Mr. President, the Senate has now commenced the debate

on an issue of great importance, really of historic importance, which

challenges us on the issue of what course of action we should take in

Iraq, in a very complex factual situation, and challenges us on what

our authority is under the Constitution, contrasted

with the President's authority as Commander in Chief.

On the factual issue, when we look at the resolution, which calls for

the phased redeployment of the U.S. forces from Iraq not later than 120

days after enactment of this joint resolution, with the goal of

deploying by March 31, 2008, all U.S. combat forces, except for three

purposes: one, to protect the U.S. and coalition personnel and

infrastructure; second, training and equipping Iraqi forces; third,

conducting targeted counterterrorism operations.

We are setting a deadline and our opponents simply have to wait us

out. They know if they can hold on until March 31, 2008, a little more

than a year from now, we will be leaving, except for those stated

limited purposes. That is not a very desirable course of conduct.

It is equally undesirable, however, to view the current situation in

Iraq, which looks like an endless tunnel--a tunnel without a light at

the end. You cannot see the end of the tunnel and, certainly, there is

no light at the end of the tunnel in terms of what we can do.

Last month, the House of Representatives passed a nonbinding

resolution expressing displeasure, objecting to the President's course

of action in Iraq. Last November, in the election, the American people

spoke in a resounding manner, in a way that could only rationally be

interpreted as rejecting the conduct of the war in Iraq. We are faced

with very considerable discomfort in this body. How it will resolve

itself remains to be seen. I think it is very important that we debate

this matter, that we exchange our views, that we stimulate discussions

that will go beyond this Chamber and will resound throughout the

country, resound throughout the editorial pages and the television and

radio talk shows, and by our colleagues in the corridors and in the

cloakroom so that we can try to work our way through an extraordinarily

difficult situation where, as I see it, there is no good answer between

the two intractable alternatives to set a timetable where our opponents

simply have to wait us out or to keep proceeding down a tunnel which,

at least at this juncture, appears to be endless and has no light. We

don't know where the end is, let alone to have a light at the end of

the tunnel.

What I am trying to do at the moment is to get from the

administration, from the Department of Defense, and the Department of

State an evaluation of what has happened since General Petraeus briefed

us on what he intended to do before he returned to Iraq several weeks

ago. There have been some preliminary reports that the strategy

employed by General Petraeus is producing results. There have been some

commentaries.

The Washington Post last Sunday in an op-ed suggested things are

improving. Reports by NBC's Brian Williams suggest that matters are

improving, not sufficiently definitive to come to any conclusion, but

if there was a sign on the military side that we could see improvement

and see a path to victory, that would have a material bearing on what

this body would do or at least on the thinking of this Senator.

The resolution calls for a comprehensive strategy, and it defines it

as ``diplomatic, political, and economic strategy that includes

sustained engagement with Iraq's neighbors and the international

community for the purpose of working collectively to bring stability to

Iraq.''

I was pleased to hear the testimony of Secretary of State Condoleezza

Rice, when she appeared before the Appropriations Committee on which I

sit on February 27, 2007, announcing the initiative of an international

conference to be held in Baghdad and announcing for the first time that

there would be negotiations by the United States in a conference which

included Iran and Syria, which I think is a very important and sensible

change in the foreign policy of the United States.

We saw the results in North Korea where we faced a very difficult

situation with North Korea possessing nuclear weapons and the various

tests they had undertaken. We saw the multilateral discussions and

then, more importantly, saw bilateral talks between the United States

and North Korea, which Secretary of State Rice obtained the authority

of the President to engage in those direct bilateral talks so when she

was traveling overseas, she did not go through the normal vetting and

analytical processes in Washington which might well have stopped that

direct bilateral discussion. It did occur, and it appears to have been

instrumental in working out what may well be a diplomatic answer. It

appears that way at the present time, although no one can ever be sure

in dealing with North Korea.

I would like to have an up-to-date evaluation--and I am seeking one--

from the Department of State as to what is happening with those

negotiations. Candidly, it is pretty hard when we have one of our

sessions in room 407 upstairs, which is the secret room where we are

briefed. We very seldom get much information there. I think it would be

very useful if we could find information to bring us up to date as to

what progress, if any, the administration is making. I know, to repeat,

it would be very influential on my thinking as to what course I will

take when the roll is called on these resolutions.

Beyond the evaluation of the factual situation, there are very

complex legal questions involved in what is the authority of Congress.

The resolution does not call upon the congressional constitutional

authority on appropriations or the so-called power of the purse. We

know there is authority in the Congress to cut off funding. I think

there is unanimous agreement that we should not even broach the issue

cutting off funding if in any way it would jeopardize the troops who

are serving in Iraq.

The President's powers as Commander in Chief have been the subject of

judicial interpretation. In the case of Fleming v. Page--it goes back a

long way to 1850--but the Supreme Court said:

On the face of that statement by the Nation's highest Court, there is

a real question as to whether Congress has the constitutional authority

to order the ``phased redeployment of the United States forces from

Iraq.''

The Supreme Court dealt with the issue on the power of the purse in

the case of United States v. Lovett in 1946, holding that Congress

cannot use its appropriations power indirectly to accomplish an

unconstitutional objective.

So that brings into play squarely what is the constitutional

authority of the President as Commander in Chief.

I think it is most unwise for Congress to even broach the subject of

micromanagement of the war. When Congressman Murtha suggested some time

ago that funding be conditioned on a whole series of requirements, it

bore all the earmarks of micromanagement of the war.

The resolution at hand calling for a redeployment may well cross that

line of micromanagement of the war. It is unclear. But there remains

the very deep concern in the country, expressed by the electorate last

November, expressed by citizens across the country that reflected in

the resolution passed by the House of Representatives last month

objecting to the administration's conduct of the war and considerable

sentiment in this body so that we are searching for a way to approach

this issue rationally.

We have to face up to the consequence that if we acknowledge defeat

in Iraq, there are very disastrous consequences which will flow from

that, disastrous consequences in the region, the issue of whether the

terrorists will come at least in part from the Mideast to threaten us

on the homeland. But, at the same time, we have to recognize that when

the President laid down two markers in his State of the Union speech

earlier this year, that the Iraqis accomplish two objectives: One, to

stabilize Baghdad, and, two, to end sectarian violence. The Iraqis have

not shown either the capacity or the will to accomplish those two

prerequisites which the President set down as minimal markers.

My thinking is we ought to deliberate on this subject. We ought to

hear each other out, and we ought to seek updated information from the

administration to see whether there are any signs, in the several weeks

since General Petraeus has undertaken the new

strategy, whether there are any indications of what may lie ahead on

the negotiations, now that there have been contacts by the United

States with Iranian officials and presumably also with Syrian

officials.

I would like to see this Chamber filled with Senators when we

undertake this debate. I recollect the debate we had back in 1991,

which was classified as historic, when we decided to pass a resolution

authorizing the use of force. I know we are all very busy. I am about

to go to a hearing of a subcommittee on Labor, Health, Human Services,

and Education. This issue warrants the close attention of the Senate.

We have been called the world's greatest deliberative body, and this

issue now will give us a chance to see if we are entitled to that lofty

title.

Mr. President, I ask unanimous consent that a letter I sent to the

chairman of the Judiciary Committee, outlining underlying legal issues

in the debate we are now undertaking, be printed in the Record.

There being no objection, the material was ordered to be printed in

the Record, as follows: