

returning troops and veterans. We have never accused them of being against our troops or un-American.

Together, on the Senate Armed Services Committee on which I am proud to sit, Republicans and Democrats have repeatedly asked our civilian and military commanders: What more do you need to win this war as soon as possible? What do you need to bring our troops home as safely and quickly as possible, with the victory that they won in 3 weeks in the spring of 2003 secured, finally, by the Iraqis? Tell us what you need, and it is yours.

This Senator has not failed our troops. This Senator, a critic of your policies, has not failed our troops. You, sir, have failed our troops; and you, sir, have failed the American people by the failures of your policies in Iraq.

Last Friday, President Bush stood in front of a banner that said: "Strategy For Victory." Two and a half years ago, he stood on the aircraft carrier *Abraham Lincoln* before a banner: "Mission Accomplished." Unfortunately, he had the banners mixed up. If he had a "Strategy For Victory" 2½ years ago, we would have "Mission Accomplished" today.

The President accuses his critics of rewriting the history of this war. Nonsense. The history of this war was clearly enunciated by this administration and is available for all to reread. The President, the Vice President, and their top advisers repeatedly presented their rationales for this war and predicted its outcomes, and they were repeatedly wrong. On just about everything, they were wrong. I say that with sorrow because when the President of the United States is wrong, all Americans suffer the consequences.

There is no better or worse summary of the administration's prewar fallacies than the transcript of Vice President CHENEY's appearance on "Meet The Press" with Tim Russert the Sunday before the invasion began. I excerpted those remarks for brevity but without altering their meaning.

The Vice President said on the program, as he had said repeatedly during the past 7 months:

We believe Saddam Hussein has in fact reconstituted nuclear weapons.

We know he's out trying once again to produce nuclear weapons and we know he has a longstanding relationship with various terrorist groups, including the al-Qaida organization.

When Mr. Russert queried:

And even though the International Atomic Energy Agency said he does not have a nuclear program, we disagree?

Vice President CHENEY replied:

I disagree, yes. . . . We believe he has, in fact, reconstituted nuclear weapons. I think Mr. ElBaradei frankly is wrong.

Mr. Russert: If your analysis is not correct, and we're not treated as liberators, but as conquerors, and the Iraqis begin to resist, particularly in Baghdad, do you think the American people are prepared for a long, costly, and bloody battle with significant American casualties?

Vice President Cheney: Well, I don't think it's likely to unfold that way, Tim, because

I really do believe that we will be greeted as liberators. I've talked with a lot of Iraqis in the last several months myself, had them to the White House. . . . The read we get on the people of Iraq is there is no question but what they want to get rid of Saddam Hussein and they will welcome as liberators the United States when we come to do that.

Mr. Russert: The army's top general said that we would have to have several hundred thousand troops there for several years in order to maintain stability.

Vice President Cheney: I disagree. . . . But to suggest that we need several hundred thousand troops there after military operations cease, after the conflict ends, I don't think is accurate. I think that's an overstatement.

Mr. Russert: We have had 50,000 troops in Kosovo for several years, a country of just five million people. This is a country of 23 million people. It will take a lot in order to secure it.

Vice President Cheney: . . . There's no question but what we'll have to have a presence there for a period of time. It is difficult now to specify how long. We will clearly want to take on responsibilities in addition to conducting military operations and eliminating Saddam Hussein's regime. We need to be prepared to provide humanitarian assistance, medical care, food, all of those other things that are required to have Iraq up and running again. And we are well-equipped to do that. We have got a lot of effort that's gone into that.

Mr. Russert: Every analysis said this war itself would cost over \$80 billion, recovery of Baghdad, perhaps of Iraq, about \$10 billion per year. We should expect as American citizens that this would cost at least \$100 billion for a two-year involvement.

Vice President Cheney: I can't say that, Tim. . . . In Iraq you've got a nation that's got the second-largest oil reserves in the world, second only to Saudi Arabia. It will generate billions of dollars a year in cash flow if they get back to their production of roughly three million barrels of oil a day, in the relatively near future.

On every one of those key assertions, Vice President CHENEY was wrong. Whether he was misinformed, misguided, mistaken, or knowingly misleading the American people, I cannot say. I can say that he was consistently wrong. And because he and the President were wrong, over 2,000 of our best and bravest Americans have lost their lives in Iraq. Many thousands more have returned home wounded or maimed for life. Hundreds of thousands more have been separated from their families for years, with more separations for more years still to come.

Because the Bush administration's assumptions and expectations were wrong, because their preparations for post-Saddam Hussein Iraq were wrong, and because their predictions before and after the war began were wrong, America's standing in the world is worse than before. The terrorist organizations that hate the United States are stronger than before, and our national security is tragically and terribly weaker than before this war began.

When I voted against the Iraq war resolution in October of 2002, I said I hoped I was wrong and the war's proponents were right because the stakes were too high for partisanship. When I

disagreed with President Bush's decision to invade Iraq in March of 2003, I said I hoped I was wrong and he was right because the stakes were too high for anything but patriotism.

I deeply regret when he has been wrong. I deeply regret the mistakes of his policies and the failures of his practices because a President's mistakes and failures become America's mistakes and failures. And America, the greatest Nation on Earth, the leader of the world's hopes and opportunities for peace and prosperity, America cannot afford mistakes and failures in this difficult and dangerous world, and this world cannot afford America's mistakes and failures.

Two and a half years after our troops toppled Saddam Hussein is too long for 158,000 of America's soldiers, the world's best and bravest, to still be doing the patrolling, the policing, the fighting, the bleeding, and the dying in Iraq—too long, and there is no end in sight. It is because we support our troops, because they are our sons and daughters and we love them, that we want to bring them home safely as soon as possible with their military successes of 2½ years ago secured by Iraqis, not Americans.

The President and the Vice President could show their support for our troops by telling them and us what the strategy for victory in Iraq really is and how and when we will achieve it and what are the timetables and measures of that success or lack of it so our courageous fighting men and women and their families and their fellow Americans can know how they will win, when they will win. Those are the answers they and we deserve.

Mr. President, I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. CORNYN). Without objection, it is so ordered.

#### NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006—Continued

AMENDMENT NO. 2524 TO AMENDMENT NO. 2515

Mr. GRAHAM. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. GRAHAM], for himself, Mr. LEVIN, and Mr. KYL, proposes an amendment number 2524 to amendment No. 2515.

Mr. GRAHAM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To improve the amendment)

In lieu of the matter proposed to be inserted, insert the following:

**SEC. 1. REVIEW OF STATUS OF DETAINEES.**

(a) **SUBMITTAL OF PROCEDURES FOR STATUS REVIEW OF DETAINEES AT GUANTANAMO BAY, CUBA.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees, and to the Committees on the Judiciary of the Senate and the House of Representatives, a report setting forth the procedures of the Combatant Status Review Tribunals and the noticed Administrative Review Boards in operation at Guantanamo Bay, Cuba, for determining the status of the detainees held at Guantanamo Bay.

(b) **PROCEDURES.**—The procedures submitted to Congress pursuant to subsection (a) shall, with respect to proceedings beginning after the date of the submittal of such procedures under that subsection, ensure that—

(1) in making a determination of status of any detainee under such procedures, a Combatant Status Review Tribunal or Administrative Review Board may not consider statements derived from persons that, as determined by such Tribunal or Board, by the preponderance of the evidence, were obtained with undue coercion; and

(2) the Designated Civilian Official shall be an officer of the United States Government whose appointment to office was made by the President, by and with the advice and consent of the Senate.

(c) **REPORT ON MODIFICATION OF PROCEDURES.**—The Secretary of Defense shall submit to the committees of Congress referred to in subsection (a) a report on any modification of the procedures submitted under subsection (a) not later than 60 days before the date on which such modification goes into effect.

(d) **JUDICIAL REVIEW OF DETENTION OF ENEMY COMBATANTS.**—

(1) **IN GENERAL.**—Section 2241 of title 28, United States Code, is amended by adding at the end the following:

“(e) No court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus filed by or on behalf of an alien outside the United States (as that term is defined in section 101(a)(38) of the Immigration and Nationalization Act (8 U.S.C. 1101(a)(38)) who is detained by the Department of Defense at Guantanamo Bay, Cuba.”

(2) **REVIEW OF DECISIONS OF COMBATANT STATUS REVIEW TRIBUNALS OF PROPERTY OF DETENTION.**—

(A) **IN GENERAL.**—Subject to subparagraphs (B), (C), and (D), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of any decision of a Designated Civilian Official described in subsection (b)(2) that an alien is properly detained as an enemy combatant.

(B) **LIMITATION ON CLAIMS.**—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit under this paragraph shall be limited to claims brought by or on behalf of an alien—

(i) who is, at the time a request for review by such court is filed, detained by the Department of Defense at Guantanamo Bay, Cuba; and

(ii) for whom a Combatant Status Review Tribunal has been conducted, pursuant to applicable procedures specified by the Secretary of Defense.

(C) **SCOPE OF REVIEW.**—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit on any claims with respect to an alien under this paragraph shall be limited to the consideration of—

(i) whether the status determination of the Combatant Status Review Tribunal with regard to such alien applied the correct standards and was consistent with the procedures specified by the Secretary of Defense for Combatant Status Review Tribunals (including the requirement that the conclusion of the Tribunal be supported by a preponderance of the evidence and allowing a rebuttable presumption in favor of the Government's evidence); and

(ii) whether subjecting an alien enemy combatant to such standards and procedures is consistent with the Constitution and laws of the United States.

(D) **TERMINATION ON RELEASE FROM CUSTODY.**—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit with respect to the claims of an alien under this paragraph shall cease upon the release of such alien from the custody of the Department of Defense.

(3) **REVIEW OF FINAL DECISIONS OF MILITARY COMMISSIONS.**—

(A) **IN GENERAL.**—Subject to subparagraphs (C) and (D), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of any final decision rendered pursuant to Military Commission Order No. 1, dated August 31, 2005 (or any successor military order).

(B) **GRANT OF REVIEW.**—Review under this paragraph—

(i) with respect to a capital case or a case in which the alien was sentenced to a term of imprisonment of 10 years or more, shall be as of right; or

(ii) with respect to any other case, shall be at the discretion of the United States Court of Appeals for the District of Columbia Circuit.

(C) **LIMITATION ON APPEALS.**—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit under this paragraph shall be limited to an appeal brought by or on behalf of an alien—

(i) who was, at the time of the proceedings pursuant to the military order referred to in subparagraph (A), detained by the Department of Defense at Guantanamo Bay, Cuba; and

(ii) for whom a final decision has been rendered pursuant to such military order.

(D) **SCOPE OF REVIEW.**—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit on an appeal of a final decision with respect to an alien under this paragraph shall be limited to the consideration of—

(i) whether the final decision applied the correct standards and was consistent with the procedures specified in the military order referred to in subparagraph (A); and

(ii) whether subjecting an alien enemy combatant to such order is consistent with the Constitution and laws of the United States.

(E) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), this section shall take effect on the day after the date of the enactment of this Act.

(2) **REVIEW OF COMBATANT STATUS TRIBUNAL AND MILITARY COMMISSION DECISIONS.**—Paragraphs (2) and (3) of subsection (d) shall apply with respect to any claim whose review is governed by one of such paragraphs and that is pending on or after the date of the enactment of this Act.

Mr. GRAHAM. Mr. President, at this time I would like to, in conjunction with my colleague Senator LEVIN, lay down this amendment, give a brief explanation of what it is designed to do, and I think we will vote on it tomorrow.

row after we vote on Senator BINGAMAN's amendment.

No. 1, Senator LEVIN and his staff have been working on this, along with Senator KYL and other Senators, for the last couple of days. I do not know how to say it other than it has been a lot of fun. It has been tough at times, but I think we have come out with a product that the Senate can be proud of, and hopefully the country can be proud of when it comes to how to treat detainees at Guantanamo Bay.

Here is what we are trying to do. With my amendment, which we voted on last week, the concern I had was we were about to criminalize the war because of the Rasul case. Section 2241 of the habeas statute had been interpreted not to prohibit foreign alien enemy terror suspects from seeking habeas petitions in Federal court about their confinement and detainment as enemy combatants. The Rasul case was the result of the Supreme Court rejecting the Government's argument that Guantanamo Bay was outside the jurisdiction of the Federal court. They ruled that Guantanamo Bay was constructively within the jurisdiction of the Federal court, and in that opinion basically challenged the Congress.

Now that we have decided that, since there are no due process rights in place at the time, we are going to provide habeas petitions to these detainees until Congress comes in and says otherwise.

My amendment was, Congress being on record that the 2241 habeas statute has been used to provide habeas corpus rights by Congress to American citizens, that we do not intend for an enemy combatant or foreign national—someone captured in conflict against the United States—to have habeas rights before our Federal courts to complain about their confinement and their detention. In other words, we are not going to allow enemy prisoners of war the right to go into civilian court and start challenging their detention. The military commissions are operating at Guantanamo Bay with a different purpose. They are going to try people who are charged with violations of the law. Right now there are about 10 or 15 cases. There are almost 500 people who are being detained as enemy combatants. Last week, when Senator LEVIN was arguing with me about my amendment, I think he made some very good points. By working with him and others, Senator KYL and others, we have addressed some of the weaknesses in my original amendment. Senator BINGAMAN will have another amendment, and I think we deal with some of his concerns, too. I do see this as a win-win.

What we are trying to do, instead of changing what has been the rule of law for 200 years in terms of enemy prisoner rights, is create a process that not only mirrors the Geneva Convention but goes well beyond the Geneva Convention.

An enemy combatant is a legal term of art. It applies to those people involved in hostilities against the United

States but are not part of a Geneva Convention-recognized Army. The Geneva Convention uses the term “irregular combatant.” We have case law in the United States talking about enemy combatant. It deals with German saboteurs; those people who commit hostilities are engaged in acts of war but shed the cloak of being part of a uniformed force. So the term “enemy combatant” has been well recognized in our law.

What we do with an enemy combatant, once a person has been determined to be an enemy combatant, we can detain them similar to a prisoner of war. The Geneva Convention says if there is a question about whether a person’s status is rightfully conferred whether you are a prisoner of war, enemy combatant, irregular combatant, or a civilian who has done nothing wrong, the Geneva Convention requires the host country to have a competent tribunal set up to determine status.

Since August of 2004, at Guantanamo, the Combatant Status Review Tribunal system has been in place. In my opinion, it is Geneva Convention article 5 tribunals on steroids. It gives a right to confront. It gives adversarial process to the suspected enemy combatant. It also allows a yearly review of an enemy combatant status. What they are looking at, at Guantanamo Bay, is whether a person was engaged in hostile acts against the United States in a regular fashion, whether the person has intelligence value to the United States or poses a threat. If one or two of those three conditions are met, they can be detained at Guantanamo Bay, and every year there is a reevaluation.

We have had some people caught up in the net, and we found later probably did not have all three requirements and they have been let go. We have also had about a dozen people caught up in the net in the war on terror who we thought were no longer a threat to the United States. We released them and a dozen at least have gone back to fighting. Some have been killed. Some have been captured yet again.

The process we use is important, but no process is perfect. We are trying to come up with a process the country can be proud of that applies the law of armed conflict standard and does not turn the war on terror into a crime. Right now every person sent to Guantanamo Bay will be offered a Combatant Status Review Tribunal hearing, which is well beyond what the Geneva Convention requires, to determine their status.

In addition to the yearly review, working with Senator LEVIN, Senator KYL, and others, we have come up with a right of every enemy combatant to go to Federal court. Instead of having unlimited habeas corpus opportunities under the Constitution, we give every enemy combatant, all 500, a chance to go to Federal court, the Circuit Court of Appeals for the District of Columbia. On top of everything else we are doing, they can challenge their status deter-

mination in a Federal court. The Federal court will look at the process involved in their individual case to see if it complied with the CSRT standards in terms of procedure and the standards that were to be used to determine whether a person was properly detained—the evidentiary standards, all other standards.

This will allow a Federal court oversight of any combatant status. It will be a one-time deal. It will not be an opportunity for the enemy prisoner to sue us about everything they can think of.

Now, that to me is unprecedented. That is well beyond what the Geneva Convention requires or envisions but is something we ought to do and we can be proud of because it is a Federal court oversight of a military action in a way that doesn’t erode the military’s ability to conduct a war. We can go to other people in the world and say, Our courts are now involved in looking at what we do. We can also say that Congress is finally involved because in addition to the rights I have described, under our amendment, the person who determines whether an enemy combatant is retained or released will be confirmed by the Senate. That will give the Senate a connection to what is going on in Guantanamo Bay.

If you change the CSRT regulations in any way, you have to send those changes to the Congress. That way we are involved. And we have a statement in our bill to make sure you do not use statements that were a result of undue coercion to determine if you are an enemy combatant.

So now we have Congress involved in an oversight function. We have the courts involved in oversight function. We have a due process right well beyond the Geneva Convention requirements. That is something we should be proud of.

Military commissions. There are 10 or 20 people potentially facing a military commission trial for what are violations of law of armed law conflict. The flaw in my amendment is it did not have a right of appeal from a military commission verdict to a Federal court. In World War II, the enemy saboteurs I described before were all tried by military commissions that President Roosevelt created by Executive order. Four of the six were sentenced to death. The Supreme Court reviewed the military commission process in the Quirin case and found that military commissions were lawful if the person being tried was truly an enemy combatant. So there is a historical precedent in our country for the Federal courts, the Supreme Court, to look at military commission trials to make sure they are lawfully constituted.

What we have done, working with Senators LEVIN, KYL, and others, we have created that same type appeal process for all military commission decisions. Under the amendment that we have come up with, any case resulting in a capital punishment finding—any

person who is given the death penalty by the military commission—has an automatic direct right of appeal to the Circuit Court of Appeals for the District of Columbia and the court will determine if they were tried in a court up to the military commission standards and procedures and whether the military commission was constitutional.

Anyone who receives a sentence of 10 years or more will also have an automatic right to appeal the same court. If you receive a sentence less than 10 years, the Circuit Court of Appeals for the District of Columbia will determine whether they want to hear your case based on a petition for certiorari or something akin to it.

That, in essence, is what we are trying to do. In both instances, the CSRT procedures and the military commission procedures will be reviewed by Federal courts and the court will have the ability to determine whether they are constitutional and will have an ability in an individual case to determine whether the enemy combatant or the person tried under the military commission procedures will be reviewed by Federal courts to decide whether they are constitutional according to the rules and procedures that have been set up.

I defer to my friend and colleague, Senator LEVIN.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I thank my friend from South Carolina for working on this matter as hard as he has. The Senator from Arizona has also worked hard. Many Members on this side have worked on this issue as well as the Republican side. There is a lot of thought that has been given to this matter.

The amendment approved last Thursday had some real problems with it, in my judgment, and I voted against it, as did 41 Senators. The amendment which was approved last Thursday, which is the one now awaiting this amendment, would have provided for review only for status determinations and not of convictions by military commissions.

As my friend from South Carolina pointed out, that is an omission which he and others acknowledge. It is a real indication of his commitment to try to figure out what the right course of action is, that he does acknowledge that omission. One of the reasons I voted against the amendment last Thursday is that it did not provide for that direct judicial review of convictions by military commissions. That is the major change in the amendment before the Senate, the so-called Graham-Levin-Kyl amendment which is before the Senate.

There are a number of other changes as well, but of all the changes, what this amendment does is add to the Graham amendment, which was agreed to last Thursday, adds a direct appeal for convictions by military commissions—not just for status determinations—and that direct appeal would, of course, go to a Federal court.

The amendment which we are going to consider tomorrow morning, after we consider the Bingaman amendment, will also provide for review of whether the standards and procedures which are referred to in the amendment are consistent with the Constitution and laws of the United States. Those are important words because all Members believe we must operate according to our Constitution. Our laws and the review which is provided for now, if we agree to this amendment to the adopted Graham amendment, would explicitly make it clear that the review of a court would look at whether standards and procedures that have been agreed to are consistent with our Constitution and our laws.

The other problem which I focused on last Thursday with the first Graham amendment was that it would have stripped all the courts, including the Supreme Court, of jurisdiction over pending cases. What we have done in this amendment, we have said that the standards in the amendment will be applied in pending cases, but the amendment will not strip the courts of jurisdiction over those cases. For instance, the Supreme Court jurisdiction in Hamdan is not affected.

However, what our amendment does, as soon as it is enacted and the enactment is effective, it provides that the standards we set forth in our amendment will be the substantive standards which we would expect would be applied in all cases, including cases which are pending as of the effective date of this amendment.

We will first vote on the Bingaman amendment tomorrow. I will vote for that amendment. It does preserve some habeas corpus review of constitutional issues relative to the detention of enemy combatants at Guantanamo Bay. It avoids habeas corpus review of less consequential issues, while enumerating the important issues which it would provide or permit habeas review of.

However, I cosponsored the Graham amendment with Senator GRAHAM because I believe it is a significant improvement over the provision which the Senate approved last Thursday, specifically for the two main reasons I identified. The direct review will provide for convictions by the military commissions, and because it would not strip courts of jurisdiction over these matters where they have taken jurisdiction, it does, again, apply the substantive law and assume that the courts would apply the substantive law if this amendment is agreed to. However, it does not strip the courts of jurisdiction.

My friend from South Carolina has pointed out what the scope of the review would be if this amendment was agreed to. I will read something which he made reference to that is important it be very clear as to what this grant of review is on page 6, paragraph B:

(i) with respect to a capital case in which the alien was sentenced to a term of impris-

onment of 10 years or more, shall be as of right; or

(ii) with respect to any other case, shall be at the discretion of the United States Court of Appeals for the District of Columbia Circuit.

The scope of review is set forth. It gets the Congress back into the business of laying out the ground rules for these reviews, which has been the main goal of the Senator from South Carolina. It is a goal which I hope all share. We may disagree as to what the ground rules are, but I hope all Members share in that goal that Congress become re-involved in setting the ground rules for both the commissions and for the tribunals which make the status determinations.

Again, it has been a very constructive effort on the part of Senator GRAHAM, myself, Senator KYL, and others who cosponsored and will vote for this. It makes a significant improvement over what the Senate did last Thursday. Again, I as one Senator will first support the Bingaman amendment, but if it is not agreed to, I will strongly urge our colleagues to vote for the Graham-Kyl amendment.

I support my friend from South Carolina.

The PRESIDING OFFICER (Mr. THUNE). The Senator from South Carolina.

Mr. GRAHAM. Mr. President, my hope is, as Senator LEVIN indicated, we are all doing this because we believe Congress has a role in this war. The executive branch has the job to lay the battle plans in place and to go after the enemy and be the Commander in Chief. But the Congress regulates captives of land and sea. The Congress is involved in issues about the detention, interrogation, and prosecution of enemy combatants and those who are trying to do harm to the country.

My goal over the last week was to do two things: get the Congress involved and for us to start thinking, what do we want, as a nation, to happen in this war now and down the road? What do we want to happen to the Sheik Mohammeds and people such as he? Do we want them to be common criminals? No. We want them to be people considered under the law of armed conflict.

My amendment last week was a direct result of what I think was a growing problem for our country. Section 2241 habeas rights were being exercised by noncitizen, foreign terrorist suspects to the point they were flooding our courts. They were bringing lawsuits.

I will give you an example. One Canadian detainee, who threw a grenade that killed an Army medic in a fire-fight and who comes from a family with longstanding al-Qaida ties, moved for a preliminary injunction forbidding the interrogation of him or engaging in "cruel, inhuman, or degrading" treatment of him.

In other words, he wanted the judge to come in and stop his interrogation before it started and to sit there basically and supervise it.

Another al-Qaida detainee complained about basic security procedures, the speed of mail delivery and medical treatment. He was seeking an order that he be transferred to the "least onerous conditions" at Gitmo and asking the court to order that Gitmo allow him to keep any books and reading materials sent to him and to "report to the Court" on "his opportunities for exercise, communication, recreation, worship, etc."

As I said last week, we never allowed enemy prisoners to go into civilian courts and ask judges to come over and take over the military prison in a time of war.

The Nazis did not get that right in World War II. We had plenty of Nazi prisoners housed in military prisoners all over the United States. They were not able to go to Federal court and complain about the books and the DVDs—they didn't have DVDs then—whatever they were asking for.

There is an "emergency" motion seeking a court order requiring Gitmo to set aside its normal security policies and show detainees DVDs that are purported to be family videos.

There is another lawsuit wanting the lawyer to have Internet access at Guantanamo Bay. That is what I objected to. This is not the law of armed conflict being applied. This is giving an enemy prisoner a right that no enemy prisoner has ever enjoyed before in the law of armed conflict. It was creating litigation against our troops.

There was one medical malpractice claim. There are over 40 cases suing for monetary damages. Can you imagine, after 9/11, if the Senate were asked the question, Do you want an al-Qaida suspect who is captured to be able to go into Federal court, in unlimited fashion, and bring lawsuits against our own troops for their behavior? The answer is no.

But Senator LEVIN was right. The military commission, part of it is written in a way without a direct appeal to Federal courts. There is historical precedent for doing it in-house, but there is a Supreme Court review precedent. So I am willing to take that part of the amendment that was not really the focus of the lawsuit abuse and come up with a compromise the country should be proud of.

Now, as to Senator BINGAMAN's attempt to strike my language, I will vote against Senator BINGAMAN's amendment, and I will urge all those who voted for me last time to stand with me. Senator BINGAMAN is trying to create a right to the DC Circuit Court of Appeals for all enemy combatants to bring habeas petitions similar to an American citizen, not what we have done in our amendment but a true habeas petition under section 2241.

The question is, Does the Congress want al-Qaida members to have habeas rights similar to American citizens? I say no. Senator BINGAMAN allows that right to still exist. He addressed some of the concerns I raised. He says the

habeas petition cannot consider claims based on living conditions. Because I have described how outrageous these claims are—about the exercise regime, the reading materials—most Americans would be highly offended to know that terrorists are suing us in our own courts about what they read.

He has two exceptions, however. They can still bring habeas lawsuits similar to an American citizen, “whether such status determination was supported by sufficient evidence and reached in accordance with due process of law, provided that statements obtained through undue coercion, torture, or cruel or inhuman treatment may not be used as a basis for the determination; and (C) the lawfulness of the detention of such alien.”

The reason I am going to vote no on the Bingaman amendment is that these exceptions—the lawfulness of the detention of such alien—would allow a court, if they chose, to look at every condition of the enemy prisoner’s life and do, again, what we are trying to prevent, that you could go into Federal court and start asking for a Federal judge to intervene in your interrogation before it even starts. My belief is the military is the best group to run the war, not Federal judges.

So I am going to oppose Senator BINGAMAN’s amendment because it preserves habeas rights for noncitizen, foreign terrorists to come into Federal court at the District Court of Appeals, DC Court of Appeals, to put a wide variety of issues on the table. I do not think that is good for us. I do not think it is good for the war.

Now, I will vote with Senator LEVIN on our comprehensive package when it comes to how we are going to conduct the war on terror.

I will end with this thought. For the first time I know of, since September 11, 2001, we have sat down as a Congress and an administration to start thinking this thing through. We have come up with, I believe, a darn good package.

I say to Senator LEVIN, I have enjoyed working with him on this. I have been a military lawyer for over 20 years. There are a lot of things that go on in the Senate I do not know as well as I should. But I feel very comfortable that the war on terror is truly a war, that 9/11 was an act of war, it was not a crime, and if we will apply the law of armed conflict, we can be proud as a nation.

I say to the Senator, your amendment and my amendment together have gotten us back to where we should have been years ago, applying the law of armed conflict to these terror suspects in a way that goes beyond the Geneva Conventions because we are a nation that wants to do it right and then some. But we are also preserving our own ability to defend ourselves.

So to the world, if you are wondering what is going on in America now, if anybody goes to Guantanamo Bay, the Congress will be told about what goes on, and we will have a say about what

goes on. If anybody at Guantanamo Bay is determined to be an enemy combatant, not only will Congress be involved in how they are kept and how long they are kept, our Federal courts will review the actions of our military to see if they comply with the Constitution of our Nation. And that is a huge change.

I say to the Senator, I congratulate you for working with me—working together—to come up with a review process, where the world can know for sure that what we are doing meets our own constitutional standards. Enemy combatants are going to get a chance to go to Federal court. The Federal court is going to look at the big picture and see whether what we have done is constitutional, and when it comes to that individual’s case, to look at whether the procedures and standards that were involved were properly applied. The world should respect us for that. I am proud to have been part of that process.

To those who go to court and have their liberty interests dealt with, those who are going to be tried for law of armed conflict violations, we can tell the world that those people who will be tried at Guantanamo Bay will not be tried in secret. They will be tried in public to the extent that we can.

There is an op-ed piece today in the Washington Post by a defense counsel—and God bless him; I have been a defense counsel, and I want every right I can get as a defense counsel—saying that the trials at Guantanamo Bay are a lot different than the ones at Nuremberg. He is right in this regard. Nuremberg was trying people after the war was over. We will be trying people at Guantanamo Bay while the war is going on.

What we want to do is make sure the public knows as much as possible about the process, that the defendants understand the evidence against them, that they have the right to challenge the evidence, call witnesses, and testify. And they are presumed innocent. It is a very good infrastructure. But there may be some evidence down there about a particular defendant that has to be classified because to divulge that evidence would tip our enemy off as to what we are doing and how we are doing it.

We are still at war. It is important we understand we are still at war. But we can tell the world that for every person who goes through a military commission trial, we will be as open as we possibly can be without compromising our own security.

When that verdict is rendered, the Federal courts of the United States of America will look at the military action to see if it comports with the Constitution of our Nation, the preeminent legal document in the world, and will also review the individual’s case. I am proud of that. It is going further than we probably absolutely have to, but it is doing the American thing. It is putting American values on display.

Ladies and gentlemen of the Senate, tomorrow is a historic day in the war on terror. You have a chance to put some legal infrastructure in place that will be a model for the world, that will help us win this war on our terms. I am proud to have been part of it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I want to commend the Senator from South Carolina and my colleague from Michigan whom I have worked with these many years.

If the Senator from South Carolina will retake his seat for a minute while the chairman speaks, I wish to say I thank my distinguished colleague because I look upon the work by Members of the Senate toward a resolution of these very difficult issues regarding prisoners taken in this series of conflicts, seeing what we have witnessed in terrorism, where there are no clear precedents, in many ways, in history for this nonstate-sponsored aggression.

As we witnessed in the tragedy in Jordan, it is not restricted to Iraq and Afghanistan. As General Abizaid has briefed the Senate and, indeed, briefed the American public on television, this is a worldwide movement that goes all the way from Spain to Indonesia. And you do not know where they will hit next or whom they will hit or by what means they will hit.

But I do believe as to the work initiated by our distinguished colleague from Arizona, Mr. McCAIN, which you and I worked with him on, this matter, which you and Senator LEVIN have worked on, and to a limited extent—I am supporting you—I have had a voice, this is—and I say this with great respect to the President and the administration—a coequal branch of Government, the Senate. The Congress has a very clear mandate in the Constitution that we shall take care of the men and women of the Armed Forces. And this is part of that.

So I say to my good friends who have worked on this, well done. You are profiles in courage.

AMENDMENTS NOS. 2518 AND 2519

Now, Mr. President, as announced earlier, we will continue the remarks regarding the two amendments, one by my distinguished colleague from Michigan with his distinguished leader, the Senator from Nevada, and one by myself together with Senator FRIST.

Now, I wish to make an opening comment, and then I would like to yield the floor for such time as my distinguished colleague may speak, and then I will make some closing comments.

But it is important in our bill, and particularly on the last day, to address the situation in Iraq. But, indeed, it is broader than Iraq. It is, as I said a moment ago, the militant Jihadists attacking from Spain to Indonesia, wherever they want to bring freedom and current government to a standstill.

So we could have devised on this an entire amendment out of whole cloth,

but it seemed to me—and I am going to take responsibility—it seemed to me that we could show the maximum bipartisanship if we took the amendment, as drawn by my distinguished colleague from Michigan, Senator REID, and others, and made a minimal number of changes.

That is exactly the posture of these proper amendments. That, to me, indicates how much we really agree upon, page after page, paragraph after paragraph. It is carefully drawn so, first, the Senate expresses the sense of the Senate, not binding on the executive branch, it is the sense of the Senate. Then the second portion is a reporting requirement. But those reporting requirements are looking forward. We are not going back to debate history. History will debate that fully. We are going forward because the next 120 days, with Iraq in particular in mind, with the election in December, the formation of a new government, this next 120 days we must maintain stability, a clarity of understanding among the American people and the Iraqi people, and we cannot adopt any language, be it sense of the Senate or reporting language, that in any way raises speculation. Everything we say about the implementation of our Armed Forces should be with complete clarity.

The amendment by my good friend from Michigan left only the option, in the reporting to the President, of putting out unclassified information. That, to the maximum, the executive branch will do. But there are certain aspects—and every Member should be cognizant of this—of this very complicated war on terrorism that have to be given to the Congress in a classified version.

So that is the sum and substance of our amendment. Take away any indication of timetable, give the President the option to do unclassified and classified and have a forward-looking approach as we go into these next 120 critical days. This document can be referred to, hopefully, as a bipartisan instrument.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I thank my dear friend from Virginia for his positive comments. As always, he seeks to build bridges and to overcome differences and to reach across the aisle. It is typical of him, and it has been that way since the first day I met him many years ago.

The Levin-Reid amendment—there are two amendments pending—is an effort to, indeed, try to improve the situation in Iraq, to try to change the course for the better. There is no date for withdrawal in our amendment. It is not saying that we will withdraw troops at any particular specific date. We have done that because we think it would be a mistake to set a specific date, at least most of us do. On the other hand, we believe it is essential that we change course in a number of

directions in order to improve the chances of Iraq becoming a success.

America is going to be less secure if Iraq is a failed state. Everybody agrees on that. The question is, How can we improve the chances of Iraq not becoming a failed state? What could we do here, carrying out our responsibility, what contribution can we make here to success in Iraq? Things are not working very well in Iraq in many ways. I know there are people who will point to progress in Iraq and, obviously, there are things to which one could point. But on the other hand, there are things that are not working well, and this amendment intends to address those in a constructive and positive way.

Staying the course is not a strategy; that is a slogan. How do we improve the chances for success? How do we modify our course so that we can achieve or help the Iraqis achieve—more accurately—a nation? And how can we also look forward to the day when our troops come out sooner rather than later?

This amendment looks at the year 2006 as a transition year, with Iraqi forces taking over security functions to a far greater extent. For that to happen, this amendment points out that a number of things need to happen. First, we have to advise the Iraqis that we are not there for an indefinite period of time, that they must take the steps necessary to achieve a broad-based political settlement which is so essential to defeating the insurgency. Our military advisers are unanimous on this point. There is no purely military solution unless the Iraqis come together politically. Unless they unify politically, they will not be able to defeat the insurgents. It is a point which must be made to the Iraqis. They cannot simply continue to squabble over the content of a constitution. They have to come together or else they are not going to succeed, and we are not going to succeed in helping them to achieve the security they want.

We need to advise the Iraqis we are not there indefinitely. They have to take the steps necessary to achieve a broad-based political settlement which is critically important to defeating the insurgency. We need a plan for success. We don't have a plan for success. I will speak more about that in a moment.

I want to go through the amendment. I want to point out where there is apparently agreement and where there is disagreement and what the significance is of both. The sense of the Senate starts by saying something that I think every Member of this body would agree with:

... members of the United States Armed Forces who are serving or have served in Iraq and their families deserve the utmost respect and the heartfelt gratitude of the American people for their unwavering devotion to duty, service to the Nation, and selfless sacrifice under the most difficult circumstances.

We start with that. Our troops and their families deserve the very best in

equipment, training, and support, but also in our thinking. That doesn't mean there is going to be unanimity around. People who disagree on what the next step should be should not be pilloried in any way or criticized as being less American than those who support the administration's policy lock, stock, and barrel. There is a place for constructive criticism, for different points of view in a democracy. That is what our troops have always fought for. That is what men and women have died for, so that we would have an opportunity to have the kind of debate on policy which is going on now.

First, our heartfelt gratitude to our troops. Second, the sense of the Senate recognizes that the Iraqi people have made enormous sacrifices and that the overwhelming majority of Iraqis want to live in peace and security. There is no disagreement on that. The alternative amendment that we will be voting on does not differ with that.

The next paragraph there is no difference on either. Both amendments have the same language. There is no change in our version from the Frist-Warner version. That is:

... calendar 2006 should be a period of significant transition to full Iraqi sovereignty, with Iraqi security forces taking the lead for the security of a free and sovereign Iraq, thereby creating the conditions for the phased redeployment of United States forces from Iraq.

That is in paragraph 3 of the sense of the Senate. There is no change in that language to the Frist-Warner language. That is paragraph (b)(3). Creating the conditions for the phased redeployment of U.S. forces from Iraq surely ought to be a goal.

(4) United States military forces should not stay in Iraq indefinitely and the Iraqi people should be so advised.

That is an important statement to the Iraqi people, and it is an important statement to our people. We should not be staying in Iraq indefinitely. That is the wrong message to send for a number of reasons to the Iraqi people.

What the Warner version does is, it strikes the word "indefinitely" and says:

United States military forces should not stay in Iraq any longer than required and the people of Iraq should be so advised.

The problem with that is, they could be required forever. That is open-ended. It is unlimited. It is the wrong message. That is a difference, and it is the first difference.

The next paragraph, there is no difference on:

... the Administration should tell the leaders of all groups and political parties in Iraq that they need to make the compromises necessary to achieve the broad-based political settlement that is essential for defeating the insurgency... within the schedule that they have set for themselves.

By the way, the schedule that they have set for themselves is to appoint a commission when the new assembly takes office in January, to appoint a constitutional commission to review the constitution and make recommendations for changes within 4

months. That is their schedule. They ought to keep that.

Next—there is no disagreement on this language—

... the Administration needs to explain to Congress and the American people its strategy for successful completion of the mission in Iraq.

No difference on that language.

Now to paragraph C on the reports.

Mr. WARNER. Mr. President, to help those following, you have now concluded that section entitled “Sense of the Senate.” Both amendments have it phrased such, not binding on the administration.

Mr. LEVIN. That is correct.

Mr. WARNER. As you carefully pointed out, but I would like to repeat, the entire section that you have referred to we have accepted—I accepted and recommended to my colleague—except for that one change of striking “indefinitely” and using “any longer than required.” And when I regain the floor, I will explain why I felt that modest one-word change was important. Other than that, we have accepted in its entirety that section entitled “Sense of the Senate” accept for a one-word change.

Mr. LEVIN. The Senator is correct.

On the report section, there is a change from 30 days to 90 days, which I will not spend time on. I think it is a fairly technical change, that there is not a particular difference or problem.

After that first report, whether it is 30 days or 90 days—30 days in our version, 90 days in Senator WARNER’s version—every 3 months thereafter, until all U.S. combat brigades have been redeployed from Iraq, the President shall submit to Congress an unclassified report on U.S. policy and military operations in Iraq. In our version we say:

Each report shall include the following:

What the Warner version adds is “to the extent practicable, unclassified information.” And by the way, it is clear that there is classified information that cannot be in a report, and we don’t suggest to the contrary. We just want an unclassified report to the extent you can have an unclassified report on each of the following items:

... The current military mission and the diplomatic, political, economic, and military measures, if any, that are being or have been undertaken to successfully complete that mission.

So far, no difference on that one.

Efforts to convince Iraq’s main communities to make the compromises necessary for a broad-based and sustainable political settlement.

That is what I referred to before. It is so critically important that we must convince the communities in Iraq that they must make the compromises necessary for a broad-based, politically acceptable settlement. No difference on that language; no proposed change in that.

Next, in our amendment, we need to engage the international community and the region in the effort to stabilize Iraq and to forge a

broad-based and sustainable political settlement.

No difference on that.

We need a report to us every 30 days on what is being done to strengthen the capacity of Iraq’s Government ministries; to accelerate the delivery of basic services; to secure the delivery of pledged economic assistance from the international community, and additional pledges of assistance; to train Iraqi security forces and transfer security responsibilities to those forces and the Government of Iraq.

No difference on that in terms of what must be in this report.

Next, we need in this report to know whether the Iraqis have made the compromises necessary to achieve the broad-based and sustainable political settlement—

We need to keep the pressure on the Iraqis. We need the administration to tell us the Iraqis have made the compromises necessary. Without that kind of keeping the Iraqis’ feet to the fire, it is less likely the Iraqis are going to make the kind of broad-based compromises that are necessary—the compromises that are necessary to achieve that broad-based political settlement that is essential, in our words, to defeat the insurgency in Iraq.

And now we get down to the heart of the matter where there seems to be a difference, and I want to spend another couple minutes on this. This report, according to our amendment—not disagreed to with the Warner amendment—must include specific conditions that were included in an April 2005 campaign action plan and any subsequent update to that campaign plan that must be met in order to provide for the transition of security responsibility to the Iraqi security forces.

There seems to be no objection to that. There is no change in that. So we want that document, that report from the administration to set forth any specific conditions that were in the April 2005 campaign action plan and any updates to that campaign plan that need to be met in order to provide for transition of security responsibility.

There is an acknowledgement by no change in our language that there is a report containing conditions, that there is a need for updates to that campaign plan that need to be met in order to provide for the transition of security responsibility to the Iraqi forces.

Now we then have language which on this whole next page is not objected to, which is accepted, which is that to the extent these conditions are not covered, as I have just outlined, the following needs to be addressed. We lay out here one, two, three, four conditions: number of battalions of Iraqi Armed Forces that have to operate independently or take the lead in counterinsurgency operations; number of Iraqi police units that have to operate independently or take the lead in maintaining law and order in fighting the insurgency, the number of regular police that must be trained and

equipped to maintain law and order; the ability of Iraq’s ministries and provincial and local governments to independently sustain, direct, and coordinate Iraq’s security forces.

Now, so far there is apparently no problem. We have laid out all of those conditions that need to be set forth in the report that has to come every 30 days after that first report.

Then in subsection (6) we have a requirement in the report that is also not objected to, which is a schedule for meeting such conditions. There is no objection to that in the Warner amendment. There is no language change in his version.

So we require a schedule for meeting those conditions which I have outlined and an assessment of the extent to which such conditions have been met, information regarding variables that could alter that schedule, and the reasons for any subsequent changes to that schedule.

So far, so good. No change in the language.

Mr. WARNER. Mr. President, if the Senator will yield, for those following, we covered first the sense of the Senate. The Senator has now covered very carefully all the other provisions. It seems to me that there has been no disagreement whatsoever between the two sides. You pointed out, yes, I asked for 90 days; you have 30. But I don’t think that was particularly troublesome. And I pointed out that one little change in language, “to the extent practicable,” so that the President could include classified. So in essence there is absolutely no difference between the two amendments up to the point you are now addressing, which is the last paragraph; is that correct?

Mr. LEVIN. Not quite, because there was that one change which the Senator from Virginia made in the sense-of-the-Senate language.

Mr. WARNER. No, I pointed that out.

Mr. LEVIN. I know you said there has been no change other than this. I said there was a prior one which we agreed was a change.

Mr. WARNER. I was referring to now the statutory report language. There is no difference until you get to the last paragraph.

Mr. LEVIN. I would agree. Now to the last paragraph, which for reasons beyond me has been stricken.

We referred to the campaign plan—without objection. There was a campaign plan we referred to which said, what are the conditions in that plan that must be met in order to provide for the transition of security responsibilities to Iraqi security forces? There is the campaign plan. There are the conditions which have been laid out, which of those conditions must be met in order to achieve the goal which we have agreed on in this document—transition of security responsibility to security forces.

Then we have agreed that the report has to contain a schedule for meeting those conditions. What are the conditions? What is the schedule for meeting

them? Three times we refer to that schedule in that same paragraph. No objection so far.

But now we say that campaign plan should also contain estimated dates for the phased redeployment of the United States Armed Forces from Iraq as each condition is met. The conditions are already laid out. What is the campaign plan with estimated dates for the phased redeployment as those conditions are met?

Then we explicitly acknowledge that, with the understanding that unexpected contingencies may arise.

We have already made reference to the phased redeployment. That is the first time we have made a reference to phased redeployment.

In the sense of the Senate, paragraph (b)(3), we have said:

Calendar year 2006 should be a period of significant transition to full Iraqi sovereignty, with Iraqi security forces taking the lead for the security of a free and sovereign Iraq, thereby creating the conditions for the phased redeployment of United States forces from Iraq.

So in subparagraph (7), the last paragraph, which makes reference to the campaign plan—we have already described what that is, with no objection to it—are the estimated dates for the phased redeployment of the United States Armed Forces from Iraq—we have already made reference to the goal of phased redeployment of United States Armed Forces—as each condition is met. We already have agreement on everything up to now, talking about all those conditions and the need that they be met, with the understanding that unexpected contingencies may arise, which I can't imagine anybody would object to because there are unexpected contingencies that always arise. We have acknowledged this.

But why it is there is objection to acknowledging what is obvious, that a campaign plan needs to have dates, estimated dates for the phased redeployment we have already agreed is desirable, as conditions allow and as each condition is met? Why that would be objectionable is frankly a mystery to me unless there is a reluctance to do what we do in an earlier paragraph, which is to say, folks, we can't stay there forever, we have a plan for success, where there is a takeover of the major security operations by the Iraqis so we can in a phased way redeploy our forces. Eliminating that part of the plan, it seems to me, is eliminating what is essential, what clearly follows from everything that precedes it, which has been agreed to, and I think it would send exactly the wrong message, to agree to all of the pieces that come up to that conclusion, including the conditions which need to be met, the desirability of phased redeployment, the fact that there is a campaign plan, the fact that that campaign plan has conditions in it that need to be met in order to provide for the transition of security responsibility.

It is all there. It is all there in the pieces leading right up to paragraph (7). Suddenly in the Warner version, paragraph (7) is stricken.

Again, I close with this emphasis. We have not said in this document that there should be a date for withdrawal. We said there should be a plan. What are the conditions for phased redeployment? What would it take for this to happen? What number of battalions need to be brought up to capability on the part of the Iraqis in order for there to be a number of our forces that are reduced and under what conditions? What are those circumstances and conditions which will allow us to reduce our forces?

For the administration to resist stating to the American people what are the conditions that need to exist for us to reduce our forces in Iraq it seems to me is wrong. It means there is no plan, there is no strategy that they are willing to lay out for the American people and for the Iraqi people as well so that there is no misunderstanding as to where this responsibility must fall ultimately, which is on the people of Iraq to come together politically and to take over their own military security.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, again I commend my colleague. I think I have fairly clearly stated, and I believe there has been concurrence, the document prepared by the Senator and others is virtually accepted in our amendment. The changes that I put out, the one simple change in the sense of the Senate, you understood that. Then we get to the conditions, which is changing 120 days instead of 30. So I say to my colleague—and I think the Senator has been very fair and objective about it—the amendments are parallel in every respect except the last paragraph.

I say to my good friend, I say to all Senators, the next 120 days are critical. If this is to become law, the President would have to start every 90 days addressing the estimated dates for the phased redeployment of United States Armed Forces from Iraq. No mention about the other coalition forces.

I say that few words can be interpreted by all as being the timetable, and we do not in this 120 days, in my judgment, want to have any hint whatsoever of a timetable. It is so critical, with all the progress thus far by the Iraqi people—elections and a series of transitional governments, then acceptance of the constitution by referendum, then the election of a new legislative body, and then they have to stand up and begin to strengthen the ministries and take hold in such a way that it is clear to the Iraqi people and the world that that government is in control. To put any language such as this in there, to suggest any timetable by which we begin to withdraw forces, would undermine entirely and make highly risky the next 120 days.

I yield the floor.

Mr. LEVIN. Will the Senator yield for a correction? I inadvertently said the report would be every 30 days after the first report. I misspoke. It would be every 90 days, as the Senator from Virginia correctly has stated. It would be every 90 days after the first report.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, this is one of those quiet moments in the Senate with very few people in the Chamber when, in my opinion, something very important is happening. It is happening in good measure because of the two good men, my colleagues from Virginia and Michigan, who lead the Armed Services Committee, of which I am privileged to be a member. They are two gentlemen, two patriots, two people who have known each other for a long time, who work closely together, respect each other, even seem to like each other and, most important of all, trust each other.

Those qualities of personal trust and personal relationship have been too absent from our Nation's consideration of the ongoing war in Iraq among our political leadership. We have, I am convinced, suffered from it.

It is no surprise to my colleagues that I strongly supported the war in Iraq. I was privileged to be the Democratic cosponsor, with the Senator from Virginia, of the authorizing resolution which received overwhelming bipartisan support.

As I look back on it and as I follow the debates about prewar intelligence, I have no regrets about having sponsored and supported that resolution because of all the other reasons we had in our national security interest to remove Saddam Hussein from power, a brutal, murdering dictator, an aggressive invader of his neighbors, a supporter of terrorism, a hater of the United States of America. He was for us a ticking timebomb that if we did not remove him I am convinced would have blown up, metaphorically speaking, in America's face. I am grateful to the American military for the extraordinary bravery and brilliance of their campaign to remove Saddam Hussein.

I know we are safer as a nation, and to say the obvious that the Iraqi people are freer as a people, and the Middle East has a chance for a new day and stability with Saddam Hussein gone. We will come to another day to debate the past of prewar intelligence. But let me say briefly the questions raised in our time are important. The international intelligence community believed Saddam Hussein had weapons of mass destruction. Probably most significant, and I guess historically puzzling, is that Saddam Hussein acted in a way to send a message that he had a program of weapons of mass destruction. He would not, in response to one of the 17 U.N. Security Council resolutions that he violated, declare he had eliminated the inventory of weapons of mass destruction that he reported to

the U.N. after the end of the gulf war in 1991.

I do not want to go off on that issue. I want to say that the debate about the war has become much too partisan in our time. And something is happening here tonight that I believe, I hope, I pray we will look back and say was a turning point and opened the road to Republican and Democratic cooperation, White House and congressional cooperation, to complete the mission. As Senator LEVIN said, no matter what anyone thinks about why we got into the war and whether we should have been in there, it is hard to find anybody around the Senate—I have not heard anybody—who does not want us to successfully complete our mission there. I feel that deeply. If we withdraw prematurely from Iraq, there will be civil war, and there is a great probability that others in the neighborhood will come in. The Iranians will be tempted to come in on the side of the Shia Muslims in the south. The Turks will be tempted to come in against the Kurds in the north. The other Sunni nations, such as the Saudis and the Jordanians, will be sorely tempted, if not to come in at least to aggressively support the Sunni Muslim population. There will be instability in the Middle East, and the hope of creating a different model for a better life in the Middle East in this historic center of the Arab world, Iraq, will be gone.

If we successfully complete our mission, we will have left a country that is self-governing with an open economy, with an opportunity for the people of Iraq to do what they clearly want to do, which is to live a better life, to get a job, to have their kids get a decent education, to live a better life.

There seems to be broad consensus on that, and yet the partisanship that characterizes our time here gets in the way of realizing those broadly expressed and shared goals.

Politics must end at the water's edge. That is what Senator Arthur Vandenberg of Michigan said, articulating the important ideal that we seem to have lost too often in our time.

I found a fuller statement of Senator Vandenberg's position, the ideal. I found it to be in some ways more complicated and in other ways much more compelling. I want to read from it. Senator Vandenberg said:

To me "bipartisan foreign policy" means a mutual effort, under our indispensable two-Party system, to unite our official voice at the water's edge so that America speaks with maximum authority against those who would divide and conquer us and the free world.

If that doesn't speak to us today—the threat of Islamist terrorism, the desire they have to divide us and, in that sense, to conquer us in the free world. Senator Vandenberg continued in his definition of what he meant by bipartisanship in foreign policy:

It does not involve the remotest surrender of free debate in determining our position. On the contrary, frank cooperation and free debate are indispensable to ultimate unity—

Of which I speak.

In a word, it simply seeks national security ahead of partisan advantage.

I felt again in recent days and recent months how far we have strayed down the partisan path from Vandenberg's ideals. The most recent disconcerting evidence of this was the lead story from the Washington Post—it was in papers all over the country—last Saturday, November 12. I read from that story:

President Bush and leading congressional Democrats lobbed angry charges at each other Friday in an increasingly personal battle over the origins of the Iraq war. Although the two sides have long skirmished over the war, the sharp tenor Friday resembled an election year campaign more than a policy disagreement.

That from Saturday's Washington Post. Campaign rhetoric over policy debate, and what about? About how we got into the war 2½ years ago, not about how we together can successfully complete our mission in Iraq.

The questions raised about prewar intelligence are not irrelevant, they are not unimportant, but they are nowhere near as important and relevant as how we successfully complete our mission in Iraq and protect the 150,000 men and women in uniform who are fighting for us there.

I go back to Vandenberg's phrase; the question is how Democrats and Republicans can "unite our . . . voice at the water's edge . . . against those who would divide and conquer us and the free world" in Iraq, I add, and beyond.

The danger is that by spending so much attention on the past here, we contribute to a drop in public support among the American people for the war, and that is consequential. Terrorists know they cannot defeat us in Iraq, but they also know they can defeat us in America by breaking the will and steadfast support of the American people for this cause.

There is a wonderful phrase from the Bible that I have quoted before:

If the sound of the trumpet be uncertain, who will follow into battle?

In our time, I am afraid that the trumpet has been replaced by public opinion polls, and if the public opinion polls are uncertain, if support for the war seems to be dropping, who will follow into battle and when will our brave and brilliant men and women in uniform in Iraq begin to wonder whether they have the support of the American people? When will that begin to affect their morale?

I worry the partisanship of our time has begun to get in the way of the successful completion of our mission in Iraq. I urge my colleagues at every moment, when we do anything regarding this war, that we consider the ideal and we are confident within ourselves. Not that we are stifling free debate. Free debate, as Vandenberg said, is the necessary precondition to the unity we need to maximize our authority against those who would divide and conquer us. But the point is to make

sure we feel in ourselves that the aim of our actions and our words is national security, not partisan advantage.

Now we come to today. After reading that paper on Saturday, I took the original draft amendment submitted by Senator WARNER and Senator FRIST—it actually wasn't offered, but it was around—and Senator LEVIN and Senator REID. I took the amendments back to Connecticut, and last night I looked them over. Neither one expressed fully what I hoped it would, but as I stepped back, I said that these two amendments—one Republican, one Democrat, unfortunate in a way breaking by parties—these amendments are not that far apart.

I like the way in which the Warner amendment recited again the findings that led us to war against Saddam Hussein and, quite explicitly, cited the progress that has been made. I do think Senator LEVIN's amendment doesn't quite do this part enough, about the progress, particularly among the political leaders of Iraq. They have done something remarkable in a country that lived for 30 years under a dictator who suppressed all political activity, encouraged the increasing division and bitterness among the Shia's, the Sunnis, the Kurds. These people, with our help and encouragement, have begun to negotiate like real political leaders in a democracy. It is not always pretty. What we do here is not always most attractive. That is democracy. Most important of all, 8 million Iraqis came out in the face of terrorist threats in January to vote on that interim legislation. Almost 10 million came out to vote on a constitution, which is a pretty good document, a historically good document in the context of the Arab world.

What happened when the Sunnis felt they were not getting enough of what they wanted in a referendum? They didn't go to the street, most of them, with arms to start a civil war; they registered to vote. That is a miraculous achievement and a change in attitude and action. They came out to vote in great numbers, and they will come out, I predict, again in December in the elections and elect enough Sunnis to have an effect on the Constitution next year.

So I wish that some of that had been stated in Senator LEVIN's amendment.

Mr. LEVIN. Would the Senator yield on that point?

Mr. LIEBERMAN. I would.

Mr. LEVIN. My amendment is exactly the same as Senator WARNER's amendment in that regard. Senator WARNER has adopted my amendment with two minor changes. He has not made any change in terms of the progress that has been made or the reference to the great work of our troops. I thought I heard the Senator from Connecticut—and I have no dearer friend in the Senate—suggest that he had wished that my amendment would be more fulsome relative to progress. I

just wanted to assure the Senator that there is no change in that language in the version which was subsequently filed by the Senator from Virginia.

Mr. LIEBERMAN. I thank my friend from Michigan. What I said, and I know the Senator from Michigan was involved in a conversation, I was actually going back and quoting the draft of the Warner amendment that was circulating at the end of last week which had statements about why we went to war and marked the progress that had been made politically and economically since then. But the Warner amendment did not raise questions about what our plan is now and how to successfully complete the mission. It did not raise the questions Senator LEVIN's amendment rightly raises for progress reports from the administration about how we are doing and in that sense did not create an opportunity for a dialogue that can get us beyond the partisan gridlock in our discussions about the war. I wrote a statement last night expressing my frustration on that.

I had other concerns about Senator LEVIN's amendment, including particularly the last paragraph which I believe creates a timetable for withdrawal, and I think that is a mistake, particularly in the next 3 to 6 months as the Iraqis stand up a new government. It may not be the intention of the sponsors, but it does send a message that I fear will discourage our troops because it seems to be heading for the door. It will encourage the terrorists, and it will confuse the Iraqi people and affect their judgments as they go forward.

Incidentally, I do thank the Senator from Michigan because I know he and others in the Democratic caucus worked very hard to make this amendment an inclusive amendment. I had the opportunity to make a few suggestions, some of which were accepted, some of which were not. Then I arrive back in Washington today and I find that the Senator from Virginia has decided not to put in that amendment, has seen some real strengths in the amendment of the Senator from Michigan, has cut out a few points as enumerated, that I personally—and Senator WARNER and I had no conversation about this—thought weakened or at least I found objectionable. I think it is better to strike the word “indefinitely,” that our troops will not stay there indefinitely. Of course they will not stay there indefinitely but to make the telling point that we will stay there as long as conditions require and no longer. I fear that if a timetable is put in at the end, ask for a series of dates of phased deployment, even though they are based on those conditions that were cited, it looks like a withdrawal plan and does not send a sound of strength, the sound of a certain trumpet.

The point that I wish to make is that Senator WARNER has now taken most of Senator LEVIN's amendment. The Republican leader, if I could talk in

partisan terms, has said to the Democratic leader: We accept most of his amendment with these few changes. I think this is a turning point. It is a significant development in terms of the Senate's consideration of the war in Iraq and hopefully in terms of the administration's consideration as well.

The distrust, the lack of dialogue between the executive branch and Democrats in Congress is so deep and complicated now that I cannot even begin to describe how we got to this point. I know it is a bad place to be, particularly when we are at war.

I remember the words of the Secretary of War during the Second World War, Henry L. Stimson—this was actually after the war. He said: Sometimes the best way to make a person—and he really meant a nation—trustworthy is to trust them. That has been lacking in the relations between the executive branch and the Democrats in Congress.

I believe Senator WARNER, the Republican chairman of the Armed Services Committee, in accepting almost all of the Democratic amendment, has in some sense expanded the trust he feels for the ranking Democrat on the committee and created a process where the administration does have to report to us every 90 days, and if the administration—let me put it another way, respectfully. I hope the White House, the Pentagon, sees this also as a moment of opportunity to engage with the Congress so that we will achieve, after free debate—and that is exactly what we have heard on the floor tonight—the result Senator Vandenberg spoke to, which is that we will, under our indispensable two-party system, unite our official voice at the water's edge so that America speaks with maximum authority against those who would divide and conquer us in the free world.

It is a different kind of enemy, but the extremist Islamist terrorists who face us, as Senator WARNER said, from Spain to Indonesia, it is their plan for conquer. They struck us on 9/11. They are preparing to strike us again. If we cannot pull together across party lines to defeat this enemy to our security and our way of life, shame on us, particularly if we are stopped from doing so by momentary partisan political ambitions.

So I am going to vote for the Warner amendment—I believe it is a significant step forward—for the reasons I have said, because of the timetable at the end particularly. I am going to respectfully vote against the Levin amendment. I hope the Levin amendment comes up first, and if it is not passed, I hope there is an overwhelming bipartisan vote for the Warner amendment.

I cannot resist one final quote from the great Vandenberg—succeeded by another great Senator, I might say, from Michigan, Mr. LEVIN—and this is that famous speech on January 10, 1945, when he abandoned his long-time isolationism and embraced an internationalist foreign policy, and, boy, did his

words speak directly to us in our circumstances in Iraq and around the world today. I hope they give us pause. I hope in some sense—frankly, they give us a bit of discomfort about some of the things that have happened in the political consideration of the war.

Here is what Vandenberg said:

There are critical moments in the life of every nation, which call for the straightest, the plainest and most courageous thinking of which we are capable. We confront such a moment now. . . .

And we do today, as well.

Vandenberg continued:

. . . It is not only desperately important to America, it is important to the world. It is important not only to this generation, which lives in blood . . .

As ours sadly does, as the people who were in the Trade Towers and the Pentagon and Jordan over the weekend and so many other places around the world.

. . . It is important to future generations if they shall live in peace. No man in his right senses will be dogmatic in such an hour.

I digress to thank the Senator from Virginia for coming across the aisle a long way. I thank the Senator from Michigan for the work he did to make his amendment as inclusive and broad as it was so that it enabled the Senator from Virginia to do that.

Vandenberg ended:

Each of us can only speak according to his little lights—and pray for a composite wisdom that shall lead us to a high, safe ground.

That is exactly what we need with regard to Iraq today. We have to do what is best for our country. We have to do what is best for the 150,000 Americans who are there. We have to do what best enables us to do what we say we all want to do, which is to successfully complete America's mission in Iraq. The sooner we do that, what is best for our country and our great military, the sooner we will succeed in Iraq, and the sooner we will be able to bring our brave soldiers home.

This compromise amendment offered by Senator WARNER, building on the excellent work Senator LEVIN has done, is an enormous step forward toward that higher ground. I thank them both for the work they have done.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, there are rare moments in the life of the Senate that one shall never forget. I thank the Senator not just because he has indicated support for my amendment but for the Senator's very extraordinary observations about the times, the difficulty, and the need to have bipartisanship and to leave our politics at the water's edge. As I said earlier, I take responsibility for adopting this course rather than the earlier draft I had prepared.

I say to my colleagues on both sides of the aisle, it is an expression of how close we really are on the fundamental things. The sole point of difference is how each Senator shall read the last

paragraph. It is as simple as that. I read it as lending to the world an interpretation of what we have done and what we will do in the future as embracing some definitive timetable, and the President will have to every 90 days address those key words and in doing so could well complicate and jeopardize the next 120 days, which this Senator thinks is so critical.

I yield the floor.

**THE PRESIDING OFFICER.** The Senator from Michigan.

Mr. LEVIN. Mr. President, first let me thank my good friend from Connecticut, particularly for his repeated reference to a Senator from Michigan whom we all hold in such huge esteem—particularly Michigan, but it is not limited, obviously. We just put his portrait out in the reception room, one of the two Senators we have added in that reception room. I believe there are only seven Senators whose portraits are there. One of them is now Senator Vandenberg. I quote him often for many purposes, including the bipartisan foreign policy that he espoused.

As the Senator from Connecticut pointed out, he also urged us to give our very best thinking and not to worry about being mischaracterized or being challenged in terms of patriotism because all of us, I believe, agree that when we give our best assessment of the path forward, the success in Iraq, that we are all acting in the best of faith.

I know every colleague I either know of or do not know of is operating in the best of faith, total support for our troops, total support for their families, and how we can best succeed in Iraq. I believe we have to make some changes in our course. This amendment explicitly suggests some of those changes in course. It will hopefully make it more likely that we will succeed in Iraq.

One thing I know for sure, and that is that unless the Iraqis take hold, unless they put their political house in order, unless they do what this amendment says in both versions, that they make the political compromises and the tough political decisions that are necessary for them to be unified against the insurgency, unless they do that, there is no chance that they are going to succeed against this insurgency. They must come together politically. That is what this amendment says.

This amendment provides that they also must understand that we are not there for an unlimited period of time, because if they do believe that we are there for an unlimited period of time, they are less likely to make the political compromises which must be made for them to unite against the insurgency. That is the reason the message is so important. Are we there for an unlimited period of time, as long as you need us? Is that the right message? Or is the right message that we are not there for an unlimited period of time, we are not setting a date for departure, but we are putting you on notice, folks, you need to get your political house in

order so that you can defeat, with our assistance, that insurgency. And without that kind of coming together, that military success is either unachievable or far more difficult.

That is the purpose of this amendment, and that is why the few words that were in this version, which the Senator from Virginia would change, are important words, to let the Iraqis know that the American military forces are not going to be there indefinitely, because, again, if they think we are there as long as they need us, which is the way the administration has phrased it, it is less likely that they are going to make the very difficult compromises that need to be made in order to put together a modified constitution around which all Iraqi factions can rally.

