspection and dismantlement, the administration could still go to war if Iraq failed to provide documentation, for example, on Kuwaiti POWs or because of its illicit trade outside the Oil-for-Food Program. Those issues certainly need to be addressed. There are very few people—I don't know of any—who believe those reasons should be enough to send our men and women and our bombs to Iraq.

In addition, the original resolution gave the President the authority to use force not only in Iraq but in the entire



region. When those in Congress—mostly Democrats but some Republicans, too—said we needed to deliberate on this important issue, take time to debate it and discuss it and ask questions, we were hit by a barrage of criticism from the Republican leadership and immediately the issue was made political.

Representative TOM DAVIS, Chairman of the National Republican Congressional Committee, said:

People are going to want to know before the election where their representatives stand.

Now, despite this pressure, I am proud to say my colleagues are not sitting back. We are going to fulfill our obligations under the Constitution. We are fulfilling our obligations to debate war and peace. We are not allowing this administration to ignore our views, our opinions, and our heartfelt concerns about America's sons and daughters and the innocent victims of war.

While there are some in the administration who believe taking up the Iraq issue now will hurt Democrats, I am not so sure. I am not so sure the American people want us to roll over and be silent on this. I am not so sure the American people don't want us to see it as our duty to check and balance this administration. Already, because of our voices, the resolution offered by the President has been changed. In my view, it is still a very blank check for war with Iraq. I certainly cannot support a blank check. I think it is an affront to the people of this country to do that. Originally, it was an even blander check, allowing the President to go to war anywhere in the region.

The role of checks and balances that we play is already evident. I know that. I also know in the greatest country on the face of this Earth, in the country that is great because of its middle class and its productivity, in that country, in our country, it is necessary to not only deal with the issue of Iraq, to deal with the issue of terrorism, to protect our people when they fly in an airplane or walk past a nuclear plant or a chemical plant or cross a bridge, it is also important to deal with the impact of this administration's economic record: The worse stock market decline in 70 years, the worst economic growth in 50 years, the greatest loss of jobs in the private sector in 50 years, and the threat that people feel from retirement insecurity and job insecurity, runaway health care costs, and a falling median income.

Now, there are those who say the administration is bringing up Iraq now to avoid scrutiny from this volatile and miserable economy. There have been memos that show this to be their strategy. There have been anonymous statements to this effect. And whether that is true or not, I leave to the American people. I trust the American people to look at this.

We must take care of the security of the American people. Economic secu-

rity is part of that. I believe this administration is AWOL in this regard. As we deal with foreign policy challenges, we Democrats will insist we deal with domestic challenges, too. And again, let the people decide if they agree with us or not.

This I will also say clearly: We are told constantly that the President has not decided yet whether he wants to go to war with Iraq. We hear it over and over. I sit on the Foreign Relations Committee. I am proud to sit on that committee. I chair the terrorism subcommittee. Recently, Colin Powell said to us in an open hearing:

Of course the President has not made any decision with regard to military action. He's still hopeful for a political solution, a diplomatic solution.

Secretary Rumsfeld said:

The President's not made a decision with respect to Iraq.

National Security Adviser Rice said:

The President has not made a decision that the use of military force is the best option.

Ari Fleischer, the press spokesman, makes that same statement day after day after day.

I ask, if the President hasn't decided to go to war yet, if the administration has not decided to go to war yet, if the military has not been told there is going to be a war, then why is the President coming to Congress now, before he has made a somber decision, and before he has answered many key questions?

If our questions could be answered, the many questions we have, it would be one thing. However, I want to say unequivocally that the myriad of questions I have asked have not been answered.

In good conscience, how can I vote to take our country to war alone, which is what the President wants from us, without allies and without the facts that I need to fulfill my responsibilities to the people of California.

Madam President, you know my State very well. We have more than 30 million people. Out of the 880,000 reservists in the military, 61,000 are from California. I owe them the best decision I can make. Those reservists, as Senator INOUE has pointed out, many of them have families. At times you will have a wife and a husband called up to go into the danger zone. I need my questions answered before I could vote to send this country, alone—alone—into battle.

Here are the questions I have asked in one forum or another. Here are the questions that I either do not have answers to or the answers I have are incomplete. If we give the President the blank check he is asking for, which I will not vote for, if we give him the go-it-alone preemptive strike authority, which I will not vote for, then I think those who are considering voting for that ought to ask these questions. I will lay them out.

How many U.S. troops would be involved?

What are the projected casualties?

Would the United States have to foot the entire cost of using force against Iraq?

If not, which nations will provide financial support?

Which nations will provide military support?

What will the cost be to rebuild Iraq? How long would our troops need to stay there?

Would they be a target for terrorists?

What will the impact be on our fight against terrorism?

Will Iraq use chemical or biological weapons against our troops?

Will Iraq launch chemical or biological weapons against Israel?

How will Israel respond?

What impact will that have?

How will we secure Iraqi chemical and biological weapons once the fighting starts?

How do we make sure such weapons do not get into the hands of terrorists or terrorist nations?

How do we make sure that Iraqi weapons experts, from Iraq, do not migrate to terrorist organizations or terrorist states?

Have we given enough thought to alternatives to avoid war?

Why haven't we worked with the United Nations to try Saddam Hussein as a war criminal? He is a war criminal.

During the Foreign Relations Committee hearing with Secretary Albright, I raised the idea put forward by the Carnegie Endowment on coerced inspections. Has this or a similar idea been pursued?

If we are concerned about Saddam Hussein acquiring weapons of mass destruction, why are we not fully supporting the Nunn-Lugar weapons dismantlement program?

I do not doubt that Iraq is up to no good. I know they are. That is why I voted for the Iraq Liberation Act. We know that Iraq has biological and chemical weapons and that they used them against Iran and against its own Kurdish minority. We know that following the Persian Gulf war, Iraq promised to abide by the demands of the U.N. but failed to live up to its commitment. They have not allowed unfettered inspections. They have lied about chemical and biological weapons programs. And they continue to seek the capability to produce nuclear weapons.

I do not doubt that there are some members of al-Qaida in Iraq. But there is al-Qaida in Syria. There is al-Qaida in Africa. There is al-Qaida in Pakistan and in Afghanistan. There are cells in 60 nations, including the United States of America.

The fight against bin Laden and his organization must not be weakened. I want to quote what the head of our Senate Intelligence Committee, Senator BOB GRAHAM, has to say about this. You and I know he is not a man of overstatement. He said:

At this point I think Iraq is a primary distraction from achieving our goals of reducing the threat of international terrorism.

Listen to what Wesley Clark has said. He headed our NATO troops.

Unilateral U.S. action today would disrupt the war against al-Qaida.

Despite statements by staff to the contrary, the President appears to want to go it alone in war when we are already in a war. According to the President, we are in a war, one that will require all of our wits and lots of our treasure, both in human capital and in tax dollars.

I do not think it is enough to be critical of this blank check resolution the President is supporting. I want to say how I would approach this question. Iraq must be held to its word, as expressed in U.N. resolutions, that it will submit to thorough inspections and dismantlement of weapons of mass destruction, period.

Let's repeat that. Iraq must be held to its word that it will submit to thorough inspections, unfettered inspections, and dismantlement of weapons of mass destruction, period. That is what they agreed to. They signed on the dotted line to do it. And that is what must happen. Those were United Nations resolutions, and we must work for an updated resolution ensuring that such unfettered inspections do take place or there will be consequences. These weapons are a threat to the world, and the world must respond. I believe if we handle this right, the world will respond.

But if our allies believe we have not made the case, if they believe this is a political issue here, or if they believe it is a grudge match here, or if they believe that the whole thing is being manipulated for domestic political reasons, I believe that will hurt our Nation. I believe that will isolate us. I do not think that is a good path for our country.

Can we rule the world with our weapons and our guns and our might? I am sure we can. I know we can.

Can we win every military confrontation that anyone could ever imagine? Yes. We can.

But I believe the greatness of our Nation has been built on other things: The power of our persuasion, not the power of our arsenal; the power of our ideals, not the power of our threats; the power and greatness of our people, not the power and the greatness of our machines.

America at her best has been seen as a beacon of hope, not fear; an example not of "Might makes right," but "Might backing right." What is right at a time like this? I believe it is laying out a path for peace, not just a path for war; trying everything we can to avoid chaos and devastation to our own and to innocent civilians who may well be used as pawns in urban warfare.

I believed that Madeleine Albright, the former Secretary of State under President Clinton, and Dr. Henry Kissinger laid out a path for peace when they spoke before the Foreign Relations Committee. They talked about unfettered inspections and dismantlement

of weapons of mass destruction. As they said, and I agree, it will not be easy. Maybe it will be impossible. But there is no doubt in my mind that we should lay out that path and try for complete, unfettered inspections, with nothing off limits, to be followed by dismantlement of those weapons.

For those who say it will never work, maybe they are right. But we have never pulled the massive trigger of our weapons on a nation that has not attacked us first. At the least—at the least—we should see if we can exhaust all other options.

That is why I support the chairman of the Armed Services Committee, Senator CARL LEVIN, and his resolution that will be introduced. This is what it does:

No. 1, it urges the United Nations Security Council to quickly adopt a resolution that demands immediate, unconditional, and unrestricted access for U.N. inspectors so that Iraq's weapons of mass destruction and prohibited missiles will be destroyed.

No. 2, it urges this new U.N. Security Council resolution to authorize the use of necessary and appropriate force by U.N. member states to enforce the resolution if Iraq refuses to comply.

No. 3, it reaffirms that, under international law and the U.N. Charter, the United States has the inherent right to self-defense.

No. 4, it authorizes the use U.S. Armed Forces pursuant to the new U.N. Security Council resolution that deals with weapons of mass destruction.

In closing, let me say very clearly that I will not vote for a blank check for unilateral action. I also will not vote for a resolution that is dressed up to look like Congress has powers when, in fact, all the words really call for are consultations and determinations.

That is when Senator BYRD said "pretty" words. He said, "Pretty, pretty, pretty words." Sounds good—consultations and determinations. What does it really mean? Nothing. It means the administration tells us what they think. We already know what they think.

To me, consultations and determinations without a vote by Congress are like a computer that is not plugged in. It looks good, it looks powerful, it looks impressive, but it does nothing.

I didn't come to the Senate for the title. I didn't come to the Senate to debate meaninglessly on the Senate floor. I didn't come to the Senate to do nothing. I didn't come to the Senate to run away from a hard vote. I came to uphold the duties of my office. I came to represent the people of California.

In the past 4 years, I have voted to use force twice—once against Milosevic to stop a genocide and once after September 11 when we suffered a barbarous attack. But, in this case, if any President wants to go to war alone or outside the type of coalitions we have built for the war on terror, or the last Persian Gulf war, then let him come to the American people, through the Congress for another debate and a vote.

It is one thing to go with a coalition. It is one thing to determine that we will be part of a multinational force. It is another thing to do it alone, without a specific vote of the Congress before the President has decided to do so. As I have said, his aides keep telling us he has not made the decision. So why do we have to give him a blank check today? If he wants to go it alone, if he wants to send my people to a place where we don't even know if chemical or biological weapons will be used, we don't even know what the estimates of casualties are, we don't even know what it is going to cost, we don't even know how long we are going to have to stay there, we don't know what will happen if Israel responds—we don't know so many things—I don't think it is asking too much to ask my colleagues to support a resolution by Senator LEVIN. He said that if he wants to go it alone, then the President has to come back.

In the CARL LEVIN resolution, it is implicit that he must come back if he wants to go it alone. CARL LEVIN's resolution authorizes force as part of the U.N. enforcement action to dismantle Iraq's weapons of mass destruction. But again, if the President wants to go it alone, he must come back to us.

I believe the people of my State expect me, on their behalf, to get my questions and their questions answered, not to engage in guesswork, and, above all, not to abdicate my responsibility as a Senator to anyone else. If our Founders wanted the President—or any President—to have the power to go to war without our consent, they would have said so. But, again, this is what our Founders said in article I, section 8: Congress shall have power to declare war.

Thank you very much, Madam President. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

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

#### WEST COAST PORT CLOSURE

Mr. BOND. Madam President, we have talked some about our fragile economy and the problems we are facing. Growth, which began slowing in 1999, coupled with the tragic impact of September 11, has resulted in hardship for many. We have seen unemployment, reduced value of market securities, more problems with health care, and other difficulties.

There are measures pending in this body I believe would do a great deal to help the economy. They are such things as passing a terrorism risk reinsurance bill, which could get our building trades back to work; passing an energy bill, which has the potential of employing more than three-quarters of

a million people, and securing our energy independence. We have not been able to work on those.

But now we face a further challenge, which is a self-inflicted attack on our economy by our own people; and that is the contract dispute which has closed the West Coast docks, providing a terrible bottleneck for crucial exports and imports.

This is the line of commerce: Trade going out, agricultural products being sold; inputs, goods coming into the United States; and it is shut down by this dispute.

Many Missouri constituents are asking us what can be done. Retailers are asking where their goods are for them to be able to make sales and continue to employ their people. Agricultural producers, who have meat for export rotting on their docks, are saying something must be done.

According to the Wall Street Journal, goods valued at more than \$300 billion move annually through these ports. According to the New York Times, these ports handle half the Nation's imports and exports. Further estimates are that this shutdown could cost our economy \$1 billion per day and grow further as the shutdown continues to \$2 billion per day. The longer it goes, the worse it gets. Regrettably, the State of Missouri has the highest unemployment growth rate in the Nation, and we cannot afford economic homicide of this nature.

This affects jobs upstream and downstream throughout the entire economy. It affects truckers and railroad workers and farm workers and retail clerks and consumers and others. These are real workers who are real people and have real families. They are hurting.

I am not an expert on the specific grievances of these several hundred workers and their unions and the employers at the docks, but this major facility is nothing to toy with. I don't care if the grievances are moderate or petty, it is not worth the harm that could be done to thousands of other working people and our economy. The parties have to be brought together. One would think that workers reportedly earning \$106,000 per year for less than 40 hours a week could resolve the grievances on the job without hurting other workers in my State who earn far less. While they sit on their chairs at the docks, people around the country are the ones suffering. This power play will have too much collateral damage to be allowed to continue.

One company, National Cart Company, in St. Charles, MO is a manufacturer that employs 140 people. They manufacture material handling equipment and rely on some components from Asia. This is the busiest time of their year because their customers need their products to stock shelves for Christmas. Unless this is resolved, they will be laying off workers in 2 weeks or slightly more.

Another company, TRG, located in St. Louis, with 80 employees, can't

stock their shelves with recreation and travel accessories that they sell. When they shut down, their employees are out of work.

Another St. Louis company, Donnelly and Associates, manufactures telecommunications products. They only have seven employees, but if they do not get supplies in a week to 10 days, they will shut down, and those workers will be laid off. The president of that firm told my office that for every day the supply is disrupted it takes as many as 5 days to get it back on line. He told us that the airlines have already stopped taking bookings out of Asia.

Another plant manager from Magnet LLC in Washington, MO said they are unable to get supply, and he predicts that if this is not resolved, they may be forced to lay off workers in 2 to 3 weeks. They have 375 employees and are urgently trying to make product to satisfy Christmas demand.

There is a story in the Washington Post this morning about how people in Hawaii are stockpiling goods, and perishable food products are at risk of rotting on the docks. The retailers are trying to get winter and Christmas goods inventoried. Over 60 percent of beef exports and 50 percent of pork exports and one quarter of our chicken exports travel through these ports. Meat is rotting on the docks. Many freezers in the country are at capacity and inventories will become further backed up and prices will be depressed below levels that are already low.

Yesterday, according to the Los Angeles Times, "picketers tried to prevent a banana-carrying ship from leaving the dock, provoking a confrontation that brought out police in riot gear."

The Los Angeles Times has another story about how "the labor dispute is putting a strain on independent truckers who move port-related cargo." They quote a truck driver named Jose Louis Martinez who "doesn't care whether labor or management is to blame in the dispute \* \* \* he cared only that the wallet he would bring home to his wife and two daughters would be empty for the third time in four days."

There are over 10,000 truckers—the majority of them independent—who normally make as many as three visits a day to the ports, according to the California Trucking Association. Burlington Northern-Santa Fe said it has suspended shipments of marine containers to all West Coast ports and grain to ports to Washington and Oregon.

I can't speak to the fairness of the labor negotiations, but I can speak to the unfairness of a few people being willing to injure many people to get their own way and to destroy a vital sector of our economy. I can't see how a dispute about bar code readers—they are objecting to bringing in bar code readers, things that they use in every supermarket I have been in, and most

retail stores—should cost the economy billions of dollars and intentionally throw people out of work. Frankly, my constituents don't understand the approach being taken, which seems to be: We will tear down everyone we can until we get our own way. I think it is outrageous. I think these matters should be resolved immediately. They should be resolved with the docks open for business.

This is extortion, where the hostages are ordinary working families, many of whom will never earn in any year as much as the dock workers earn in three-quarters of a year. If they were only hurting themselves, I would advise that we stay out of it and have at it. But they are dragging everyone else with them. Since when is the economic leader of the world closed for business? This is an outrage.

Here our President and his team are working vigorously to open foreign markets. We gave them the power. But why? So labor disputes can have export products rot on the docks? We can all have disagreements about whether raising taxes or lowering taxes will help our economy. I have some strong views on that. People in this body disagree with me. But one thing we certainly ought to be able to agree on is that a tactic of this nature is bad for the economy, bad for working families, and should be resolved yesterday.

I have asked the President—and sent a letter to him—to use his authority to intervene. I hope he will do that. I have read that some in this body object to his intervening. I know the President has agreed these people should get back to work. He expressed that view in strong terms and made mediation services available.

Working families in my State cannot wait. It is a terrible shame it would come to this. It is a shame that people haven't worked this out on their own, as they should. But our economy is too fragile for self-interested, shortsighted, and self-inflicted wounds of this nature.

I urge the President to take further steps to stop this dispute, to get commerce flowing, and to get people back to work. Whether it be truckers and railroad workers in California or retail clerks throughout the Nation or agricultural producers in our heartland or other industrial workers who are making products for export to the Southeast Asian market, they are being denied a livelihood because of a dispute over bar code readers, something that is not really that advanced a technology but is in use every day in stores we visit.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Madam President, I ask unanimous consent that I may speak as in morning business for 15 minutes.

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

Mr. BURNS. Madam President, I thank my good friend from Missouri

for his words today because they echo mine.

Today I sent a letter to the White House and the President asking him to intervene in this slowdown and lock-out, however you want to interpret it, of west coast ports. Today, 29 west coast ports, representing about half of our Nation's seaborne commerce, remain closed. Furthermore, we have another situation that complicates it. Weather conditions have temporarily limited the seaborne and other modes of commerce on the gulf coast due to Hurricane Lili. Our ability to export our goods or import our goods is quickly becoming paralyzed.

The latest attempt at renegotiation between the Pacific Maritime Association and the International Longshore and Warehouse Unions has stalled, and they have stalled based on protocol and the presence of security personnel.

Isn't that something? While they are arguing that in those negotiations, we are just coming through a crop year in my State of Montana, and already that is having an effect on us. I am also a little bit disturbed about the negotiations on salaries of \$110,000 to \$140,000 a year; they are on the table also. I want to give you a little comparison on why we are a little out of kilter here.

According to the USDA, the average farm operator household income is \$65,000 a year. I don't like averages. That is on-farm and off-farm income. I don't like to deal in averages because I know there are exceptions to the rule. Averages are like: If you have one foot in a bucket of ice and the other foot in the oven, on average, you ought to feel pretty good. That doesn't always work. The average farmer in my State makes around \$30,000 to \$40,000 a year. That is net. And they are forced—after we make the investment, put in our labors—they are forced to watch their yearly harvest sit while the longshoremen and management squabble about salaries that are sometimes two to three times the amount of their gross.

So I think it is about time that President Bush intervene. If the parties are unable to negotiate a compromise by the end of this week, it is time to take action before they do too much damage to our national economy, and particularly those people who are impacted by a stalemate at our ports. The President can invoke the Taft-Hartley Act to resolve this matter. According to law, a Taft-Hartley injunction can be invoked if "a threatened or actual strike or lockout affecting an entire industry, or a substantial part thereof, engaged in trade, commerce, transportation, transmission, or communications among the several States, or with foreign nations, or engaged in the production of goods for commerce will, if permitted to occur or to continue, imperil the Nation's health and safety."

What it does, basically, is allow for a cooling-off period while workers go back to the ports and commerce is allowed to continue. It gives the negotiators this time to work out a com-

promise. An agreement is necessary, and the President does have the power to impose that agreement. Economic consequences have the potential to injure workers, employers, and consumers alike.

The crisis is costing the U.S. economy up to \$1 billion a day and will affect the economy that is struggling to grow. If you can imagine, fruits and vegetables and other perishables rotting at the ports—those coming in, and those to be exported. My good independent trucker friends are sitting around just letting their trucks idle, waiting for work. The alternative, such as air freight, is limited due to capacity and also security issues. Auto manufacturers are waiting on parts and components. One manufacturer has announced closure of its California plant.

Of course, the retail impact is immeasurable, considering that right now all the goods and services are moving for the upcoming holiday season. The west coast labor crisis is no longer about "the rights of workers" or "management negotiating philosophy." It is about American prosperity and protecting the principles of commerce for this Nation.

If this shutdown is allowed to go on at the west coast ports, there is no doubt about the impact it will have on my State of Montana. It could not come at a worse time. Because of drought, and droughts in other countries, and a little bit of a shortage, wheat prices have gone up approximately \$2 higher than we have had in the last 5 years. In 5 years, this is the first time we have had a market—any kind of a market. And 90 percent of what we produce in my State is marketed in huge volumes, and it goes for export. The timing of this price advance is particularly fortuitous in light of the economic effects of a 4-year drought along with it. However, the labor crisis has already led to an 8-cent to 12-cent drop in that market just since Sunday.

We are feeling the effects in another way. What about my railroaders? Earlier this week, Burlington Northern and Union Pacific Railroads announced an embargo on all grain movements to the west coast of the United States, citing overcapacity and lack of storage.

The net effect of those embargoes, again, will lead to overcapacity in grain storage facilities in my State of Montana. It is harvest time, folks, and this is the first time we have had a market, whenever the grain is ready. In other words, it is harvested and ready to roll, and it is ready to be shipped. Furthermore, right behind it, we are less than 30 days away from the corn harvest season; that will be in its peak.

Grain car shortages will force farmers to find alternative storage capacity or leave their wheat on the ground exposed to the elements. We have seen that before. Even if the lockout concludes this week, the residual impact

will lead to several weeks, possibly months, of delay in the movement of those products to our major ports. Even those who have sold their grain will not be able to deliver against their contracts and, more importantly, the income from that delivery is needed at this time of the year. This is the time we make our land payments. This is the time we pay our taxes.

There is another aspect involved. We have spent hundreds of thousands of dollars in developing the Asian and other Pacific markets, on which we have to compete with our friends in Canada and Australia. We can do that for the simple reason that we have always been a reliable source. They can count on us not only for volume but also quality. We are jeopardizing that market development.

So this is our opportunity, in normal times, to recapture some of those major exports that we lost over the last 2 or 3 years. We can do it. The only thing that is holding us back is this squabbling over salaries of \$90,000 to \$140,000, which are triple that of my average farmer in Montana. We are able to take advantage and recoup from years of drought, and it all could be lost with our inability to export.

An extended work stoppage or slowdown by the west coast port workers, who enjoy some of the highest pay rates in the country, is already having its effect. Our shoes are getting a little tight. Grain millers of the world are coming to the United States for their supply, and they are denied delivery.

In my letter to the President, I laid out that this is no longer a standard labor-management negotiation. It has become the groundwork for a potentially grave economic slowdown that will jeopardize consumer confidence and our national commercial infrastructure.

Who says one little group cannot impact an economy that is suffering and trying to dig itself out of a 5-year hole?

I hope the President takes note of the letter. I know Senator BOND has sent a letter to the White House asking the President to intervene and use the Taft-Hartley law with which to do it.

I thank the Chair, and I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. CARPER) The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I ask unanimous consent to speak on a matter other than the Department of Justice authorization bill but the time continue to run under the cloture rule.

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

#### MEMBERS' PAY RAISE

Mr. FEINGOLD. Mr. President, I had the opportunity to speak last Thursday night with regard to the issue of the possibility of war with Iraq. I am, of course, listening carefully to my colleagues as they discuss the prospect of war. Nothing could be more serious, and I am pleased this body will be engaged in this matter in earnest.

The public nature of that debate stands, though, in great contrast to another matter. While the country is focused on whether or not to go to war, Members of Congress will once again be quietly sidestepping the issue of their own pay raise, an evasion that is made all the more inappropriate by the very fact that we may be on the brink of war.

The cloakrooms have advised their offices that we are likely to consider another continuing resolution this week, and there is speculation that we are not likely to consider the individual appropriations bills that remain before we adjourn for this year.

I raise this because there is increasing reason to believe that this body may not be able to consider the scheduled Member pay raise. Current law provides Members with an automatic pay raise without a debate or a vote, a stealth pay raise. The pay raise scheduled for January 2003 will be about \$5,000. It follows automatic pay raises in January 2002, January 2001, and January 2000. Altogether these pay raises for Members of Congress, four pay raises in the last 4 years, total \$18,000.

The current system of stealth pay raises is already inaccessible, and the current legislative position of the body makes it even more so. We are unlikely to consider the Treasury-Postal appropriations bill, which is the traditional vehicle for amendments to stop the Member pay raise, and we may not consider other amendable vehicles.

Members who favor the scheduled pay raise should not be comforted by this. Congress is not going to sneak this by without anyone noticing, nor will it be lost on the average citizen that Congress is allowing this to happen on what may be the eve of war.

In his more recent volume on the life of Lyndon Johnson, Robert Caro recounts similar events early in World War II.

He writes:

During the war's very first months, while an unprepared America—an America unprepared largely because of Congress—was reeling from defeat after defeat, a bill arrived on Capitol Hill providing for pensions for civil service employees. House and Senate amended the bill so that their members would be included in it, and rushed it to passage—before, it was hoped, the public would notice. But the public did notice: the National Junior Chamber of Commerce announced a nationwide Bundles for Congress program to collect old clothes and discarded shoes for destitute legislators. Strict gasoline rationing was being imposed on the country; congressmen and senators passed a bill allowing themselves unlimited gas. The outrage over the pension and gasoline “grabs” was hardly blunted by a hasty congressional reversal on both issues. Quips about Congress became a cottage industry among comedians: “I never lack material for my humor column when Congress is in session,” Will Rogers said. The House and the Senate—the Senate of Webster, Clay, and Calhoun, the Senate that had once been the “Senate Supreme,” the pre-eminent entity of American government—had sunk in public estimation to a point at which it was little more than a joke.

Mr. President, let's not let history repeat itself. I call upon the leadership

to ensure we have a debate and a vote on the scheduled pay raise. I am willing to accept a very short time limit, understanding the very important business we have, 20 minutes equally divided, even 5 minutes equally divided. This will not take long. But the public is entitled to a debate and a vote.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, for the benefit of all Members, we expect to have a vote in the next hour, hour and 15 minutes on the motion to invoke cloture. We hope to have a voice vote on the conference report that is before the Senate. I, therefore, ask unanimous consent that the Senator from Arizona, Mr. KYL, be recognized to speak postcloture for up to 1 hour and he can speak on any subject he desires; following that, the two leaders will be recognized, Senator LOTT and then Senator DASCHLE, and then we will proceed to a vote on a cloture motion.

I ask unanimous consent for Senator KYL, but I am alerting Members, following that, Senators LOTT and DASCHLE will speak, and then we will vote on the cloture motion.

I ask the Chair to approve my unanimous consent request regarding Senator KYL.

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

Mr. REID. Senator KYL is in the building and will come to speak shortly. After that, the two leaders will appear, and we will vote.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I thank the assistant majority leader for his courtesy. I wish to address a matter that is not directly related to the conference report before us, though there is some indirect relationship to it. I assume I do not have to ask unanimous consent.

The PRESIDING OFFICER. Unanimous consent has already been granted.

Mr. KYL. I thank the Chair.

#### USE OF FORCE AGAINST IRAQ

Mr. KYL. Mr. President, we have really already begun the debate on a resolution to authorize the use of force against Iraq if the President deems it necessary. Several Members have come to the Chamber and spoken about the issue. We are going to begin that debate formally sometime this evening, I believe, and it will continue on through Friday, Monday, and then shortly thereafter we will be voting on this important resolution.

As with the debate 11 years ago when force was authorized and we repelled Saddam Hussein's invasion of Kuwait, Members of both bodies discussed the issue at a level, frankly, that we are unaccustomed to doing. When we are making a decision to send our young men and women into harm's way, when we are literally authorizing war, I think a degree of seriousness begins to pervade all of our thinking. We address these issues with the utmost of serious-

ness because we are aware of the consequences, and they deserve no less, and our constituents and our military deserve no less than that degree of consideration.

When we debate this issue, we will find there are good arguments on both sides of the issue, and I realize there will be different nuances, so it is not as if there are just two sides to the debate. But at the end of the day, we are going to have the question before us: Are we going to authorize the use of force?

There will be some alternatives before us. That debate needs to be based upon the very best information, the very best intelligence, the very best analysis we can bring to bear, and it also has to be based upon a good relationship between the legislative and the executive branches because in war we are all in it together. We have to cooperate. We have to support the Commander in Chief.

The last thing we would ever do is to authorize the Commander in Chief to take action and then not support that action. Our foes abroad, as well as our allies abroad, need to know we will be united once a decision is made, and we will execute the operation to succeed, if it is called for.

I am very disturbed at the way that part of this debate is beginning, and that is what I wanted to speak to today. There has been an effort by some to broadly paint the administration as uncooperative in sharing intelligence information with the Senate, and more specifically the Senate Intelligence Committee.

I have been a member of the Senate Intelligence Committee now for almost 8 years, and I have been involved in the middle of a lot of disputes about information sharing. When we are sharing information about intelligence, those issues are inevitable, just as they are sometimes with law enforcement. In our democracy, these become very difficult decisions because we are a wide open country. We tend to want to share everything, but we also recognize there have to be a few things we cannot share with the enemy, and the lines are not always brightly drawn. Sometimes the executive branch and the legislative branch get into tiffs about what information should be shared, what information cannot be shared. Again, reasonable minds can differ about the specifics of those issues, but what has arisen is a very unhealthy war of words about motives and intentions, and we need to nip that in the bud today.

I read a story in the New York Times reporting on a meeting of the Intelligence Committee, which I attended yesterday in the secure area where the Intelligence Committee meets, under strict rules of classification. We were briefed by two of the top officials of the intelligence community about matters of the utmost in terms of importance and secrecy, and yet there is a three-page story in the New York Times which discusses much of what was discussed in that meeting, without ever

attributing a single assertion or quotation. There is no name used of anybody who was in that room, and so we do not know exactly who it was who went to the New York Times and talked about what went on in our meeting.

I am not suggesting classified information was leaked. I would have to have an analysis done to determine whether anything in the article was actually classified information. What was discussed was a purported dispute between our committee and the executive branch about the release of certain information and the preparation of certain reports. I will get into more detail about this in a minute.

Obviously, somebody from the committee, a Member or staff, went complaining to the New York Times and spread, therefore, on the pages of this paper a whole series of allegations about motives and intentions of the Bush administration relating to the basis for seeking authority to use force against Iraq, if necessary. This is exactly what will undercut the authority of the President in trying to build a coalition abroad as well as in the United States, and it is the very people who demand the President achieve that international coalition before we take action who are the most exercised about what they perceive to be a slight from the administration and who, therefore, are being quoted in this story.

I do not know the names, but there is a limited universe of people involved. I am going to go over this article in fine detail just to illustrate my point.

One of the sources cited in the story is a congressional official. I will quote the entire sentence.

One congressional official said that the incident has badly damaged Mr. Tenet's relations with Congress, something that Mr. Tenet has always worked hard to cultivate.

Mr. Tenet is George Tenet, the director of the CIA. Sometimes I agree with Mr. Tenet and sometimes I do not agree with Mr. Tenet, but I believe Mr. Tenet has the best interests of the United States of America at heart when he is working with the President and Congress to present information and develop the appropriate approach to the use of force, if that is necessary.

My point was this, though: The article quotes one congressional official. What is a congressional official? It is either a Member of the Senate or the House of Representatives—though no Representatives were in this meeting; it was just a meeting of Senators—or it is a staff person hired by the Senate.

I find it interesting the article quotes a congressional official.

Most of the article quotes congressional leaders, Government officials, or lawmakers. Either a Member of the Senate or a member of our staff talked to the press about what went on in the meeting and did so in order to damage, or to call into question, I should say, the relationship between the Senate and the executive branch, and to ques-

tion whether the administration was being cooperative with the Senate in providing information.

Let me discuss this in detail now. The central theme is identified in the first line of the story:

The Central Intelligence Agency has refused to provide Congress a comprehensive report on its role in a possible American campaign against Iraq, setting off a bitter dispute between the agency and leaders of the Senate Intelligence Committee, congressional leaders said today.

Those are Senators—not staff but congressional leaders. Only Senators were in the meeting. So some Senators said the CIA had refused to provide us with a comprehensive report on the agency's role in a possible American campaign, and this set off a bitter dispute between the CIA and leaders of the Senate Intelligence Committee.

Leaders of the Senate Intelligence Committee would be probably two people, the chairman and ranking member. Mr. SHELBY, the ranking member, the Senator from Alabama, will have to speak for himself. The chairman is Senator GRAHAM from Florida. I suggest they need to clarify what their view is with respect to this story.

In the first place, it is not true the Central Intelligence Agency has refused to provide us with the report described in the story. There were two reports requested. As the article discloses, the first report has been provided. It was done at breakneck speed. It has to do with Iraq's capabilities; what kind of chemical and biological weapons does Iraq really possess; how far along is it in developing its nuclear capability; what means of delivery does it have; and a host of other questions that were put to the intelligence community. It is obviously important for us to have the answers to those questions before we take action.

The reality is the information was all there. It had simply not been put together in one report, as the committee requested. What we requested was something called a national intelligence estimate. A national intelligence estimate is not requested by the Congress. A national intelligence estimate is ordinarily requested by the President or the National Security Council, and it is essentially a document which is supposed to analyze a particular country's or region's threat, or threat from weapons of mass destruction. It frequently takes a long time, up to a year, perhaps, to prepare. The purpose for it is to inform both the administration and others such as the Congress that would be dealing with the issues, but it is not intended to be an operational document; that is to say, to be integrated in operational military plans. Nevertheless, even though this is not the normal way the document would be prepared, the agency people worked overtime to produce, in a matter of several days, a very thorough report. About 100 pages in length was produced in about 3 weeks, according to the story, under very tight deadlines.

It was presented yesterday. Most of the information had been presented before in a different way. But it was put together in one package.

Leaders of the committee expressed their outrage that Director Tenet was not there in person to testify. He was with the President at the time. The two people who briefed us were very top officials of the intelligence community who probably knew more on a firsthand basis what was in the report even than Director Tenet. Some Members did not want to ask them questions but wanted to wait for Director Tenet to arrive, a pretty petulant attitude when we are trying to seriously address questions of war and peace.

The information was before us. No one questioned the veracity of the information. We had a good hearing in discussing the various elements. That was one of the reports. There was complaining it should have been earlier, it should have been done more quickly. As pointed out, ordinarily these are the kind of reports that usually take a year to put together; it was done in a matter of 3 weeks. Under the circumstances, the community is to be complimented.

The other report requested had to do with the role of the intelligence community in military operations, potential military operations against Iraq. In effect what was being asked, if we take forcible action against Iraq, and any aspect of the intelligence community is used in those operations, what is it likely to be? What is the likely response going to be? How effective do you think it will be? That is what the article means, in the first sentence, when it talks about a comprehensive report on its role in a possible American campaign against Iraq.

The intelligence community, wisely, has a standard policy against doing analyses of U.S. action that is not overt and tied to military operations. We do not know our military plans for military action against Iraq if it were to come. Only the President and a handful of people involved in those plans know what they are. Thank goodness for that. There is so much leaking in this Government—both at the executive branch level and the legislative branch level—it would be folly in the extreme for operational plans to be discussed broadly before an operation begins or during the operation, for that matter. That is why we do not present that kind of analysis to anyone. Members of the Intelligence Committee ought to know that and ought not to feel slighted because it was not presented to us and because it will not be presented to us. That kind of information would be directly related to the plan of attack that the President may eventually approve.

We know our leaders get called just before an operation begins and once it is begun, we begin to get information about how we will conduct the operation. But can anyone reasonably believe the plans of our military and intelligence community, in cooperating



with some kind of action, should be put in a document and released to the Congress, even in classified form? If this article is any indication, it would be 1 day before it would be in the newspaper. We cannot do that, putting at risk the lives of the men and women we may send in harm's way.

One success in the Afghanistan operation was the fact that we were able to combine good intelligence with military capability. Without going into a lot of detail, everyone appreciates the fact we were able to get assets on the ground from whatever source, providing information to our aircraft, for example, about very specifically where certain targets were. As a result of having that good intelligence, we were able to strike at the heart of the enemy, avoid for the most part civilian casualties, or collateral damage, and very quickly overthrow the Taliban government, and rout or capture a lot of the al-Qaida.

We do not know much publicly about the interrelationship between the intelligence community and the military, but we know they combined efforts to make this a successful operation. That is all most Members need to know.

We do not need to know in advance of a military operation how the intelligence community is going to be integrated with the military in conducting this campaign, what they are each going to do, and what the enemy might do in response and so on.

The article itself alludes to this when it talks about the ordinary purpose of a national intelligence estimate. But intelligence officials say a national intelligence estimate is designed to assess the policies of foreign countries, not those of the United States. I quote:

"They were asking for an assessment of U.S. policy, and that falls outside the realm of the NIE and gets into the purview of the Commander and Chief," an intelligence official said.

That is correct. So there was a misunderstanding of what a national intelligence estimate was, on the first part; second, the request for the information went far beyond what the administration should have been asked to provide and what it could provide. Yet Members of the committee were indignant that the administration had stiffed the committee, had stonewalled, had refused to provide this information.

We have to engage in a serious debate about a very serious subject in a relatively objective way. We all bring our biases and prejudices to the debate. But one thing that should be clear to all of us is that the thing that is paramount is the security of American military forces in the conduct of an operation. And that cannot be jeopardized by either the inadvertent or advertent leak of material that pertains directly to those military operations.

What was being requested here was wrong. And the administration was right to say: I'm sorry, we cannot give that to you. The debate should not be

adversely influenced by this unfortunate set of circumstances. We should decide whether we want to authorize force and what kind of force is authorized based upon the merits of the argument as we assess them.

No one here should be led down this path that says one of the reasons we should not act yet, or that we should deny the administration the authority is because they have stonewalled us. They have not given us information we need before we can make a judgment.

As a member of the Intelligence Committee, that is simply not true. There are briefings being conducted now—both in an informal way, very classified but informally, as well as formally—to Members of this body and the House of Representatives, to answer Members' questions about Iraqi's capabilities and intentions as we see them and our assessment of circumstances. I encourage all Members to get those briefings and to ask any question they can think of asking and to try to keep it up until the questions have been answered. Some perhaps may not be answered.

For the most part, they will learn of the primary reasons the President has decided it may be necessary to take military action against Iraq. What they will not learn, should not learn, and for national security purposes cannot learn, is how the intelligence community is going to be working with the military in the campaign should one be authorized. Those are operational plans that only the President and his military and small group of advisers can be aware of before there is military action begun.

There is other information in this news story that is inaccurate, in suggesting that there has been this huge tug of war between the committee and the CIA about getting information. In my own personal view, a lot of it has to do with lack of communication, lack of clear specificity about what was requested. I remember when the original request was made, it was a rather routine kind of request, certainly not the big deal that some members of the committee are trying to turn it into. Information was given orally about when it would be provided to us, and information was given orally about the fact that the military operations could not be discussed. Yet members of the committee seemed to be pretty upset about the fact that we had not gotten a formal letter from George Tenet laying this all out.

The members of the Intelligence Committee who were there apologized and said: If we had thought a formal letter was necessary or we could have gotten it to you sooner and didn't do that, we are sorry about that. But here are the facts. You wanted to know what the facts are, and here are the facts.

So I do not think we should be dissuaded from basing a decision on the merits of the case, one way or the other, however we decide to vote, on

the phony issue of whether or not somebody is providing us information or whether they got it to us soon enough or whether the head guy came down to testify as opposed to people directly below him.

As I said, he will be there to testify tomorrow in any event. This is all a smokescreen. It may be useful to some people who want to find some reason not to support the President other than simply outright opposition to taking military action. I understand that. There seems to be a popular view that most Americans want to take military action and politically people had better get on that bandwagon, so maybe people who do not really want to take that action have to find some reason, some rationalization, for not doing it.

But I really don't think that is right. I think a lot of American people are where most of us are. We would prefer not to have to take military action. We would hope to have a coalition of allies. We hope there will be some way to avoid this. But at the end of the day, if the President decides it is necessary, we are probably willing to go along and authorize the use of force.

There is nothing wrong with taking the position that at the end of the day we are not yet ready to make that decision and therefore not vote to authorize the use of force. If that is where Members come down and that is what they in their hearts believe, that is what they should say and that is how they should vote. But what they should not do is try to latch onto an artificial reason for saying no, predicated upon some perceived slight by the Director of the CIA or failure to provide information quickly enough or in exactly the form they wanted it or most certainly on the grounds that the intelligence community has not provided the kind of information about operations of the intelligence community that they would like to get. That information should not be provided, and nobody should base a decision here on the failure to obtain that information.

Let me just speak a little bit more broadly. I will ask unanimous consent that at the conclusion of my remarks this particular article be printed in the RECORD.

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

(See exhibit 1.)

Mr. KYL. A lot of people are approaching this issue on the basis that there has to be some demonstration that, in the relatively near future, Saddam Hussein is going to use a weapon of mass destruction against us or else this is not the time that we should take military action against him. That is a rational position to take, in a way. If you do not think that there is a real threat or that it is imminent, you could reach the conclusion that we should not engage in war, or at least ought to be continuing to try to engage in diplomacy or whatever.

But there is another side to the coin. It is the way the President has chosen

to look at it. I think, because he has chosen to look at it this way, he will go down in history as a very prescient leader.

Noemie Emery, who is a fine writer, in an article in a periodical a week ago, observed that most Presidents have had to fight a war but only two Presidents have had to perceive a war. Harry Truman perceived the cold war. He instinctively knew at the end of World War II, when the Soviet Union was beginning to assert its power in regions of southern Europe, for example, and elsewhere, that it was important for the United States and other Western allies to stand and say no to the further expansion of the Soviet Union and communism, even though that was going to mean a longtime confrontation with the Soviet Union which might even escalate into a hot war.

The Marshall plan to assist countries in southern Europe was a part of that perception, and we are well aware of all the other events that followed that. He perceived the need to stand and thwart the continued aggression of an evil power, and we are grateful to him for that.

Emery said the other President to perceive a war is George W. Bush. Of course, September 11, you can say, made that easy. But I submit it is not necessarily that easy. Over time, people will begin to wonder whether our commitment to a war on terror is really all that important if there are not further attacks. If we go another several months, hopefully even a year or two, without a major terrorist attack on the United States, will the American people continue to believe that this is a war worth fighting? Or was it a one-time-only proposition?

George W. Bush perceived the need to conduct a war on terror because he understood that from a historical point of view, over the course of the last dozen or 15 years, there had been a whole series of attacks against the United States or our interests, and when we in Congress Monday morning quarterback the FBI and CIA and say, "You failed to connect the dots," I wonder what those same people say about President Bush's understanding of the history leading up to September 11. He is connecting the dots between the Khobar Towers and the *Cole* bombing and the embassy bombings in Africa. You can even go back further than that, bringing it on forward all the way up to September 11. Does an event have to occur every 6 months for us to believe this is really a war worth stopping or worth winning and bringing to conclusion? I do not think so.

I think the President, when he said to the American people, we are going to have to be patient in this war, understood that we would have to be patient, that it could take a long time. I have been very gratified at the response of the American people in not being as impatient as we usually are as a people.

Americans love to get in, get the job done, and move on. That is a great

trait of Americans. But the President here is saying be patient. So far, I have been very impressed that the American people have been very patient. What the President has perceived, that not everybody has perceived, is that this is a struggle that has been going on for some time and it is going to continue in that same vein for as far out as we can see, unless we defeat terrorism.

So the wrong question to be asking at this time is: Can you prove that there is an imminent threat to the United States as a result of which we have to take military action against Iraq? That is the wrong question.

There are many fronts in this war on terror, from Lackawanna in New York where we get the six people who we think were connected to terrorism, to Tora Bora, Afghanistan, where we had to rout out members of al-Qaida; to Pakistan, where we are fighting remnants of al-Qaida; to places such as Yemen and Sudan and Somalia and the Philippines and Malaysia; Hamburg, Germany, where we have had to roll up al-Qaida operatives; and then other places in the Middle East where there is terrorism going on every day and when there are people such as Saddam Hussein building weapons of mass terror who would not be doing that, would not be spending the resources and trying to hide them, simply to play some kind of game. They are obviously serious people with evil intentions. I think everybody concedes that.

Then the question becomes: Why should you put the burden on the President to prove that at a particular time Saddam Hussein is going to strike the United States in order to conclude that we have to do something about him? It is the same kind of thinking as in the late 1930s, that, in retrospect, we look back on and say: Anybody could have realized that Hitler was somebody who had to be stopped. Why did Neville Chamberlain act so foolishly when he came back from Munich and said, "Peace in our time"?

I submit there are people today who are hoping against hope that Saddam Hussein will never use these weapons, weapons that are far greater than anything Adolph Hitler ever had in terms of their potential for destruction and death. I just wonder whether there are people who really believe we should wait until something specific and objective happens before we have a right to act, or whether preventative action is called for. Some call it preemption; some call it prevention. But the idea is that with war on terrorism you shouldn't have to wait until you are attacked to respond. That creates too many deaths, too much misery, and is unthinkable after September 11.

The President, based upon good intelligence, has concluded that Saddam Hussein has a very large stock of very lethal weapons of mass destruction. By that, we mean chemical agents and biological agents which have been or can be "weaponized"; that is to say, there are means of delivering those agents

that can cause massive amounts of casualties; that he has been working to acquire a nuclear weapon.

