I ask to be notified when

I have 2 minutes left.

Mr. President, 38 years ago I, ROBERT

C. BYRD, voted on the Tonkin Gulf Resolution—

the resolution that authorized

the President to use military force to

‘‘repel armed attacks’’ and ‘‘to prevent

further Communist aggression’’ in

Southeast Asia.

It was this resolution that provided

the basis for American involvement in

the war in Vietnam.

It was the resolution that lead to the

longest war in American history.

It led to the deaths of 58,000 Americans,

and 150,000 Americans being

wounded in action.

It led to massive protests, a deeply

divided country, and the deaths of

more Americans at Kent State.

It was a war that destroyed the Presidency

of Lyndon Johnson and wrecked

the administration of Richard Nixon.

After all that carnage, we began to

learn that, in voting for the Tonkin

Gulf Resolution, we were basing our

votes on bad information. We learned

that the claims the administration

made on the need for the Tonkin Gulf

Resolution were simply not true, and

history is repeating itself.

We tragically and belatedly learned

that we had not taken enough time to

consider the resolution. We had not

asked the right questions, nor enough

questions. We learned that we should

have been demanding more hard evidence

from the administration rather

than accepting the administration at

its word.

But it was too late.

For all those spouting jingoes about

going to war with Iraq, about the urgent

need for regime change no matter

what the cost, about the need to take

out the evil dictator—and make no

mistakes, I know and understand that

Saddam Hussein is an evil dictator—I

urge Senators to go down on The Capital

Mall and look at the Vietnam memorial.

Nearly every day you will find

someone at that wall weeping for a

loved one, a father, a son, a brother, a

friend, whose name is on that wall.

If we are fortunate, a war with Iraq

will be a short one with few American

deaths, as in the Persian Gulf war, and

we can go around again waving flags

and singing patriotic songs.

Or, maybe we will find ourselves

building another wall on the mall.

I will always remember the words of

Senator Wayne Morse, one of the two

Senators who opposed the Tonkin Gulf

Resolution. During the debate on the

Tonkin Gulf Resolution, he stated:

Many Senators did live to regret it.

The Tonkin Gulf Resolution contained

a sunset provision to end military

action. S.J. Res. 46 will allow the

President to continue war for as long

as he wants, against anyone he wants

as long he feels it will help eliminate

the threat posed by Iraq.

With the Tonkin Gulf Resolution,

Congress could ‘‘terminate’’ military

action. With S.J. Res. 46 , only the

President can terminate military action.

I should point out that the Tonkin

Gulf Resolution and S.J. Res. 46 do

have several things in common. Congress

is again being asked to vote on

the use of force without hard evidence

that the country poses an immediate

threat to the national security of the

United States. We are being asked to

vote on a resolution authorizing the

use of force in a hyped up, politically

charged atmosphere in an election

year. Congress is again being rushed

into a judgment.

This is why I stand here today, before

this Chamber, and before this Nation,

urging, pleading for some sanity, for

more time to consider this resolution,

for more hard evidence on the need for

this resolution.

Before we put this great Nation on

the track to war, I want to see more

evidence, hard evidence, not more

Presidential rhetoric. In support of this

resolution, several people have pointed

out that President Kennedy acted unilaterally

in the Cuban missile crisis.

That is true. I remember that. I was

here. I also remember President Kennedy

going on national television and

showing proof of the threat we faced. I

remember him sending our UN ambassador,

Adlai Stevenson, to the United

Nations, to provide proof to the world

that there was a threat to the national

security of the United States.

All we get from this administration

is rhetoric. In fact, in an address to our

NATO colleagues, Defense Secretary

Donald Rumsfeld, according to the Chicago

Tribune, urged our allies to resist

the idea for the need of absolute proof

about terrorists intent before they

took action.

Before we unleash what Thomas Jefferson

called the ‘‘dogs of war,’’ I want

to know, have we exhausted every avenue

of peace? My favorite book does

not say, blessed are the war makers. It

says: ‘‘Blessed are the peacemakers.’’

Have we truly pursued peace?

If the need for taking military action

against Iraq is so obvious and so needed

and so urgent, then why are nearly

every one of our allies opposed to it?

Why is the President on the phone

nearly every day trying to convince

our allies to join us?

So many people, so many nations in

the Arab world already hate and fear

us. Why do we want them to hate and

fear us even more?

People are correct to point out that

September 11 changed everything. We

need to be more careful. We need to

build up our intelligence efforts and

our homeland security. But do we go

around pounding everybody, anybody,

who might pose a threat to our security?

If we clobber Iraq today, do we

clobber Iran tomorrow?

When do we attack China? When do

we attack North Korea? When do we

attack Syria?

Unless I can be shown proof that

these distant nations do pose an immediate,

serious threat to the national interests

and security of the United

States, I think we should finish our

war on terrorism. I think we should destroy

those who destroyed the Trade

Towers and attacked the Pentagon. I

think we should get thug No. 1 before

we worry about thug No. 2.

Yes, September 11 changed many aspects

of our lives, but people still

bleed. America’s mothers will still

weep for their sons and their daughters

who will not come home.

September 11 should have made us

more aware of the pain that comes

from being attacked. We, more than

ever, are aware of the damage, the

deaths, and the suffering that comes

from violent attacks.

I thank the Chair.

This is what we are about to do to

other countries. We are about to inflict

this horrible suffering upon other people.

Of course, we do not talk about this.

We talk about taking out Saddam Hussein.

We are talking about taking out

Iraq, about ‘‘regime change.’’

I do not want history to remember

my country as being on the side of evil.

During the Civil War, a minister expressed

his hope to President Lincoln

that the Lord was on the side of the

North. The Great Emancipator reportedly

rebuked the minister stating:

Before I vote for this resolution for

war, a war in which thousands, perhaps

tens of thousands or hundred of thousands

of people may die, I want to

make sure that I and this Nation are

on God’s side.

I want more time. I want more evidence.

I want to know that I am right,

that our Nation is right, and not just

powerful.

And I want the language that is in

this amendment so that Congress can

oversee this power grab and act to terminate

it at some point in time—giving

the President the opportunity to

extend the time but let’s keep Congress

in the act.

Senators, vote for this amendment. I

plead with you.

Mr. President, this is a

Tonkin Gulf resolution all over again.

Let us stop, look, and listen. Let us not

give this President, or any President,

unchecked power. Remember the Constitution.

Remember the Constitution.

Mr. President, I yield back my time.

Mr. President, I thank

the distinguished Senator for a very

courageous statement.

The Polycraticus of John of Salisbury,

completed in 1159, says that Nero,

the sixth in line from Julius, having

heard the Senate had condemned him

to death, begged that someone would

give him courage to die by dying with

him as an example. When he perceived

the horseman drawing near, he

upbraided his own cowardice by saying:

‘‘I die shamefully.’’ So saying, he drove

the steel into his own throat and thus,

says John of Salisbury, came to an end

the whole House of the Caesars.

Mr. President, here in this pernicious

resolution on which the Senate will

vote soon, we find the dagger that is

being held at the throat of the Senate

of the United States. I say to my

friends, we ought to pause and wonder

if Captain John Parker and his minutemen

fought on the green of Lexington

for this piece of rag, this so-called resolution.

When Parker lost 8 or 10 of his

men with that first shot, is this what

they died for, this resolution? Is that

what they died for?

How about John Paul Jones, when he

was fighting the *Serapis.* He was the

captain of the *Bon Homme Richard* when

he said, I have not yet begun to fight.

What he was fighting for? Was he fighting

for this piece of cowardice here in

this resolution that gives to the President—

lock, stock and barrel—the authority

to use the military forces of

this country however he will, whenever

he will, and wherever he will, and for

as long as he will?

We are handing this over to the

President of the United States. When

we do that, we can put a sign on the

top of this Capitol, and we can say:

‘‘Gone home.’’ ‘‘Gone fishing.’’ ‘‘Out of

business.’’

I don’t believe our forebears died for

that kind of a piece of paper. How

about Nathan Hale? He, too, was from

Connecticut, may I say to the chief

sponsor of this resolution. Nathan Hale

volunteered to go into the British lines

when he was called upon to do so by

George Washington. He volunteered. He

went behind the British lines to draw

the gun emplacements, the breastwork

of the British. And on the night of September

21, 1776, he was prepared to return

to his own lines. He had on his

person the pictures that he had drawn,

the notes he had made, and he was discovered

as a spy on the night of September

21, 1776. Nathan Hale.

The next morning he was hauled up

before a wooden coffin in which he

knew that his body would soon lie and

grow cold. And the captain of the British,

Captain Cunningham, said to Nathan

Hale: Do you have anything that

you would like to say? He had already

been refused a Bible. He was asked, did

he have anything further.

He said: I only regret that I have but

one life to lose for my country.

Nathan Hale gave his own life, one

life. It was all he had. Can we give one

vote for our country today? Each of us

took an oath under this Constitution.

You took it in the chair, Mr. President.

Mr. Senator from Virginia, you took it.

This is the Constitution that James

Madison from the State of Virginia

helped to write; that George Washington

helped to write. We take an

oath to support and defend that Constitution.

Are we defending it here

today? Are we defending the role of the

Senate as set forth in this Constitution

which says Congress shall declare war?

Here we are about to hand off that

role, that responsibility, to a President

of the United States without limitation.

He can go on and on. We are out

of it. Once we pass this resolution and

it is signed by the President, Senators

are out of it. You can complain, but it

won’t help.

I say that we are denying the American

people their right to be heard.

Here we are being shut off on a cloture

vote. I know the rules of the Senate. I

have used the cloture vote myself. But

in a situation such as this, I have

pleaded for time, more time. I have

been turned down.

The American people out there are

going to render a judgment. They are

going to render a judgment on every

Senator in this body before it is over. I

pray to God that if we go to war with

Iraq, we will be lucky. I pray to God we

will be lucky.

Nobody will support this country in

war any more strongly than will I. But

here today we are being tested. I didn’t

swear to support and defend the President

of the United States when I came

here. I pledged on the Bible up there on

the desk to support and defend the

Constitution of the United States, so

help me God. That was no light prayer.

That was no light oath.

I think we ought to look inside of

ourselves. Look at our children and

grandchildren. Look in the mirror and

see if you can say: Old buddy, I voted

for what I thought was right. I voted

with the Constitution.

They say: Well, support our Commander

in Chief. He is Commander in

Chief of the Army and Navy and the

militia when called into service. He is

not Commander in Chief of industry.

He is not Commander in Chief of the

Senate of the United States. So where

are the Nathan Hales today who would

give their life, their own life for their

country? Give one vote for this Constitution.

After all, if it were not for

this Constitution, I wouldn’t be here.

You would not be here. You would not

be here. You would not be here. None of

us would be here. But because of this

Constitution, we are here today.

The people want us to ask questions.

They want us to take a stand. They

want us to take a stand against this

stampede. Where are Senators today?

Where are the backbones that stand up

for the people? How many mothers,

how many fathers will see their sons

and their daughters die possibly in a

war in a foreign land?

I say, my friends, I am sorry to see

this day. This is my 50th year in Congress.

I never would have thought I

would find a Senate which would lack

the backbone to stand up against the

stampede, this rush to war, this rush to

give to the President of the United

States, whatever President he is, whatever

party, this rush to give a President,

to put it in his hands alone, to let

him determine alone when he will send

the sons and daughters of the American

people into war, let him have control

of the military forces. He will not

only make war, but he will declare war.

That flies in the face of this Constitution.

This Constitution does not

give to a President of the United

States the right to determine when,

where, how, and for how long he will

use the military forces of the United

States.

I plead to Senators in the name of

this Constitution: We need people who

will stand up for the American people.

We need Senators who will take a

stand. I hope Senators will take what I

am saying in the best of spirit. I think

we are making one horrible mistake.

Remember: I only regret that I have

but one life to lose for my country. Nathan

Hale.

Madam President, a point

I want to make about this discussion

that ensued after the statement was

made by the distinguished Senator

from Minnesota: There were references

made to Public Law 105–235, August 14,

1998. Here is the resolving clause which

has been quoted by the distinguished

Republican whip:

Well, so what? What does that prove?

What does that prove? Somebody tell

me. Let’s read it again. The resolving

clause says that the Government of

Iraq is in material and unacceptable

breach of its international obligations.

That is okay. But get this: And therefore

the President is urged to take appropriate

action.

What does that mean? There is nothing

definitive about that. That is ambiguous.

It is not contemporaneous

with today’s question. It is ambiguous.

It is vague. What would that prove in a

court if the Supreme Court of the

United States were to take this up?

What would those who read this piece

of junk maintain that this says? It is

plain. The President is urged—well,

what does that mean, ‘‘urged’’?—to

take appropriate action. What is that?

That is not a declaration of war. What

is that? What does that mean, ‘‘to take

appropriate action’’? Well, you can

guess, I can guess, he can guess, he can

guess. Anybody can guess.

‘‘Urges the President to take appropriate

action in accordance with the

Constitution . . . .’’ Now, that is fine.

It is in accordance with the Constitution.

Then that would say that Congress

has the power to declare war.