That is one of the purposes of this amendment. The other purpose is on the reports, which already, in this amendment which has been agreed to by my friend from Virginia, this amendment as written and as agreed to—there is no change to this—requires a schedule for meeting conditions. It requires a listing of variables that could alter a schedule. It requires that reasons be provided for any subsequent changes to that schedule.

What is one of the conditions? One of the conditions is that there be a campaign plan that must be met to provide for the transition of security responsibility to Iraqi security forces. So that is one of the stated conditions, that there be this campaign plan provided to the Congress, and that plan provide for the transition of security responsibility to Iraqi security forces.

Three times we make reference to a schedule and we make very clear the conditions which must be laid out as to which conditions need to be met when, including what are the number of the battalions in the Iraqi Armed Forces that can operate independently or take the lead in counterinsurgency operations—all that seems to be agreed to. We have a schedule. We have to lay out the conditions. One of the conditions is how many battalions of Iraqi Armed Forces need to be able to operate independently. We lay all of that out.

But then in the last paragraph, when we use the words “estimated dates” rather than “schedule,” for some reason the use of the words “estimated dates” creates a problem. Maybe it is not the words “estimated dates,” maybe it is the words “phased redeployment,” but I would again remind my colleagues that, in our sense of the Senate, we set forth a goal that, in order to succeed in Iraq, we have to have significant transition in the year 2006, with Iraqi security forces taking the lead, thereby creating the conditions for the phased redeployment of the United States forces. That is a goal stated and apparently agreed to by my good friend from Virginia.

There is much in common here. I think the Senator from Connecticut is right. There is clearly a sense we have

to do some things here to make it more likely that we are going to succeed in Iraq. That has to be everybody’s goal, regardless of what our positions were going in or how critical we are of the way this war is run. Our goal is to maximize the chances for success in Iraq.

But our amendment does have some differences. We should not paper over those differences. There are two differences, which the Senator from Virginia has pointed out and I have pointed out. I guess that is where it is going to rest when the Senate votes tomorrow.

Mr. WARNER. Mr. President, our magnificent service men and women, along with allies and partners, are supporting the Iraqis as they develop their own concepts of democracy. Jointly we are improving infrastructure, improving the internal security, and together confronting the extremists.

By any fair objective political measure, the people of Iraq are making progress. In 1 year, the Iraqis elected a transitional government, ratified a constitution, and are preparing to elect a permanent parliamentary government on December 15th.

During many hearings and briefings, the senior military commanders, particularly General Abizaid has stressed that the extremist militant jihadists are focusing on dominating a geographic area that extends from Spain to Indonesia. The tragic events in Jordan underscore the accuracy of that military analysis.

The al-Qaida group in Iraq claimed responsibility for the tragic attacks in Jordan against innocent Arab civilians. While portions of Iraq remain focal points for terrorist attacks, the threat extends far beyond.

This enemy seeks neither compromise nor coexistence with the United States or others who do not share their world vision. The United States, along with partners and allies, must continue their strong resolve and effectively address this threat. The civilized world has no choice.

Of equal importance to the military mission in Iraq is the development of political structures and reconstruction of the infrastructure. I, like many of you, have made a number of trips to Iraq: I have seen progress.

Now I would like to specifically address the pending amendments related to our policy to achieve our military, political, and reconstruction goals in Iraq. While there are similarities, the amendments differ on several major points.

Both amendments recognize the magnificent work being done by our Armed Forces; the unwavering support of their families at home; the importance of political developments to take place in Iraq next year; the necessity to put Iraqi Security Forces in the lead in securing Iraq; and the requirement to keep the American people well informed of all aspects of the military, political, and reconstruction efforts in Iraq.

Both amendments call for the President to submit a quarterly report on our progress in Iraq. While Congress already receives a number of reports and Members and committees in both bodies receive briefings from civilian and military leaders, this report from the President would become the most comprehensive report on the situation in Iraq.

These are the three important differences between the two amendments.

No. 1 the reporting timeline—section c. The Warner-Frist amendment calls for the first report 90 days after the enactment of the Act. Ninety days allows the President sufficient time to assemble this very wide-ranging report. A report of this scope will require close consultation with all departments and agencies of the Federal Government; American diplomats in Iraq and in the region; United States allied and partnered nations; and our military leaders here and in the theater of operations.

The Levin amendment would allow for just 30 days of coordination and consultation before submitting the initial report. I believe that is insufficient time to produce a report as comprehensive as this.

No. 2 is section c. The Levin-Reid amendment calls for a completely unclassified report. The Warner-Frist amendment directs that the report be unclassified to the extent possible. This is an important distinction. Some information on international negotiations and agreements, and plans for Iraq's domestic security will be an integral part of the development of Iraqi security forces, this may be too sensitive to be presented in an unclassified forum. The Warner-Frist amendment allows the President to produce a classified annex if the President and his advisors believe it is necessary.

No. 3 is a campaign plan with estimated dates for phased withdrawal—section c(7). The Levin-Reid amendment asks for a campaign plan with estimated dates for the phased withdrawal of U.S. forces to be published in the unclassified report. I believe that any program for the withdrawal of American combat forces must be conditions-based, and linked to specific, responsible benchmarks not just dates on a calendar, *per se*. While I agree that we must continue to make it clear to the Iraqis that a program for withdrawal is a common goal, any announcement of immediate withdrawal or even speculation of withdrawal before a secure and democratic Iraq is in place is simply not prudent.

I am concerned that the release of a timeline such as that in the last paragraph of the Levin-Reid amendment now that announces our withdrawal plans, even with estimated dates, could promote speculation and send an erroneous message to our troops, the Iraqi people, our coalition partners, and the terrorists.

I urge you to vote for Warner-Frist amendment and that we follow Levin

and Reid, rather than an entire new amendment to show how much we do agree on and that this is an effort to seek partisanship.

We are down to two differences: the word “indefinite,” which to me precludes the chance—could be construed as we would not leave a very small unit there to facilitate the logistic transfer, the need to bring up to a level of acceptability the armaments the Iraqis have; and the continuation of some security work as well as training. But I will not belabor the point. I was very specific in the careful choice of words substituted for “indefinite.”

The last paragraph—every Senator has to decide for himself or herself the clear meaning of the English language and whether that cannot be construed by many to invoke the thought of a timetable.

I say to my good friend, we have had a very good debate tonight. How fortunate we are that our distinguished colleague, a long-time member of the committee, the Senator from Connecticut, joined us.

I think we have done a good service to our colleagues who, in a very brief period tomorrow, will be required to focus on this and cast their votes accordingly.

Mr. LEVIN. Mr. President, I hope we have performed that service. I know we all tried in good faith to do it. I am perfectly content, as the Senator from Virginia is, that our colleagues read that last paragraph, read the paragraph before that making reference three times to schedules, read the entire resolution we have written, and then determine as to which is the better message to send to the Iraqis.

I am perfectly content to leave it rest there.

Mr. WARNER. Mr. President, I think the matter now is that the Senate should go off the bill and I will proceed to do morning business.

Mrs. DOLE. Mr. President, I thank Chairman WARNER and ranking Member LEVIN for their leadership in bringing the fiscal year 2006 Defense authorization bill, S. 1042, to the floor and shepherding it through to final passage after months of unfortunate delays.

Due to procedural limitations associated with the managers' amendment which included my amendments, it was impossible to have original cosponsors added. The following Senators are cosponsoring certain of my amendments:

Senators CHAFEE and DEWINE would like to cosponsor my amendment to provide for mental health counselors under TRICARE, S.A. 2456; Senators NELSON of Florida, TALENT, ROBERTS and HARKIN would like to cosponsor my amendment to require a report on predatory lending directed at members of the Armed Forces and their dependents, S.A. 2468.

#### MORNING BUSINESS

Mr. WARNER. I ask unanimous consent there be a period for morning busi-

ness with Senators to speak for up to 10 minutes each.

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

#### LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On November, 7, 2005, in New York City, NY, Kyle Spidle was attacked near the Monster Bar where he worked. The attack began when two men began yelling from a vehicle at Mr. Spidle about the way he was walking down the street. When Mr. Spidle yelled back the pair of men got out of the car and begin to beat him. According to police, the pair hurled homophobic epithets at Mr. Spidle as they beat him

I believe that our Government's first duty is to defend its citizens, in all circumstances, from threats to them at home. The Local Law Enforcement Enhancement Act is a major step forward in achieving that goal. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

#### ADDITIONAL STATEMENTS

#### MONTANA'S BLUE RIBBON SCHOOLS

• Mr. BURNS. Mr. President, I rise today to honor Bryant Elementary School, Chief Joseph Elementary School, and Huntley Project Elementary School. Montana is proud and I am honored to recognize these three schools identified as blue ribbon schools under No Child Left Behind.

As the spouse of a schoolteacher, I understand the many difficulties our schools face. Each and every day, parents send their children off to school to be educated, cared for, and disciplined. These three Montana schools have received this important award, and were honored last week at the Department of Education. I thank the staff, teachers, and parents for their hard work to make such success possible. The Blue Ribbon Award is no small achievement—students from these schools are in the top 10 percent of students across the State. I am honored to acknowledge them for their work.

Principals Howard Corey, Rick Knisely, and Russell Van Hook all understand the importance an education can have on the life of a child, as well as the significant role parents and the community play in the development of these future leaders. They should be