All of this is in open, public debate. And there is no doubt about any of it. The only doubt with respect to nuclear weapons is exactly where he is in the process. Of course, we don't know because he hasn't allowed us to inspect the places in his country where we believe he is trying to produce these nuclear weapons or, more specifically, the enriched uranium that would be a part of the weapons.

For 4 years now, we have had no inspectors in the country, and before that most of the information that we got was based upon information from defectors—people who came out of Iraq and told us: You guys are missing what Saddam Hussein is doing. This is where you need to look. This is what you need to look for.

When our inspectors then demanded to go to those places, one of three things happened. Either they said, no, you can't go there; that is a Presidential palace or whatever it is, or they went there and as they were walking in the front door satellite photos showed people running out of the backdoors with the stuff, or in the couple of cases we actually did find evidence of these weapons of mass destruction. Of course, at that point, Saddam Hussein said: Oh, that's right. I forgot about that. But whatever the defector said, that is all there is.

So he was confirming exactly what we already knew and gave us nothing more than that. Yet there are those who believe through some kind of new inspection process that we are going to learn more than we did before; that this will be an adequate substitute for going in and finding these weapons of mass destruction in an unrestricted way.

Saddam Hussein first said, You can have total access with no conditions, and he immediately began tying on conditions, the basis of which are laughable. You can't go into the Presidential palaces. They are grounds or areas with 1,000 buildings the size of the District of Columbia. We are going to send three inspectors in there? OK. There is the District of Columbia with all the buildings, and so on. Have at it.

We are not going to find anything. We are going to be running around for years. So inspections are merely a means to an end. They are not the end. The goal here is not to have inspections. The goal is disarmament. And we know from intelligence that he has certain things he has not disarmed; that he hasn't done what he promised to do—both to the United States and the United Nations; that he hasn't complied with the United Nations resolutions. In fact, we see his violation of those resolutions almost every day. We don't have inspectors in there anymore who he was harassing and precluding from doing their job.

But we do have aircraft flying in the no-fly zones and having American pilots and British pilots shot at every

month, necessitating our taking those SAM sites and radar sites out of action by military force. So, in a sense, this is unfinished business from the gulf war which has never stopped. At a low level we have been trying to enforce the resolutions ever since the end of the gulf war. Our effort to rid many of these weapons of mass destruction is but the latest chapter.

We made the decision in 1998 that Saddam Hussein had to go. We voted on a resolution here, and everybody was for it in 1998. If it was the right thing to do then, why is it no longer necessarily the right thing to do? He has had 4 more years to develop these weapons and to get closer to a nuclear capability.

We now have a group of terrorists in the world who we know talk to each other, help each other, and give each other safe passage and access and places for training, and so on. We are developing information on connections with these terrorists and the State of Iraq. All of this has happened in the meantime. But now, suddenly, it is not the time.

If we establish too high a burden of proof here we are going to be fiddling until we become absolutely sure it is time, and then it will be too late. That is why I believe the President is on the right track to say we don't know exactly when, where, or how but we know that this is a man who has very evil intentions and is working very hard to be able to strike at us. We can't let it happen. We can't wait until he has hit us to get him.

For those reasons, and a variety of others that I will be talking about, I believe it is important for us to go into this debate with a view towards supporting the President, and the action that he has called for publicly and in the resolution that he has negotiated with congressional leaders and which has been placed on the floor.

I believe at the end of the day we will conclude that the President should be supported and that we should authorize the use of force, and that we will have intelligence satisfactory for all of us to back up this resolution. And the final point—going back to the original point of my conversation today—that it is a phony issue to somehow demand that the intelligence community provide us with information to which we haven't been given access. We have gotten all that we need to have access to. Our Members have asked for that information, and they can get it. The only information that they can't get is information that should not be provided anybody, including you, Mr. President, myself, and the distinguished minority leader who now joins us on the floor.

I will have more to say later. I know the minority leader has some things he would like to say. At this point, I yield the floor.

## EXHIBIT 1

[From the New York Times, Oct. 3, 2002]

## C.I.A. REJECTS REQUEST FOR REPORT ON PREPARATIONS FOR WAR IN IRAQ

(By James Risen)

WASHINGTON, October 2.—The Central Intelligence Agency has refused to provide Congress a comprehensive report on its role in a possible American campaign against Iraq, setting off a bitter dispute between the agency and leaders of the Senate Intelligence Committee, Congressional leaders said today.

In a contentious, closed-door Senate hearing today, agency officials refused to comply with a request from the committee for a broad review of how the intelligence community's clandestine role against the government of Saddam Hussein would be coordinated with the diplomatic and military actions that the Bush administration is planning.

Lawmakers said they were further incensed because the director of central intelligence, George J. Tenet, who had been expected to testify about the Iraq report, did not appear at the classified hearing. A senior intelligence official said Mr. Tenet was meeting with President Bush. Instead, the agency was represented by the deputy director, John McLaughlin, and Robert Walpole, the national intelligence officer for strategic and nuclear programs.

The agency rejected the committee's request for a report. After the rejection, Congressional leaders accused the administration of not providing the information out of fear of revealing divisions among the State Department, C.I.A., Pentagon and other agencies over the Bush administration's Iraq strategy.

Government officials said that the agency's response also strongly suggested that Mr. Bush had already made important decisions on how to use the C.I.A. in a potential war with Iraq. One senior government official said it appeared that the C.I.A. did not want to issue an assessment of the Bush strategy that might appear to be "second-guessing" of the president's plans.

The dispute was the latest of several confrontations between the C.I.A. and Congress over access to information about a range of domestic and foreign policy matters. Just last week, lawyers for the General Accounting Office and Vice President Dick Cheney argued in federal court over whether the White House must turn over confidential information on the energy policy task force that Mr. Cheney headed last year.

The C.I.A.'s rejection of the Congressional request, which some lawmakers contend was heavily influenced by the White House, comes as relations between the agency and Congress have badly deteriorated. The relations have soured over the ongoing investigation by a joint House-Senate inquiry—composed of members of the Senate and House intelligence committees—into the missed signals before the Sept. 11 attacks.

Mr. Tenet in particular has been a target of lawmakers. Last Friday, Mr. Tenet, a former Senate staffer himself, wrote a scathing letter to the leaders of the joint Congressional inquiry, denouncing the panel for writing a briefing paper that questioned the honesty of a senior C.I.A. official before he even testified.

A senior intelligence official said Mr. Tenet's absence at the hearing today was unavoidable, and that no slight was intended. The official said that he missed the hearing because he was at the White House with Mr. Bush, helping to brief other Congressional leaders Iraq. The official said Mr. Tenet had advised the committee staff several days ago that he would not be able to attend. Mr.

Tenet has promised to testify about the matter in another classified hearing on Friday, officials said.

One Congressional official said that the incident has badly damaged Mr. Tenet's relations with Congress, something that Mr. Tenet had always worked hard to cultivate. "I hope we aren't seeing some schoolyard level of petulance," by the C.I.A., the official said.

While the House and Senate intelligence oversight committee have received classified information about planned covert operations against Iraq, the C.I.A. has not told lawmakers how the agency and the Bush administration see those operations fitting into the larger war on Iraq, or the global war on terrorism, Congressional officials said.

"What they haven't told us is how does the intelligence piece fit into the larger offensive against Iraq, or how do these extra demands on our intelligence capabilities affect our commitment to the war on terrorism in Afghanistan," said one official.

Congressional leaders complained that they have been left in the dark on how the intelligence community will be used just as they are about to debate a resolution to support war with Iraq.

Congressional leaders said the decision to fight the Congressional request may stem from a fear of exposing divisions within the intelligence community over the administration's Iraq strategy, perhaps including a debate between the agency and the Pentagon over the military's role in intelligence operations in Iraq.

Defense Secretary Donald H. Rumsfeld has been moving to strengthen his control over the military's intelligence apparatus, potentially setting up a turf war for dominance among American intelligence officials. Mr. Rumsfeld has also been pushing to expand the role of American Special Operations Forces into covert operations, including activities that have traditionally been the preserve of the C.I.A.

Congressional leaders asked for the report in July, and expressed particular discontent that the C.I.A. did not respond for two months. Lawmakers had asked that the report be provided in the form of a national intelligence estimate, a formal document that is supposed to provide a consensus judgment by the several intelligence agencies.

The committee wanted to see whether analysts at different agencies, including the C.I.A., the Defense Intelligence Agency, the National Security Agency and the State Department, have sharply differing views about the proper role of the intelligence community in Iraq.

But intelligence officials say that a national intelligence estimate is designed to assess the policies of foreign countries—not those of the United States. "They were asking for an assessment of U.S. policy, and that falls outside the realm of the N.I.E., and it gets into the purview of the commander in chief," an intelligence official said.

Committee members have also expressed anger that the C.I.A. refused to fully comply with a separate request for another national intelligence estimate, one that would have provided an overview of the intelligence community's latest assessment on Iraq. Instead, the C.I.A. provided a narrower report, dealing specifically with Iraq's program to develop weapons of mass destruction.

Lawmakers said that Mr. Tenet had assured the committee in early September that intelligence officials were in the midst of producing an updated national intelligence estimate on Iraq, and that the committee would receive it as soon as it was completed.

Instead, the Senate panel received the national intelligence estimate on Iraq's weapons of mass destruction program after 10

p.m. on Tuesday night, too late for members to read it before Wednesday's hearing.

The committee had "set out an explicit set of requests" for what was to be included in the Iraq national intelligence estimate, said one official. Those requirements were not met. "We wanted to know what the intelligence community's assessment of the effect on a war in Iraq on neighboring states, and they did not answer that question," the official said.

A senior intelligence official said the 100-page report on Iraq's weapons of mass destruction program was completed in three weeks under very tight Congressional deadlines, and the writing had to be coordinated with several agencies.

**The PRESIDING OFFICER.** The minority leader.

**Mr. LOTT.** Mr. President, I believe in just a moment the Senate will be ready to move to completion on the Department of Justice authorization conference report.

**Mr. President,** I say to Senator KYL from Arizona, who has been speaking for the last several minutes, that I appreciate his speech and his very effective and diligent work. He cares an awful lot about national security, about our defense capability, and about our intelligence communities, and his position on what we need to do in Iraq. It is not easy being a member of the Intelligence Committee sometimes. It takes a lot of extra meetings, a lot of briefings, and an awful lot that you can't talk about. For a Member of the Senate, that is tough. But Senator KYL certainly does a good job in that effort.

#### ORDER OF PROCEDURE

**Mr. REID.** Mr. President, this unanimous consent has been cleared by both leaders. I ask unanimous consent that the yeas and nays be vitiated and that the conference report be adopted, without intervening action, motion, or debate; that the motion to reconsider be laid upon the table; that following adoption of the conference report, there be a period of morning business until 4:20 p.m.; that the time until 4:20 be divided between the majority and minority leaders, and that Senator DASCHLE have the last period of time to speak; that without any intervening action or debate, at 4:20, the Senate proceed to vote on the motion to invoke cloture on the motion to proceed to S.J. Res. 45.

**The PRESIDING OFFICER.** Is there objection?

Without objection, it is so ordered.

The conference report was agreed to.

**Mr. LEAHY.** Mr. President, I commend the majority leader for filing cloture on the bipartisan 21st Century Department of Justice Authorization Act conference report. I regret that consideration and a vote on final passage on this important measure has been delayed. I had hoped this measure would have been considered and passed by the Senate last week, following House passage by a vote of 400 to 4 last Thursday.

Unfortunately, Members from the other side of the aisle threatened opposition to the motion to proceed to the conference report and they have re-

fused to proceed to vote on final passage of the conference report. All Democrats were prepared to pass the conference report last Thursday and then agreed to vote immediately, after limited debate earlier this week. Given the objection by the other side, however, to proceed to a vote or agree to a time agreement, the majority leader was required to file cloture on this conference report.

I do not understand why anyone would filibuster this conference report. This legislation is truly bipartisan. It passed the House 400 to 4.

The conference report was signed by every conferee, Republican or Democrat, including Senator HATCH and Representatives SENSENBRENNER, HYDE, and LAMAR SMITH.

I thank Senator HUTCHISON for coming to the floor on Tuesday to support this conference report. Senator HUTCHISON has spoken to me many times about the need for more judgeships along the Texas border with Mexico to handle immigration and criminal cases.

The conference report includes three new judgeships in the conference report for Texas, one more than was included in the bill reported to the Senate by the Senate Judiciary Committee and passed by the Senate last December.

I thank Senator SESSIONS for his statement on Tuesday in support of this bipartisan conference report.

Although he opposes Senator HATCH's legislation regarding automobile dealer arbitration, which enjoys more than 60 Senate cosponsors and 200 House cosponsors and was included in the conference report, Senator SESSIONS is supporting this conference report because it will improve the Department of Justice and support local law enforcement agencies across the nation. I appreciate Senator SESSIONS' work on the provisions in the conference report on the Paul Coverdell Forensic Sciences Improvement Grants and the Centers for Domestic Preparedness in Alabama and other States.

I thank Senator FEINSTEIN for her excellent speech earlier this week in support of this conference report. Senator FEINSTEIN has been a tireless advocate for the needs of California, including the needs of the federal judiciary along the southern border. She has led the effort to increase judicial and law enforcement resources along our southern border. I am proud to have served as the chair of the House-Senate conference committee that unanimously reported a bill that includes five judgeships for the Southern District of California. Long overdue relief for the Southern District of California could be on the way once this conference report is adopted.

Of course, our bipartisanship is evidenced by our included authorization for additional judgeships not only in California but in Texas, Arizona, New Mexico, Ohio, North Carolina, Illinois and Florida, as well. In essence, in the six and one-half years that they con-

trolled the Senate the Republican majority was willing to add only eight judgeships to be appointed by a Democratic President, and most of them were in Texas and Arizona, states with two Republican Senators.

We have, on the other hand, proceeded at our earliest opportunity to increase federal judgeships where most needed by 20 to be appointed by a Republican President who has shown little interest in working with Democrats in the Senate, and we have included a number of jurisdictions with Democrats Senators.

I also commend the senior senator from California for her leadership on the "James Guelff and Chris McCurley Body Armor Act," the State Criminal Alien Assistant Program reauthorization, and the many anti-drug abuse provisions included in this conference report.

She spoke eloquently on the floor of the Senate regarding many of the important provisions she has championed in this process.

This conference report will strengthen our Justice Department and the FBI, increase our preparedness against terrorist attacks, prevent crime and drug abuse, improve our intellectual property and antitrust laws, strengthen and protect our judiciary, and offer our children a safe place to go after school.

This conference report is the product of years of bipartisan work. The conference report was unanimous. By my count, the conference report includes significant portions of at least 25 legislative initiatives.

I urge my colleagues to support final passage of this conference report so that all of this bipartisan work and all the good that this legislation might is not flushed down the drain.

Over the past 2 days of debate, I have heard only a few Members raise objections to passage of the Department of Justice Authorization Conference Report. I thank these Members for coming to the floor to discuss their views and concerns so that they may be addressed. I should note that even in posing an objection to and delaying passage of the conference report—as is their rights as Senators—these Members acknowledged that there were parts of this bill they liked or may like upon review.

I appreciate that not all Members were or could be conferees and participate in the conference, but I do hope that after they have had a full opportunity to study the conference report passed last week in the House by a vote of 400 to 4, that they will find that on the whole this is a good, solid piece of legislation. Senator HATCH worked very hard to help construct a good, fair and balanced conference report as did all of the conferees. We all owe him thanks for his attention to this matter and his work.

This legislation is neither complicated nor controversial. It passed the House 400 to 4 in short order. It was

signed by every conferee, Republican or Democrat, including Senator HATCH and Representatives SENSENBRENNER, HYDE, and LAMAR SMITH. Senators SESSIONS and HUTCHISON came to the floor to support it. I did not think there was a need for extensive debate in the Senate on this measure and had hoped that Members would be willing to allow an up or down vote of the conference report.

Contrary to those who may argue that this legislation is not a priority, it is. Congress has not authorized the Department of Justice in more than two decades. While the Justice Department would certainly continue to exist if we were to fail to reauthorize it, that is not an excuse for shirking our responsibility now. I know that Senator HATCH and Representatives SENSENBRENNER and CONYERS share my view. It is long past time for the Judiciary Committees of the House and Senate—and the Congress as a whole—to restore their proper oversight role over the Department of Justice.

Through Republican and Democratic administrations, we have allowed the Department of Justice to escape its accountability to the Senate and House of Representatives and through them to the American people. Congress, the people's representative, has a strong institutional interest in restoring that accountability. The House has recognized this, and has done its job. We need to do ours.

I agree with those Members who say that we need to give anti-terrorism priority, but not lose sight of the other important missions of the Department of Justice.

The conference report takes such a balanced approach. Those critics who say that there is nothing new in this legislation to fight terrorism, have missed some important provisions in the legislation as well as my floor statements over the past week outlining what the conference report contains to help in the anti-terrorism effort.

Let me repeat the highlight of what the conference report does on this important problem.

The conference report fortifies our border security by authorizing over \$20 billion for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration. It also authorizes funding for Centers for Domestic Preparedness in Alabama, Texas, New Mexico, Louisiana, Nevada, Vermont and Pennsylvania, and adds additional uses for grants from the Office of Domestic Preparedness to support State and local law enforcement agencies. These provisions have strong bipartisan support, including that of Senator SESSIONS.

Another measure in the bill would correct a glitch in a law that helps prosecutors combat the international financing of terrorism. I worked closely with the White House to pass the original provision to bring the United States into compliance with a treaty

that bans terrorist financing, but without this technical, noncontroversial change, the provision may not be usable. This law is vital in stopping the flow of money to terrorists. Worse yet, at a time when the President is going before the U.N. emphasizing that our enemies are not complying with international law, by blocking this minor fix, we leave ourselves open to a charge that we are not complying with an anti-terrorism treaty.

I agree with other Members that we should do more to help the FBI Director in transforming the FBI from a crime fighting to a terrorism prevention agency and to help the FBI overcome its information technology, management and other problems to be the best that it can be. The Judiciary Committee reported unanimously the Leahy-Grassley FBI Reform Act, S. 1974, over 6 months ago to reach those goals, but this legislation has been blocked by an anonymous hold from moving forward. This conference report contains parts of that bipartisan legislation, but not the whole bill, which continues to this day to be blocked to this day.

Since the attacks of September 11 and the anthrax attacks last fall, we have relied on the FBI to detect and prevent acts of catastrophic terrorism that endanger the lives of the American people and the institutions of our country. Reform and improvement at the FBI was already important, but the terrorist attacks suffered by this country last year have imposed even greater urgency on improving the FBI. The Bureau is our front line of domestic defense against terrorists. It needs to be as great as it can.

Even before those attacks, the Judiciary Committee's oversight hearings revealed serious problems at the FBI that needed strong congressional action to fix. We heard about a double standard in evaluations and discipline. We heard about record and information management problems and communications breakdown between field offices and Headquarters that led to the belated production of documents in the Oklahoma City bombing case. Despite the fact that we have poured money into the FBI over the last five years, we heard that the FBI's computer system were in dire need of modernization.

We heard about how an FBI supervisor, Robert Hanssen, was able to sell critical secrets to the Russians undetected for years without ever getting a polygraph. We heard that there were no fewer than 15 different areas of security at the FBI that needed fixing.

The FBI Reform Act tackles these problems with improved accountability, improved security both inside and outside the FBI, and required planning to ensure the FBI is prepared to deal with the multitude of challenges we are facing.

We are all indebted to Senator GRASSLEY for his leadership in the area. Working with Republicans and

Democrats on the Senate Judiciary Committee we unanimously reported the FBI Reform Act more than six months ago only to stymied on our bipartisan efforts by an anonymous Republican hold.

The conference report does not contain all of the important provisions in the FBI Reform Act that Senator GRASSLEY and I, and the other members of the Judiciary Committee, agreed were needed, but it does contain parts of that other bill.

Among the items that are, unfortunately, not in the conference report and are being blocked from passing in the stand-alone FBI Reform bill by an anonymous Republican hold are the following: Title III of the FBI Reform bill that would institute a career security officer program, which senior FBI officials have testified before our Committee would be very helpful; title IV of the FBI Reform bill outlining the requirements for a polygraph program along the lines of what the Webster Commission recommended; title VII of the FBI Reform bill that takes important steps to fix some of the double standard problems and support the FBI's Office of Professional Responsibility, which FBI Ethics and OPR agents say is very important; and title VIII to push along implementation of secure communications networks to help facilitate FISA processing between Main Justice and the FBI. These hard-working agents and prosecutors have to hand-carry top secret FISA documents between their offices because they still lack secure e-mail systems.

The FBI Reform bill would help fix many of these problems and I would hope we would be able to pass all of the FBI Reform Act before the end of this Congress. These should not be controversial provisions and are designed to help the FBI. Yet passage of these provisions are being blocked both in a stand-alone FBI Reform bill, S. 1974, and the provisions we were able to include in this conference report. I urge my colleagues to support final passage of the conference report so that we can start making progress on the important reforms in the bill.

Some Members have complained that we included provisions in this conference report that were not contained in either the Senate or House bills. Now, each of the proposals we have included are directly related to improving the administration of justice in the United States. We were asked to include many of them by Republican members of the House and Senate.

Let me give you some examples. The conference report reauthorizes the State Criminal Alien Assistance Program, which President Bush has sought to eliminate. On March 4 of this year, Senator KYL and Senator FEINSTEIN sent me a letter asking me to include an authorization for SCAAP—which was not authorized in either the House or Senate-passed bill—in the conference report. That proposal had been

considered and reported by the Judiciary Committee but a Republican hold has stopped Senate consideration and passage. I agreed with Senator KYL that we should authorize SCAAP. I still believe that it is the right thing to do.

In addition to including the reauthorization of SCAAP, the conferees also authorized an additional judge for Arizona. Members have been arguing for years that their States need more judges. We took those arguments seriously, and added another new judge for Arizona on top of the two that were added in 1998 and the third that was added in 2000. As I said before, we have added twenty new judge positions in this conference report.

Some have been critical of the conference report's authorization of funding for DEA police training in South and Central Asia, and for the United States-Thailand drug prosecutor exchange program. I believe that both of these are worthy programs that deserve the Senate's support.

I have listened to President Bush and other in his Administration and in Congress argue that terrorist organizations in Asia, including al Qaeda, have repeatedly used drug proceeds to fund their operations.

The conferees wanted to do whatever we could to break the link between drug trafficking and terror, and we would all greatly appreciate the Senate's assistance in that effort.

Beyond the relationship between drug trafficking and terrorism, the production of drugs in Asia has a tremendous impact on America.

For example, more than a quarter of the heroin that is plaguing the northeastern United States, including my State of Vermont, comes from Southeast Asia. Many of the governments in that region want to work with the United States to reduce the production of drugs, and these programs will help. It is beyond me why any Senator would oppose them.

Some have complained that the conference report demands too many reports from the Department of Justice and that this would interfere with the Department's ongoing counterterrorism efforts. It is true that our legislation requires a number of reports, as part of our oversight obligations over the Department of Justice. I assure the Senate, however, that if the Department of Justice comes to the House and Senate Judiciary Committees and makes a convincing case that any reporting requirement in this legislation will hinder our national security, we will work out a reasonable accommodation.

I think, however, that such a turn of events is exceedingly unlikely, as no one at the Department has mentioned any such concerns.

Some Members have complained that the conference report includes pieces of legislation that had not received Committee consideration. Let me deal with some of the specific proposals that have been cited.

The Law Enforcement Tribute Act was mentioned as a provision not considered by the Judiciary Committee, but this is incorrect. In reality, the Committee reported that bill favorably on May 16. Its passage has been blocked by an anonymous Republican hold.

Complaints have been made about inclusion of the motor vehicle franchise dispute resolution provision in the conference report for bypassing the Committee. But, again, that is incorrect. The Judiciary Committee fully considered this proposal and reported Senator HATCH's Motor Vehicle Franchise Contract Arbitration Fairness Act last October 31. It has been stalled from the Senate floor by anonymous Republican holds.

A section allowing FBI danger pay was cited as a proposal that bypassed Committee consideration, but, again, the Judiciary Committee did consider this proposal as part of the original DOJ Authorization bill, S. 1319.

Some have complained that the Federal Judiciary Protection Act, which is included in the conference report, had not come before the Committee, but on the contrary, this legislation, S. 1099, was passed the Judiciary Committee and the Senate by unanimous consent last year and in the 106th Congress, as well.

There has been a complaint on the floor about the provisions on the U.S. Parole Commission being included in the conference report. That was included because the Bush Administration included it in its budget request.

Some have complained on the floor about the conference report's provision establishing the FBI police to provide protection for the FBI buildings and personnel in this time of heightened concerns about terrorist attacks. Contrary to the critics, this proposal was considered by the Judiciary Committee as part of the FBI Reform Act, S. 1974, which was reported unanimously on a bipartisan basis but has been blocked by an anonymous hold.

Similarly, a complaint was made on the floor about bypassing the Committee with the provision in the conference report for the FBI to tell the Congress about how the FBI is updating its obsolete computer systems. Again, this is incorrect. This provision was included in the FBI Reform Act, S. 1974, which was considered by the Judiciary committee and unanimously reported without objection.

Some critics have complained that the conference report includes intellectual property provisions that have passed neither the House or the Senate. It is not for lack of trying to pass these provisions through the Senate, but anonymous Republican holds have held up for months passage of the Madrid Protocol Implementation Act, S. 407. This legislation has passed the House on three separate times in three consecutive Congresses. Let us get it passed now in the conference report.

The conference report also contains another intellectual property matter,

the Hatch-Leahy TEACH Act, to help distance learning. Contrary to the critics' statements, this passed the Senate in June, 2001.

The intellectual Property and High Technology Technical Amendments Act, S. 320, contained in this conference report, was passed by the Senate at the beginning of this Congress, in February, 2001. It is time to get this done.

The criticism made on the floor that the juvenile justice provisions in the conference report never passed the House or Senate is simply wrong. The conference report contains juvenile justice provisions passed by the House in September and October of last year, in H.R. 863 and H.R. 1900.

The criticism that the conference report contains criminal justice improvements that were passed by neither the House or the Senate glosses over two important points: First, that many of the provisions were indeed passed by the House, and, second, that others have been blocked from Senate consideration and passage by anonymous Republican holds. Let me give you some examples.

The conference report contains the Judicial Improvements Act, S. 2713 and H.R. 3892, that passed the House in July, 2002, but consideration by the Senate was blocked after the Senate bill was reported by the Judiciary Committee.

The Antitrust Technical Corrections bills, H.R. 809, had the same fate. After being passed by the House in March, 2001, and reported by the Senate Judiciary Committee, consideration was blocked in the Senate.

This conference report is a comprehensive attempt to ensure the administration of justice in our nation. It is not everything I would like or that any individual Member of Congress might have authored.

It is a conference report, a consensus document, a product of the give and take with the House that is our legislative process. It will strengthen our Justice Department and the FBI, increase our preparedness against terrorist attacks, prevent crime and drug abuse, improve our intellectual property and antitrust laws, strengthen and protect our judiciary, and offer our children a safe place to go after school.

I hope that it will merit the support of every Member of the United States Senate. At the very least, it deserves an up-or-down vote. I was pleased to see some Republicans come to the floor to support this conference report. For the sake of the Justice Department, the United States Congress, and the American people, we should pass this legislation today.

• Mr. HATCH. Mr. President, I rise in support of the 21st Century Department of Justice Appropriations Authorization Act. The Conference Report is now before the Senate. The title of the Conference Report—"The 21st Century Department of Justice Appropriations Authorization Act"—is appropriately named—the bill is a forward-



looking measure which will strengthen the Justice Department and our judicial system as we face the new challenges of the 21st century. More specifically, the bill provides the Justice Department with the necessary tools and resources: to detect and prevent future terrorist attacks; to reduce drug abuse and prevent drug-related crimes; to enhance our country's ability to compete in international markets by improving our intellectual property and antitrust laws; and to address the growing needs of our at-risk youth by offering meaningful alternatives to the temptations of crime. The House last week passed the Conference Report by a vote of 400-4. I urge my colleagues to support this important piece of legislation.

Before I address the substance of the Conference Report, I want to take a moment to thank my distinguished colleagues, Chairman LEAHY, and House Judiciary Chairman SENSENBRENNER, and Ranking Member CONYERS, for all of their hard work, commitment and determination on this important matter. Senator LEAHY and I have been working together for years to enact a Department of Justice reauthorization bill, and I am pleased that we are finally able to bring the matter to the Senate for its consideration.

The Department of Justice's main duty is to provide justice to all Americans, certainly of central importance to our national life. It has the primary responsibility for the enforcement of our Nation's laws. Through its divisions and agencies including the FBI and DEA, it investigates and prosecutes violations of federal criminal laws, protects the civil rights of our citizens, enforces the antitrust laws, and represents every department and agency of the United States government in litigation. Increasingly, its mission is international as well, protecting the interests of the United States and its people from growing threats of trans-national crime and international terrorism. Additionally, among the Department's key duties is providing much needed assistance and advice to state and local law enforcement agencies.

It has been over two decades since Congress reauthorized the Justice Department. If enacted, H.R. 2215 will be a significant step in Congress's efforts to reassert its rightful role in overseeing the operation of the Justice Department. By instituting a regular reauthorization procedure for the Justice Department, Congress will be able to ensure that the Justice Department has all the necessary tools to carry out its critical functions.

Let me be clear that I am not advocating that we micro-manage the Department of Justice. I have full confidence in Attorney General Ashcroft and the thousands of employees who competently manage the Department daily. However, we cannot continue to neglect our responsibility to exercise responsible oversight of the Justice Department which so profoundly affects the lives of all Americans.

The tragic events of September 11th have underscored the need for Congress to work closely with the Justice Department. Last year, we worked with the Justice Department to ensure swift passage of the PATRIOT Act, which has strengthened America's security by providing law enforcement with the necessary tools to fight the war against terrorism. We will continue to provide the Justice Department with the legislative tools and resources needed to win this war against terrorism.

The 21st Century Department of Justice Appropriations Authorization includes a number of important provisions which I will briefly highlight. Most significantly, the bill fully authorizes the Justice Department and its major components for fiscal years 2002 and 2003. Among these authorizations are funding for the Federal Bureau of Investigation to protect against terrorism and cyber-crime, the Drug Enforcement Administration to combat the trafficking of illegal drugs, and the Immigration and Nationalization Service to enforce our country's immigration laws. The bill also adds 94 new Assistant United States Attorneys to implement the President's Project Safe Neighborhoods initiative which is aimed at reducing gun violence in our communities.

With respect to congressional oversight, the conference report strengthens the authority of the Department's Inspector General in order to address internal issues within the Justice Department. It specifically expands the Inspector General's authority to include responsibility for investigating the FBI. In order to establish a baseline from which to focus future oversight of the Justice Department, the bill requires the Department to submit to Congress reports detailing the operation of the Office of Justice Programs and all of the Justice Department's litigation activities.

The conference report enacts many of the provisions of the Drug Abuse Education, Prevention, and Treatment Act of 2001, S. 304, which I introduced in the Senate with Senators LEAHY and BIDEN more than 18 months ago, and which has received wide bipartisan support. This legislation marks a watershed event in the national effort to combat drug addiction, and makes a significant, sustained commitment to providing federal resources for reducing the demand for illicit drugs. Investing in proven prevention and treatment programs can help reduce the wreckage and the unwarranted burden of drug abuse on society.

Specifically, the Drug Abuse Education, Prevention and Treatment provisions: No. 1, increase drug treatment grants for prisoners and residential aftercare programs; No. 2, require a study and review of drug-testing technologies and all federal drug and substance abuse treatment and prevention programs in order to recommend necessary reforms to these programs; No.

3, expand drug abuse and addiction research; No. 4, expand the Drug Courts program; No. 5, provide post-incarceration vocational and remedial educational opportunities for federal inmates; and No. 6, provide grants to states to establish demonstration projects to promote successful reentry of criminal offenders.

While ensuring effective drug treatment and prevention programs, the conference report includes a broad set of measures designed to protect our youth. Specifically, the bill supports the creation and expansion of Boys and Girls Clubs in our communities, enhances juvenile criminal accountability, and provides states with block grants to address juvenile crime. In addition to our nation's youth, the bill strengthens our criminal justice system by increasing penalties for those who tamper or threaten federal witnesses, or those criminals who harm Federal judges and law enforcement personnel.

In addition to our Nation's youth, the bill provides increased attention to crimes against women by establishing a Violence Against Women Office within the Justice Department, which will be headed by a presidentially appointed and Senate confirmed Director. The Director, in part, will serve as a special counsel to the Attorney General on issues related to violence against women, provide information to the President, the Congress, State and local governments, and the general public, and maintain a liaison with the judicial branches of federal and State governments.

The conference report addresses the operation of our federal judiciary by enacting long-needed judicial improvements and reforms to judicial disciplinary procedures. It also creates judgeships in various districts where there is a chronic shortage of federal judges to handle existing caseloads, particularly in our border States such as Texas, New Mexico, California, Nevada, Florida and Alabama. We need to do more here, and add judges in other districts where caseloads are high, and I am hopeful we will be able to do that next Congress.

The bill also promotes America's economic security by enhancing our competitiveness in the world economy. Specifically, the bill makes some needed changes to our antitrust laws, and creates a commission to review our antitrust laws to determine what reforms, if any, are needed to ensure the effective operation of our free markets in our "new" high-tech economy.

The conference report enacts critical amendments to the Radiation Exposure Compensation Act of 2000, S. 898, which I introduced in order to clarify the eligibility standards and to ensure appropriate compensation under the program. In addition, the bill enacts "The Motor Vehicle Franchise Contract Arbitration Act," S. 1140, which I introduced, was passed by the Senate Judiciary Committee, and which received

bipartisan support. This bill restricts the use of mandatory arbitration provisions in motor vehicle franchise contracts.

Further, the bill includes several important provisions to reform intellectual property law. First, the bill directs the Justice Department to increase its enforcement of intellectual property laws. Second, aside from enforcement, the bill enacts the Technology, Education and Copyright Harmonization Act (TEACH Act, S. 487, which I introduced and has received bipartisan support. This Act enhances our country's education system by revising federal copyright law to extend the exemption from infringement liability for instructional broadcasting to digital distance learning. Third, the Conference Report enacts several important reforms of our patent and trademark system which I supported, including: authorization of the Patent and Trademark Office for fiscal years 2003 to 2008; revision of the filing and processing procedures for patent and trademark applications; and enactment of the Madrid Protocol Implementation Act, S. 407, which ensures international protection of United States trademarks.

Finally, the conference report refines INS administrative procedures in two specific areas in order to reduce INS processing delays. First, the bill extends H-1B status for alien workers who wish to continue working beyond the authorized 6-year period. Second, the bill includes provisions for removal of conditional basis of permanent resident status applicable to certain alien entrepreneurs.

The conference report is a long-awaited and much-needed measure which will ensure that Congress provides the required oversight—and support of—the Justice Department as it continues its critical role of enforcing our country's laws, protecting our country from terrorist attacks, enhancing our competitiveness in the world economy, and making our communities safer. Working together in a spirit of bipartisanship, the bill provides the necessary framework to ensure that Congress and the Administration will be able to identify solutions to the challenges faced by federal law enforcement, and to ensure the efficient operation of the Justice Department and each of its components.

I would also like to take this opportunity to recognize the tireless work of the dedicated Staff members on both sides of the aisle whose work around the clock made this legislation possible. First, on my staff, I want to specifically commend my former staff member Leah Belaire, who recently joined the United States Attorney's Office for the District of Columbia as an Assistant United States Attorney. She along with my counsels, Mike Volkov, Wan Kim, Shawn Bentley, Patti DeLoatche, Rebecca Seidel, Bruce Artim, Dustin Peard, and my Chief Counsel and Staff Director, Makan

Delrahim, all poured their hearts into this legislation. On Chairman LEAHY's staff, I want to thank Tim Lynch and Ed Pagano, as well as Chairman LEAHY's able General Counsel, Beryl Howell, and Chief Counsel and Staff Director, Bruce Cohan. On Chairman SENBRENNER's staff, I want to commend Will Moschella, Steve Pinkos and Phil Kiko, for their hard work and dedication. On Congressman CONYER's staff, I want to thank Perry Apfelbaum, Sam Garg, and Ted Kalo for their commitment to this legislation.

Mr. President, this is an important piece of legislation that deserves our full support. I urge my colleagues to vote in favor of the conference report.●

Mr. CRAIG. Mr. President, I regret to point out one very important provision that is missing from H.R. 2215: a district judgeship for Idaho. This is a matter of great urgency to the citizens of my State.

Idaho has two Federal district judgeships, created in 1890 and 1954. We are one of only three States in the union with two Federal district judgeships.

There are three distinct and widely-distant geographical areas in my State: the Southeast, the Southwest and the North. A district judge must travel up to 450 miles between division offices. This distance is greater than that traveled in other rural district courts, including those of Montana, Wyoming, North Dakota, South Dakota or Eastern Washington. In fact, only a district judge in Alaska has a greater distance to travel, when comparing these rural district courts. Because of the State's sheer size, its extraordinary increase in population, and tremendous growth in caseload over nearly five decades, the current situation is becoming increasingly unworkable, and we are seeking one additional judgeship.

Unlike other States, we have no senior judges to fill in the gaps. We are depending on judges borrowed from other districts to help us, but obviously that can only be a temporary fix for the problem.

To remedy this crisis, the State of Idaho has requested a third Federal district judge. All members of the Federal bench in Idaho agree with this request, and the Idaho State Legislature even passed a resolution petitioning Congress for this change.

I have been working on this issue throughout the 107th Congress, introducing legislation along with my Idaho colleague Senator CRAPO, consulting with the Senate Judiciary Committee and lobbying its members, writing to the Judicial Conference. Our senior district judge in Idaho personally visited Capitol Hill and talked with staff and members of the Judiciary Committee.

When it became apparent that H.R. 2215 was the only legislative vehicle in this Congress for the creation of new judgeships, the entire Idaho Congressional Delegation, Senator CRAPO and I, as well as our House colleagues Representative MIKE SIMPSON and Representative BUTCH OTTER, wrote to

each member of the conference committee on this bill, reiterating our request.

To date, not a single member of the Senate or House has opposed our request. Yet at the end of the day, H.R. 2215 fails to include an additional judge for Idaho.

It is my understanding that our request was not given priority because the Judicial Conference of the United States refused to endorse it. While Idaho did not originally meet the narrow requirements imposed by the Conference before it recommends an additional judgeship, I have been informed in the last few weeks that we now meet those requirements, and Idaho hopes to obtain that critical endorsement in the future.

With that, let me put the Senate on notice that my State will return in the next Congress with this request and will work for a better result. There should not be waiting list for people to obtain justice in our courts, but there is in Idaho until relief arrives in the form of a third Federal district judge.

Mr. KYL. Mr. President, I rise to address one aspect of the "21st Century Department of Justice Appropriations Authorization Act," H.R. 2215. Section 312 creates a number of Federal judgeships, including a temporary judgeship for the District of Arizona. Under the bill, the temporary addition of an extra seat to the 12-member Federal district court will commence in July 2003 and will end with the first judicial retirement that occurs after that ten-year period expires, returning the court to twelve seats.

The District of Arizona sorely needs this judgeship. According to the Administrative Office of the United States Courts, the District of Arizona ranks 10th in total weighted filings among all 94 districts. The general standard for weighted filings established by the U.S. Judicial Conference as an indicator of a need for additional judgeships is 430. With 604 weighted filings per judgeship, the District of Arizona exceeds this criteria by 29 percent, despite the recent and much appreciated addition of four new judges. The high level of filings in the District of Arizona is not temporary. The weighted filings in this district have been substantially higher than the national average since 1985.

The District of Arizona reported 6,300 civil and criminal case filings in 2001, a 26 percent increase in filings over a five-year period. The District's criminal felony caseload has increased 104 percent over the past 5 years. The District ranks third among the Nation's 94 districts in weighted criminal felony filings per authorized judgeship, 231 percent above the national average. In addition to the burgeoning criminal caseload, the District's civil caseload is on the rise. This District is an unenviable 71st nationally in median disposition time for civil cases and 85th nationally in median time from filing to trial in civil cases. Seven percent of

the civil cases have been pending over three years.

According to the latest population statistics as reported by the U.S. Census Bureau, Arizona's population increased by 40 percent from 1990 to 2000, while the national rate of population growth is only 13.1 percent. Arizona is ranked second only to Nevada for percentage of growth. The Arizona Department of Economic Security projects the State's population will grow another 25 percent by 2010.

This new judgeship will provide emergency aid to Arizona's District Court, whose judges are extremely overburdened by crushing federal case-loads. Arizona's Federal court, like those in other border states, suffers special burdens as a result of sharp increases in drug trafficking and immigration prosecutions. This backlog delays justice for Arizonans and disrupts the proper administration of the courts.

I would like to commend Senator LEAHY, Senator HATCH, and Representative SENSENBRENNER for including this much-needed judgeship. This temporary judgeship is at least one reason to support the "21st Century Department of Justice Appropriations Authorization Act."

#### MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to a period of morning business.

#### IRAQ

Mr. LOTT. Mr. President, there is no more solemn and important duty for the Senate, in my opinion, than to debate the momentous issues of war and peace. I remember in 1991 when we debated the gulf war resolution that it took on a very serious aura. Every Senator spoke. Senators actually came to the floor and listened to the debate. It was a challenge. Not a one of us didn't feel some amount of concern and trepidation and respect for the importance of that vote. I think we are fixing to embark on a debate of that magnitude again today.

The issue of Iraq is one that we are concerned about and which we have been wrestling with for 11 years. But I think that today on the issue of Iraq we have reached what Winston Churchill called "not the beginning of the end but the end of the beginning."

After weeks of careful preparation and bipartisan negotiation—it has been truly bipartisan on both sides of the aisle in the Senate, and in the House it has been a bicameral effort—I believe the Senate will, once again, show why it is called "the greatest deliberative body." I think we will have some very interesting and very thoughtful speeches that will be given next week. Obviously, we will not all agree. Obviously, we will have respect for each other—no matter what the position may be.

But I think, in the end, we are going to see we are going to have a very

broad, bipartisan vote expressing our concern about what this situation is in Iraq, about the fact the United Nations resolutions—all 16 of them—have been ignored, for the most part, for 11 years, and it is time we take action to avoid some horrendous events that could occur if we do not.

I believe we will give the President the authority he needs to deal with this problem. I want to emphasize this President has listened, and he has also challenged us. He has shown commitment and leadership. Some of us in Congress were saying: We want to hear from the President. Come to us. Tell us what you know. Tell us what you want. Let us have a debate. Let us have a vote. He did so, and he continues to work with us to this very moment.

Some people said: Oh, well, you have to take your case to the United Nations. Let the United Nations be a part of this. Encourage the United Nations—in fact, demand the United Nations—live up to its responsibility and its own resolutions.

The President did that. He went to the United Nations and gave one of the most impressive speeches I believe he has ever given. He gave the bill of particulars to the world community about what the problems are and why we had to deal with this menace. I think it changed the United Nations. And while we still do not have a resolution from the United Nations, I know Secretary Powell is working on that.

I know the President and others are talking to the world community. I have had the occasion, as the Republican leader of the Senate, to talk to representatives from seven countries over the past 2 weeks and get a feel for what they are thinking and what their concerns are, what their suggestions are.

So this President is working with us, with the United Nations, and with the world community.

As the Republican leader, I have entertained views from all sides of our own caucus. When we got the first draft of the Iraq resolution, every word was not accepted as being perfect or brilliant. There were some suggestions made, and I listened to them. In fact, I remember there was one phrase in the resolution, when I read it the first time, I said: What does that really mean? I don't think I really like that.

So we did have input. We did have the first draft sent by the President, but the President invited our input and our participation in the development of this resolution, and changes were made. We had the first resolution, the second resolution, the third resolution, and now the bipartisan resolution that was introduced in the Senate by Senator LIEBERMAN, Senator WARNER, Senator MCCAIN, and Senator BAYH. It is the resolution we should consider. Will there be another alternative? Perhaps. I have no problem with that. Will there perhaps be an amendment that is agreed to in advance? Perhaps. I have no problem with that. I do think we are

going to have a problem if we just allow this to be endlessly amended. It would be a filibuster by amendment.

I think we need to have a full debate but be prepared to go to votes on these important issues by the middle of next week. Senator DASCHLE, perhaps, will give his own thinking about the specifics of when we might begin to get to some votes.

I have listened to opinions on the other side of the aisle, too. I did not just talk to Senator SHELBY or Senator LUGAR or Senator MCCAIN or Senator WARNER or Senator HUTCHINSON. I talked to Senators on both sides of the aisle, and so did the administration. Because of this, I think we have been able, with the help of the White House and the combined House leadership, to emerge with a strong resolution we now present to the Congress and to the world.

For those who brought us to this moment—the President, the Speaker, Congressman GEPHARDT, SENATORS LIEBERMAN, WARNER, MCCAIN, BAYH, DASCHLE, and others—who are involved in this process, I think the Nation should be grateful. I believe the result of this debate, and the resolution we will vote on next week, will lead to a safer world.

Let me make it clear from the outset, no one—not the President, not any Member of Congress—desires to see our men and women engaged in a fight in Iraq or anywhere unless it is absolutely necessary.

Our history shows that Americans do not seek war; we always are slow to anger. But we got plenty mad last year because of the horror we saw here at home. We now realize the danger is not just over there, as they said in World War I and World War II. Oh, no, it is here. One suicide bomber, with a weapon of mass destruction, is a threat to thousands, perhaps millions.

We are the only Nation in history, though, after having been involved in a war, a conflict, that has turned around and offered a helping hand to all the peoples of the world, including our enemies. We helped in Japan. We helped in Germany. We have done it over and over again.

There is no greater force for good than the United States of America. When our security and our people are threatened, we act swiftly and decisively. But what we want for everybody is opportunity and freedom and democracy—or to choose what they want if they don't want democracy; make that choice.

We want to be safe and secure here at home. That is what this is all about. We are good people, with attributes from our forefathers I am very proud of. But we are very serious about protecting our people at this critical time.

I will save the catalog of Saddam Hussein's crimes for another time, probably about the middle of next week. But today we begin the process of ensuring this violent and cruel man can no longer menace us, his neighbors,