‘‘In accordance with the Constitution

and relevant laws of the United States,

to bring Iraq into compliance with its

international obligations.’’ What is he

supposed to do? What is the President

being urged to do to bring Iraq into

compliance with its international obligations?

Anybody’s guess. Why, surely

this great country of ours is not going

to be able to launch a war on the basis

of that ambiguous and vague language.

I wish those who are continuing to

refer to this Public Law 105–235 and the

so-called relevant U.N. resolutions

would explain what they mean. I hear

that over and over again. In connection

with the resolution that is before this

Senate today, it refers to all relevant

U.N. Security Council resolutions. ‘‘All

relevant . . . .’’ What does that mean?

And they keep referring to 660 and 678

and 687. I would like to discuss those

resolutions with those who will do so. I

hope they come on the floor. Where are

they? Where are these men of great

strength? Let them come to the floor.

I want to debate with them these socalled

resolutions.

In this resolution that is before the

Senate, S.J. Res. 46, it refers to relevant

resolutions. They keep talking

about the relevant resolutions. What

resolutions are they talking about enforcing?

Are they talking about 660?

Are they talking about 678? No. 678 was

adopted on November 29, 1990. Is that

what they are talking about? U.N. Resolution

687 was the enforcement resolution.

That was the resolution that authorized

the member states to act to

uphold Resolution No. 660. But that

conferring of authorization was wiped

out. No. 678 was wiped out by 687 when

Iraq contacted the Security Council

and accepted 687. It was wiped out. So

I am prepared to argue that. I do not

want to do it on my flimsy 1 hour, but

I am prepared.

I have heard the Senator from Connecticut—

he is not in the Chamber

right now, but he will be back. I have

heard him and others refer to the socalled

relevant resolutions. They have

been wiped out. They are gone, and no

single member state can revive them.

They were extinguished on April 6,

1991, when Iraq signified to the Security

Council that it accepted the terms

of 687.

Now we can talk about that at a later

time. I would love to get into it. I

would like to get into a discussion on

that, but for now, suffice it to say,

what I am saying is this resolution we

are talking about would accept as fact

certain things that are not facts—this

blank check we have been talking

about that we are going to turn over to

this President of the United States, the

power to determine when, where, how,

and for how long he will use the military

forces of the United States. It is

flimsy. That resolution is full of holes.

The whereas clauses are full of holes.

Now they have been wiped out by unanimous

consent so they are no longer

‘‘whereas’’ but ‘‘since.’’ It is flimsy.

Full of holes. Ambiguities. Statements

of facts that are not facts. I am ready

to debate that at any time.

I hope Senators will show

an abundance of mercy before the day

is over and perhaps give me some more

time.

Mr. President, this week the Senate

is considering a very important resolution.

The language of this resolution

has been touted as a bipartisan compromise

that addresses the concerns of

both the White House and the Democratic

leadership in Congress. But the

only thing that I see being compromised

in this resolution is this Constitution

of the United States, which I

hold in my hand, and the power that

Constitution gives to Congress to declare

war. This resolution we are considering

is a dangerous step toward a

government in which one man at the

other end of this avenue holds in his

hand the power to use the world’s most

powerful military force in whatever

manner he chooses, whenever he chooses,

wherever he chooses, and wherever

he perceives a threat against national

security.

The Bush administration has announced

a new security doctrine that

advocates acting preemptively to head

off threats to U.S. national security.

Much has been said about the diplomatic

problem with this doctrine. But

we should also recognize that the administration’s

new approach to war

may also pose serious problems for our

own constitutional system.

In the proposed use-of-force resolution,

the White House lawyers claim

‘‘the President has authority under the

Constitution to use force in order to

defend the national security interests

of the United States.’’

It says no such thing. I dare them to

go to the Constitution and point out

where that Constitution says what

they say it said. They cannot do it. I

know the job of any good lawyer—I

have never been a practicing lawyer,

but I know the job of a good lawyer is

to craft legal interpretations that are

most beneficial to the client. But for

the life of me, I cannot find any basis

for such a broad, expansive interpretation

in the interpretation of the Constitution

of the United States. Find it.

Show it to me. You can’t do it.

Where in the Constitution is it written

that the title of Commander in

Chief carries with it the power to decide

unilaterally whether to commit

the resources of the United States to

war? Show it to me, lawyers, lawyers

of the White House, or lawyers in this

body. Show it.

There is a dangerous agenda, believe

me, underlying these broad claims by

this White House. The President is hoping

to secure power under the Constitution

that no President has ever claimed

before. Never. He wants the power—the

Bush administration wants that President

to have power to launch this Nation

into war without provocation and

without clear evidence of an imminent

attack on the United States. And we

are going to be foolish enough to give

it to him. I never thought I would see

the day in these 44 years I have been in

this body, never did I think I would see

the day when we would cede this kind

of power to any President. The White

House lawyers have redefined the

President’s power under the Constitution

to repel sudden acts against the

United States. And he has that power,

to repel sudden, unforeseen attacks

against the United States, against its

possessions, its territories, and its

Armed Forces.

But they suggest he could also justify

military action whenever there is

a high risk of a surprise attack. That

Constitution, how they would love to

stretch it to give this President that

power which he does not have. Those

White House lawyers would have us believe

that the President has independent

authority not only to repel attacks

but to prevent them. How silly.

You cannot find it in that Constitution.

The White House wants to redefine

the President’s implied power under

the Constitution to repel sudden attacks,

suggesting that the realities of

the modern world justify preemptive

military action whenever there is a

high risk of a surprise attack. What in

the world are they teaching in law

school these days? What are they

teaching? I never heard of such as that

when I was in law school. Of course I

had to go at night. I had to go 10 years

to get my law degree. In the national

security strategy released last week, a

few days ago, the President argued—let

me tell you what the President argued—

we must adapt the concept of

imminent threat to the capabilities of

today’s adversary. Get that.

Defense Secretary Rumsfeld echoed

this sentiment when he told the Senate

Armed Services Committee: I suggest

that any who insist on perfect evidence

are back in the 20th century and still

thinking in pre-9/11 years.

What a profound statement that was.

How profound. Perhaps the Secretary

of Defense ought to go back to law

school, too. I don’t believe he was

taught that in law school.

The President does not want to

shackle his new doctrine of 20th century

ideas of war and security, much

less any outdated notion from the 18th

century about how this Republic

should go to war. The Bush administration

thinks the Constitution, with its

inefficient separation of powers and its

cumbersome checks and balances—

they are cumbersome—has become an

anachronism in a world of international

terrorism and weapons of

mass destruction.

They say it is too old. This Constitution,

which I hold in my hand, is an

anachronism. It is too old. It was all

right back in the 19th century. It was

all right in the 20th century. But we

are living in a new time, a new age.

There it is, right up there, inscribed,

‘‘Novus ordo seclorum.’’ A new order of

the ages. New order of the ages.

This modern President does not have

time for old-fashioned political ideas

that complicate his job of going after

the bad guys single-handedly.

And make no mistake, the resolution

we are considering will allow the President

to go it alone at every stage of the

process. It will be President Bush, by

himself, who defines the national security

interests of the United States. It

will be President Bush, by himself, who

identifies threats to our national security.

It will be President Bush, by himself,

who decides when those threats

justify a bloody and costly war. And it

will be President Bush, by himself, who

determines what the objectives of such

a war should be, and when it should

begin and when it should end.

The most dangerous part of this modernized

approach to war is the wide

latitude the President will have to

identify which threats present a ‘‘high

risk’’ to national security. The administration’s

National Security Strategy

briefly outlines a few common attributes

shared by dangerous ‘‘rogue

states,’’ but the administration is careful

not to confine its doctrine to any

fixed set of objective criteria for determining

when the threat posed by any

one of these states is sufficient to warrant

preemptive action.

The President’s doctrine—and we are

about to put our stamp on it, the

stamp of this Senate. The President’s

doctrine, get this, gives him—Him?

Who is he? He puts his britches on just

the same way I do. He is a man. I respect

his office. But look what we are

turning over to this man, one man.

The President’s doctrine gives him a

free hand to justify almost any military

action with unsubstantiated allegations

and arbitrary risk assessments.

Even if Senators accept the argument

that the United States does not

have to wait until it has been attacked

before acting to protect its citizens,

the President does not have the power

to decide when and where such action

is justified, especially when his decision

is supported only by fear and speculation.

The power to make that decision

belongs here in Congress. That is

where it belongs. That is where this

Constitution vests it. The power to

make this decision belongs to Congress

and Congress alone.

Ultimately, Congress must decide

whether the threat posed by Iraq is

compelling enough to mobilize this Nation

to war. Deciding questions of war

is a heavy burden for every Member of

Congress. It is the most serious responsibility

imposed on us by the Constitution.

We should not shrink from our

duty to provide authority to the President

where action is needed. But just

as importantly, we should not shrink

from our constitutional duty to decide

for ourselves whether launching this

Nation into war is an appropriate response

to the threats facing our people—

those people looking, watching

this debate through that electronic

lens there. They are the ones who will

have to suffer. It is their sons and

daughters whose blood will be spilled.

Our ultimate duty is not to the President.

They say: Give the President the

benefit of the doubt. Why, how sickening

that idea is. Our ultimate duty is

not to the President of the United

States. I don’t give a darn whether he

is a Democrat or Republican or an

Independent—whatever. It makes no

difference. I don’t believe that our ultimate

duty is to him. Our ultimate duty

is to the people out there who elected

us.

Our duty is not to rubber-stamp the

language of the President’s resolution,

but to honor the text of the Constitution.

Our duty is not to give the President

a blank check to enforce his foreign

policy doctrine, but to exercise

our legislative power to protect the national

security interests of this Republic.

Our constitutional system was designed

to prevent the executive from

plunging the Nation into war in the

name of contrived ideals and political

ambitions. The nature of the threats

posed by a sudden attack on the United

States may have changed dramatically

since the time when Constitution was

drafted, but the reasons for limiting

the war powers of the President have

not changed at all. In fact, the concerns

of the Framers are even more relevant.

Talk about this being old fashioned.

The concerns of the Framers are

even more relevant to the dangerous

global environment in which our military

must now operate, because the

consequences of unchecked military

action may be more severe for our citizens

than ever before.

Congress has the sole power under

the Constitution to decide whether the

threat posed by Iraq is compelling

enough to mobilize this nation to war,

and no Presidential doctrine can

change that. If President Bush wants

our foreign policy to include any military

action, whether for preemption,

containment, or any other objective,

he must first convince Congress that

such a policy is in the best interest of

the American people.

The amendment I am offering reaffirms

the obligation of the Congress to

decide whether this country should go

to war. It makes clear that Congress

retains this power, even in the event

that we pass this broad language,

which I believe gives the President a

blank check to initiate war whenever

he wants, wherever he wants, and

against any perceived enemy he can

link to Iraq. My amendment makes

clear that the President has the power

to respond to the threat of an imminent,

sudden, and direct attack by Iraq

against the United States, and that

any military action that does not serve

this purpose must be specifically authorized

by the Congress.

Other Senators have said on the floor

that the language of this resolution

does not give the President a blank

check, and they have said that this resolution

is narrowly tailored to Iraq. I

do not read the resolution that way,

but I hope that the President does. I

hope the President reads this resolution

as a narrowly crafted authorization

to deal with Iraq’s weapons of

mass destruction, and not as an openended

endorsement of his doctrine of

preemptive military action.

We should all hope that the President

does not fully exercise his authority

under this resolution, and that he does

not abuse the imprecise language Congress

may ultimately adopt. But I believe

that Congress must do more than

give the President a blank check and

then stand aside and hope for the best.

Congress must make clear that this

resolution does not affect its constitutional

power to declare war under Article

I, section 8 of the Constitution; otherwise,

this resolution may appear to

delegate this important legislative

function to the executive

My amendment also clarifies the intent

of this resolution is limited to authorizing

a military response to the

threat of an Iraqi attack upon the

United States. Congress must ensure

that the broad language of this resolution

does not allow the President to

use this authority to act outside the

boundaries of his constitutional powers.

This amendment affirms the constitutional

requirement that the President

must have congressional authorization

before initiating military action

for any purpose other than defending

the United States against an imminent,

sudden, and direct attack. We

must not provide the temptation to

this President, or any president, to unleash

the dogs of war for reasons beyond

those anticipated by the Congress.

The power of Congress to declare war

is a political check on the President’s

ability to arbitrarily commit the

United States to changing military

doctrines, and the evolving nature of

war and security threats does not

change the language of the Constitution.

The President cannot use the uncertainty

of terrorist threats to confuse

the clearly defined political processes

required by the Constitution, and

Congress should not rush to endorse a

doctrine that will commit untold

American resources to unknown military

objectives.

The President admits in his National

Security Strategy that ‘‘America’s

constitution has served us well.’’ But

his actions suggest that he feels this

service is no longer needed. Congress

should ensure that the Constitution

continues to serve our national security

interests by preventing the United

States from plunging headlong into an

ever-growing war in the Middle East. I

urge my colleagues to support this

amendment in order to preserve the

constitutional system of checks and

balances that the founders of this republic

valued so highly.

Mr. President, I wish to

begin. I read this quote:

Hermann Goering, 1893–1946, field

marshal, German Army, founder of the

Gestapo, President of the Reichstag,

Nazi parliament, and convicted war

criminal. Speech, 1934.

Mr. President:

So said the Persian poet, Omar

Khayyam, in the 11th century.

And so I say today. The Senate has

made clear its intentions on the Iraq

resolution. There is no doubt, there is

no question. The Senate has made its

intentions indubitably clear. The outcome

is certain. The ending has been

scripted. The Senate will vote, and the

Iraq resolution will pass.

I continue to believe that the Senate,

in following this preordained course of

action, will be doing a grave disservice

to the Nation and to the Constitution

on which it was founded.

In the newly published ‘‘National Security

Strategy of the United States,’’

the document which I hold in my

hand—‘‘The National Security Strategy

of the United States of America,’’

date: September 2002, the document in

which the President of the United

States outlines the unprecedented policy

of preemptive deterrence which the

Iraq resolution will implement—the

President asserts that: ‘‘The constitution

has served us well.’’

There you have it, 31 pages, and that

is the only reference to the Constitution

of the United States that is made

in this document titled ‘‘The National

Security Strategy of the United States

of America.’’ He asserts that: ‘‘The

constitution has served us well.’’

That’s it. That is the alpha and the

omega of the reference to the Constitution,

this great Constitution of the

United States which creates the Presidency

of the United States, which creates

a bicameral legislative body,

which creates the judicial branch of

this great Nation—provides for it. That

is all it says about the Constitution.

He asserts that ‘‘the Constitution has

served us well.’’

And note, too, that the word ‘‘constitution’’

as mentioned in the President’s

document is in lower case. It

doesn’t begin with a capital letter, it

begins with a lower-case letter, ‘‘the

constitution.’’

I have a constitution. The Senator

from New Mexico has a constitution.

His constitution, which was given to

him by his Roman ancestral forebears,

that is his constitution. He is strong,

he is weak, he has strong mental processes,

he has a good heart, or whatever

it is—his constitution, lower case. But

this Constitution is with a capital C.

This administration doesn’t believe

that it merits a capital C even, and

only mentions, as I say, one time in

passing that ‘‘the Constitution has

served us well.’’

That, apparently, is what this administration

thinks of the Constitution.

And it references the Constitution as

though it were some dusty relic of the

past that needs to be eulogized before

it is retired. And so it says: ‘‘The constitution

has served us well.’’

He is wrong about that. The Constitution

is no more dated than the

principles that it established than is

this great book that I treasure above

all books, this great book right here.

The President is wrong. The Constitution

is no more dated in the principles

it established than is the Holy

Bible.

The Constitution continues to serve

us well, if only we would take the time

to heed it.

I am deeply disappointed that this

Senate, which I have believed in for all

these many years—and which God and

the people of West Virginia have

blessed me to experience, 44 years come

next January 3rd—I am deeply disappointed

the Senate is not heeding

the imperatives of the Constitution

and is instead poised to hand off to the

President of the United States the exclusive

power of Congress to determine

matters of war and peace—to declare

war.

I do not in my heart believe this is

what the American people expect of the

Senate.

I have had many occasions in which

to stand and laud the Senate, and to

renew my expression of deep belief in

the Senate of the United States as an

institution. I have done that many

times. But I am deeply disappointed

the Senate is not heeding the imperatives

of the Constitution, and is instead

poised, as I say, to hand over to

the President the exclusive power of

Congress to determine matters of war

and peace.

I do not in my heart believe this is

what the American people expect of the

Senate.

I have heard from tens of thousands

of people—people from all across this

country of ours—people from every

State in the Union, from New Mexico

to Florida to California to the State of

Washington, and to the States of Wisconsin,

Minnesota, West Virginia, New

York, and all in between. I have heard

from thousands of Americans who have

urged me to keep up the fight—almost

50,000 e-mail letters within the last 5

days, and more than 18,000 telephone

calls to my office in the last 5 days—

urging me to keep up the fight. So they

are listening, and they want to hear

more.

If Senators don’t think for a moment

that people are listening to this Senate

debate, the people are listening. They

want to be informed. They have questions

they want answered.

When I came to this body, we didn’t

have televised coverage. We didn’t have

a radio. We didn’t even have radio coverage

of the debates in this Senate. I

can remember that when a Senator

stood to his feet, other Senators gathered

closely. They moved up close in

their seats to listen to that Senator.

We had no public address system in

this Chamber. But they were being informed

by the Senate debates. The people

were being educated and informed

as to the great issues of the day. The

Senate was an institution which did inform

the people. We spent days upon

days on the great issues that came before

this Senate—more than 100 days,

for example, on the Civil Rights Act of

1964, more than 100 days. This institution

did its duty to the American people

by informing them of the issues of

the day, and by debating those issues—

Republicans and Democrats. The aisle

was not as wide in those days as it is

now. Sometimes I think it is a great

canyon here, a great chasm that separates

the Democratic and the Republican

parties in this Senate. But not so

then. We disagreed from time to time.

But I can remember. If I were to take

the time now, I could call the names of

the faces who in my dreams come back

to me—the faces of those who sat in

those seats years ago, decades ago.

They were men. There was only one

woman at that time, Margaret Chase

Smith of Maine. But Senators, Republicans

and Democrats, joined in informing

the people through the process of

debate.

I am only one Senator from a very

small State. Yet, as I say, within the

past week, I have received nearly 20,000

telephone calls and nearly 50,000 emails

supporting the position I have

taken on this floor. This is not counting

the calls and the e-mails that have

come in to my State office in Charleston,

WVA.

I want all of those people across

America, out there across the plains,

the Great Rockies, across the Mississippi,

and to the Pacific coast, from

the gulf coast to the Canadian border—

I want all those people who took the

time to contact me to know how their

words have strengthened, heartened me

and sustained me in my feeble efforts

here to turn the tide of opinion in the

Senate.

‘‘The iron will of one stout heart

shall make a thousand quail.’’

These are my heroes—the people out

there who have called, who have written,

and who have told me in person as

I have walked across the street. They

are my heroes. And I will never forget

the remarkable courage and patriotism

that reverberated in the fervor—in the

fervor—of their messages. I gave them

hope because they love this country.

And they love this Constitution. Senators

all know that. The people out

there love this Constitution. They love

this Constitution. All of the people out

there do.

So they are my heroes.

As the Apostle Paul, that great apostle,

said, ‘‘I have fought a good fight, I

have finished the course, I have kept

the faith.’’

There are Americans all across this

country in every State of this Union

who have joined in spirit with me and

with a small band of like-minded Senators

in fighting the good fight.

We could stay here on this floor and

continue to fight. They say, well, we

might stay here until 4:30 in the morning.

Come on. Come on.

I am thinking of the words of

Fitzjames in ‘‘The Lady of the Lake,’’

when he stood there before Roderick

and said: ‘‘Come one, come all! this

rock shall fly From its firm base as

soon as I.’’ So come on. Let’s see the

clock turn to 4:30 in the morning. Who

cares what time it is as long as we are

speaking for our country?

So I say to the distinguished Senator

who presides over this Chamber tonight,

whose forebear and ancestral

relative signed his name at the Constitutional

Convention on September

17, 1787—his name was Dayton, Jonathan

Dayton. This is his relative who

presides over the Senate at this moment.

So we could continue this fight. Let

me tell you, ladies and gentlemen,

there are several checkpoints—I will

call them checkpoints—at which, under

the rules, I could cause the Senate to

have to go through another cloture and

another 72 hours. I could do that. And

I would have no hesitancy, not any, in

doing it if I did not know the Senate

has already spoken.

Also, there is a point at which it becomes

time to accept reality and to regroup.

It is clear we have lost this battle

in the Senate. The next front is the

White House. I urge all those people

who are following the debate out there,

and who have encouraged me in my efforts,

and have encouraged the other

Senators who have stayed with me

firmly—without faltering, without

fainting, and without wavering—I urge

the people to keep on in their behalf,

who have encouraged us in our efforts,

I urge them to turn their attention to

the President of the United States. Call

him, write him, e-mail him, urge him

to heed the Constitution and not short

circuit this Constitution by exercising

the broad grant of authority the Iraq

resolution provides.

The President has said on many occasions

that he has not yet made up his

mind to go to war. And here we are, we

have been stampeded into this moment,

when we will soon approve this

resolution.

Let me say again, there are several

checkpoints at which we could play

this record over and over again. For example,

the title of the resolution could

be amended. How about that? And then

there is going to be a House resolution

coming over to this body, and there is

going to be a request, I suppose, after

the Senate votes on that resolution, a

request to insert the words of the Senate,

which are likewise the same words,

so that it will have a House number.

And there would have been a place.

I will not go through all these places.

But we could fight on. No, we would

not finish at 4:30 tomorrow morning,

we would not finish it at 4:30 the next

morning, if we wanted to. I hope the

leadership and the Senators will all understand

that. I am not bragging. Dizzy

Dean said: It’s all right to brag if you

have done it. We could do that. We

could do that. But what good would it

do? What good would it do? The course

of destiny has already been set by this

Senate.

So the President has said on many

occasions he has not made up his mind

to go to war. When he does make up his

mind, if he does, then he should come

back to Congress and seek formal authorization.

Let those high-powered lawyers of

the White House tell him otherwise.

They are going to stand by their client,

I suppose. But they did not go to the

same law school I went to. They probably

did not have to work as hard as I

had to work. Their wives may not have

worked as hard as my wife to put me

through law school. Well, so much for

that.

Let him come back to the Congress

for authorization.

Mr. President, I continue to have

faith in our system of Government. It

works. I continue to have faith in the

basic values that shape this country,

this Nation. Ours was a great country

before it became a great nation. Those

values do not include striking first at

other countries, at other nations.

Those values do not include using our

position as the strongest and most formidable

Nation in the world to bully

and intimidate other nations.

There are no preemptive strikes in

the language of the Constitution, I do

not care what other Senators say.

Those values do not include putting

other nations on an enemies list so we

can justify preemptive military

strikes.

Were I not to believe in the inherent

ability of the Constitution to withstand

the folly of such actions as the

Senate is about to take, I would not

stop fighting. Yes, he is 85—85. I will be

85 years old 41 days from now if the

good Lord—if the good Lord—lets me

live. But don’t you think for a moment

I can’t stand on this floor all the rest

of this night. I like to fight when I am

fighting for the Constitution and for

this institution. I will fight until I

drop, yes, fight until they hack my

flesh to the bone. I would fight with

every fiber in my body, every ounce of

my energy, with every parliamentary

tool at my disposal—and there are parliamentary

tools at my disposal; don’t

you ever think there are not—but I do

believe the Constitution will weather

this storm. The Senate will weather

the storm as well.

I only hope that when the tempest

passes, Senators will reflect upon the

ramifications of what they have done

and understand the damage that has

been inflicted on the Constitution of

the United States.

Now, those people out there believe

in the Constitution. And I have been

very disappointed to have stood on my

feet—an 85-year-old man, standing on

his feet, and pleading with his colleagues

to stand up for the Constitution—

I have been disappointed that

some of them seem not to have listened

at all. That is a real disappointment. It

isn’t ROBERT C. BYRD who counts; it is

the Constitution of the United States.

And but for that Constitution, they

would not be here, I would not be here,

and you, Mr. President, would not be

here. It is that Constitution.

And we all take an oath, a solemn

oath, to support and defend the Constitution

of the United States against

all enemies, foreign and domestic.

In the greatest oration that was ever

delivered in the history of mankind,

the oration ‘‘On the Crown,’’ delivered

in the year 331 B.C. by Demosthenes in

his denunciation of Aeschines, he asked

this question: Who deceives the state?

He answered his own question by saying:

The man who does not speak what

he thinks. Who deceives the state? The

man who does not speak what he

thinks.

I believe we ought to speak what we

think. A political party means nothing,

absolutely nothing to me, in comparison

with this Constitution which I hold

in my hand. It means nothing, political

party means nothing to me, in comparison

with this great old book which

our mothers read, the Holy Bible.

It seems to me that in this debate—

thinking about the 50,000 e-mails that

have come to this country boy from

the hills of West Virginia, 50,000 emails,

almost 20,000 telephone calls; my

wonderful staff have been hard-pressed

to take all these calls and log them

in—the American people seem to have

a better understanding of the Constitution

than do those who are elected to

represent them.

Now, that is a shame, isn’t it? I feel

sorry for some of my colleagues. I love

them; bless their hearts. I love them. I

forgive them. But you might as well

talk to the ocean. I might as well

speak to the waves as they come with

the tides that rise and fall. I might as

well speak to the waves, as did King

Canute, as to speak to some of my colleagues.

They won’t hear me. And it

isn’t because it is ROBERT BYRD. They

just don’t want to hear about that Constitution.

That is what these people are writing

me about. Perhaps it is that their understanding,

the understanding of the

people, the great mass of people out

there, it may be that their understanding

of the Constitution has not

yet filtered through the prism of the

election year politics. That’s it—the

election year politics.

I believe the American people have a

better understanding of what the Senate

is about to do, a greater respect for

the inherent powers of the Constitution,

and a greater comprehension of

the far-reaching consequences of this

resolution, a greater comprehension

than do most of their leaders.

I thank my colleagues who have allowed

me to express at considerable

length my reasons for opposing the resolution.

I thank those Senators, such

as the Senator who presides over the

Senate at this very moment, I thank

those Senators who have stood with me

in my fight for the Constitution and

for this institution and for that provision

in the Constitution that says, Congress

shall have power to declare war.

I thank those Senators who have engaged

in thoughtful debate with me. I

thank Senator MCCAIN. I thank Senator

WARNER. I thank these men. They

stood up for what they believe. They

stood up for this administration. The

only difference is, I will stand for no

administration—none—when it comes

to this Constitution. If the administration

took a position opposite that Constitution,

forget it. I don’t care if it is

a Democrat.

I do not believe the Senate has given

enough time or enough consideration

to the question of handing the President

unchecked authority to usurp the

Constitution and declare war on Iraq. I

have no brief for Iraq. But I accept the

futility of continuing to fight on this

front. So I could keep us here all night

tonight. I know there would be other

Senators who would stand with me.

Other Senators believe as I do. I could

keep us here tomorrow. I could keep us

here through Saturday. I would hope

we would not be in on Sunday. That is

the Sabbath Day. But come back on

next Tuesday, have at it again, until

the flesh from my bones be hacked.

I say to the people of America, to

those who have encouraged other Senators

and me to uphold the principles

of the Constitution: Keep up the fight.

Keep fighting for what is right. Let

your voices be heard.

Why do you think George Washington

crossed the Delaware? I say to

my good friend from Delaware, JOE

BIDEN, my esteemed friend, my esteemed

colleague. He crossed the Delaware,

I say to my friend FRED THOMPSON—

Senator FRED THOMPSON, we are

going to soon miss him. I like him. I

like him. He always speaks with great

passion and fervor, and he is always respectful

of other Senators. He was here

during the days of Sam Ervin, Howard

Baker, the days of Watergate, that

Senator from Tennessee.

Let me say, I will always listen to

you, the people out there, and I hope

the President will begin to listen to

you.

If the President really wants to do

something for this country, let him

help to fight the war at home. This

week, we will soon be passing another

CR. Time and time again, the President’s

Attorney General and the Director

of Homeland Security have put the

Nation on notice that there is an imminent

threat of another terrorist attack

to our homeland. And from time to

time, they have even identified the

most likely targets, such as our nuclear

powerplants, our transportation

infrastructure, our Nation’s monuments,

our embassies. They have told

our citizens to be vigilant about this

imminent risk.

What has the President done to respond

to this imminent risk of terrorist

attack on our Nation’s shoulders?

The President has proposed to

create a new bureaucracy. He has proposed

to move boxes around on an organization

of flowcharts. He has proposed

to create the second-largest domestic

agency in the history of the Republic.

Even the President recognizes

that actually creating the new Department

of Homeland Security will take

at least 1 year.

I tell you, my friends, if I ever saw a

good lawyer, he sits right here on the

back row, right now—that Senator

from Tennessee, FRED THOMPSON. Why

do I say that? Because he made the

most rousing defense of this sorry resolution

that is before the Senate and on

which we will soon vote, the most rousing

defense of it. And yet he is against

it. He is against it. That is what I call

a good lawyer; he makes a rousing defense

of this thing which he hates.

Even the President recognizes that

actually creating the new Department

of Homeland Security will take at least

1 year. The GAO has said it will take at

least 5 to 10 years for a new Department

to be effected.

So while our citizens are facing this

imminent risk, under the President’s

proposal, the agencies responsible for

securing our borders, such as the Customs

Service, the Immigration and

Naturalization Service, and the Coast

Guard, will spend the next year or

more figuring out for whom they work,

with whom they work. Instead of focusing

on their mission, our border agencies

and inspectors will be wondering

whether their units will be reorganized

or transferred to new locations, and

they will be wondering where their

phones are, where their computers are,

and whether their jobs are going to be

eliminated. And what would be happening

in the meantime? Who will be

keeping the store and watching the terrorists?

Reorganizing our bureaucracy will

not improve our Nation’s immediate

capacity to deter or respond to the imminent

threat of a terrorist attack.

Since September 11, the Senate Appropriations

Committee has focused on

providing immediate resources to Federal,

State, and local agencies and first

responders in order to improve our capacity

to respond to this evolving

threat.

On September 14, 2001—just 3 days

after the horrific attacks on September

11—Congress approved $40 billion. That

is $40 for every day since Jesus Christ

was born. Congress approved $40 billion,

including $9.8 billion for homeland

defense. Resources were provided

to the FBI to hire more agents and to

improve their computers; to State and

local governments to improve the capacity

of our hospitals and clinics to

respond to chemical or biological weapons

attacks; to State and local governments

to train and equip our law enforcement

and fire personnel to respond

to attacks; for HHS to purchase

smallpox vaccine for USDA; to the

FDA to protect our food safety; to the

Postal Service to purchase equipment

that can protect the mail—where have

you been, Mr. President? That is what

Congress did—for the FAA to secure

cockpits and to improve the security of

our airports; to the Department of

Transportation for port security; to

the Energy Department to help secure

our nuclear facilities; to Customs and

INS for additional border security inspectors

and agencies, and for improved

training and equipment.

To listen to the President, he is the

only person who has been thinking

anything about homeland security.

Here is the great Congress of the

United States that has been providing

moneys for the defense of our country.

Despite objections from the White

House, Congress was able to increase

funding for homeland security programs

by $3.9 billion. Where have you

been, Mr. President? If you want to do

something, do something here at home.

On November 14, 2001, Senate Democrats

supported the inclusion of $15 billion

for homeland security in an economic

stimulus package, including $4

billion for bioterrorism and food safety;

$4.6 billion for law enforcement and

responsive initiatives; $3.2 billion for

transportation security: and $3 billion

for other homeland security programs,

including mail screening and protection

for our nuclear plants and labs,

water projects, and other facilities.

Where has he been, Mr. Commander

in Chief? Out on the campaign trail

raising money for the campaign? This

is what Congress has been doing.

On November 14, 2001, the White

House strongly objected to the amendment,

asserting that existing funding

was ‘‘more than adequate to meet foreseeable

needs.’’

Now, who is fighting for homeland security?

Under pressure from the White

House, Senate Republicans, objecting

to the emergency designation for the

homeland security funding, raised the

Budget Act point of order. Efforts to

waive the budget point of order failed.

On December 4, 2001, the Appropriations

Committee reported out, by a

vote of 29 to 0, the Defense appropriations

bill for fiscal year 2002.

In addition to the $20 billion appropriated

on September 14, the bill would

have provided $7.5 billion in additional

homeland security funds, including $3.9

billion for bioterrorism and food safety;

$1.3 billion for antiterrorism law

enforcement; $1.43 billion for security

of mail and nuclear facilities; $879 million

for transportation and border security.

The bill would also have provided

an additional $7.5 billion to

FEMA’s disaster relief account for activities

and assistance related to 9/11.

On December 5, 2001, in a meeting

with congressional leaders, President

Bush threatened to veto the Defense

appropriations bill because of funding

‘‘that is not needed at this time.’’

On December 6, 2001, Senate Republicans

objected to the emergency designation

for the homeland security

funding in the Defense appropriations

bill and raised the Budget Act point of

order. Efforts to waive the budget

point of order failed.

On December 7, 2001, after negotiations

with Senate Republicans, homeland

security programs were reduced

by over $3.6 billion. The Senate then

passed the Defense appropriations bill.

In April and May of 2002, the Senate

Appropriations Committee held five bipartisan

hearings, led and conducted

by Senator TED STEVENS and me, concerning

the defense of our homeland.

Senator STEVENS and I, and others on

that committee, Republicans and

Democrats, heard from Governors and

from mayors. We heard from firemen,

law enforcement, and emergency medical

personnel. We heard from specialists

in the field of counterterrorism.

Based on those hearings, the Committee

on Appropriations in the Senate

produced a bipartisan supplemental appropriations

bill to continue our effort

to provide immediate resources to improve

our Nation’s capacity to deter

and respond to terrorist attack.

On May 22, 2002, the Senate Appropriations

Committee, by a vote of 29 to

0, reported out a supplemental appropriations

bill that included $8.3 billion

for homeland defense programs.

Once again, on June 4, 2002, the President

threatened to veto the bill because

he believed it contained unnecessary

homeland security spending.

On June 7, 2002, the Senate passed the

Supplemental Appropriations Act for

further recovery from and response to

terrorist attacks on the United States.

The bill provided $8.3 billion for homeland

security programs, including the

following amounts above the President’s

request: $265 million for airport

security funds; $646 million for first responder

programs; $716 million for port

security. However, under pressure from

the White House, conferees on that bill

were forced to reduce homeland security

funding from $8.3 billion to $6.7 billion—

under pressure from the White

House.

In negotiations with House Republicans,

homeland security funding was

dropped for cybersecurity, for improved

capacity for the Centers for Disease

Control to investigate potential biological

attacks, for airport security,

for the Coast Guard, and for the Customs

Service.

On July 24 of this year, the Senate

passed the conference report to the

Supplemental Appropriations Act for

further recovery from and response to

terrorist attacks on the United States.

Get this now; we are talking about war

here, the war on terrorism. Where?

Here in this country. This act reduced

the $8.3 billion for homeland security

appropriated by the Senate to $6.7 billion.

Did the White House agree to fund

the full $6.7 billion for homeland defense

programs? Did it?

No. The White House talks a good

game on homeland defense, but the

White House support is more about

rhetoric than it is about resources. In

order for the President to spend $2.5

billion for homeland defense spending,

it was necessary for him to do what?

Just sign his name on a document designating

the funding as an emergency

requirement.

What did the President choose to do?

Did he choose to sign his name and

start that $2.5 billion to flowing into

the States and counties and municipalities

of this country? No. The President

chose not to make that designation.

In making that decision, he terminated

$2.5 billion of funding for the

FBI, funding to train and equip our Nation’s

firefighters, funding for the

Corps of Engineers to help ensure our

water supply, funding for security at

nuclear facilities, funding for the Coast

Guard.

Now tell that, Mr. President, at your

next campaign stop, your next fundraiser

when you are talking about

making war on Iraq. Tell the people

there what I have been reading. It is

fact. These are for the record.

One of the lessons we learned at the

World Trade Center on September 11

was that our fire personnel could not

communicate by radio with police personnel;

that local officials could not

communicate with State and regional

personnel.

When the President decided to block

the $2.5 billion, he blocked the $100 million

that we approved to help State and

local governments across the land to

solve the problem, and $90 million to

provide medical assistance to the first

responders at the World Trade Center

was lost.

What is the President’s solution for

the imminent threat to our Nation’s

homeland security? Rhetoric? Yes.

More bureaucracy? Yes. Resources to

respond to the immediate threat? No.

Mr. President, with reference to this

Commander in Chief business that we

hear about—oh, the Commander in

Chief, they say. I listen to my friends

across the aisle talking about the Commander

in Chief. We must do this for

the Commander in Chief; we must

stand shoulder to shoulder with the

Commander in Chief. The Commander

in Chief. Of what is he Commander in

Chief? The army, the navy, and the militia

of the several States. But who

provides the army and the navy? Who

provides for the calling out of the militia

of the several States? Congress. So

much for the the term ‘‘Commander in

Chief.’’

Charles I used that term in 1639—

Commander in Chief. You know what

happened to Charles I of England? The

swordsman cut off the head of Charles

I on January 30, 1649. So much for Commander

in Chief.

Parliament and the King of England

fought a war. Can you imagine that?

Can you imagine Congress fighting a

war with the President of the United

States? They did that in England. Yes,

Parliament and the King fought a war.

Who lost? The King. Who was it? King

Charles I. A high court convened on

January 1, I believe it was, 1649, and in

30 days they cut Charles I’s head off—

severed it from his body. So much for

Charles I. That was the Commander in

Chief. Yes. Hail to the chief.

I respect the President as much as

anybody else. But the Barons at

Runnemede on the banks of the

Thames on June 15, 1215, took it upon

themselves to let the King know that

there was a law, and that Kings had to

live by the law, just as did barons and

others.

I do not know who is talking to this

President down here. I do not know

who among his crowd down there is

trying to pump him up, but my friends,

this President of the United States is

the President by virtue of this Constitution.

He is created by this Constitution

that I hold in my hand, which

says in article II that the President

shall be Commander in Chief. And yet

this refers to the Constitution in this

national security strategy of the

United States of America printed on

September 2002. It refers to the Constitution

not even with a capital letter.

The Constitution of America—what

is the matter with those people?

Haven’t they studied the Constitution

down at the other end of the avenue?

They better become aware of it. This is

the Constitution, and that Constitution

refutes this resolution on which

Congress is about to vote to give to the

President of the United States power

to determine the use of the military

forces, when he will use them, where he

will use them, how long he will use

them. It is this Constitution. You better

believe it, may I say to those who

advise the President.

I think the President is probably a

much better individual by himself, but

somebody is giving him bad advice.

Here is what Hamilton says. Let’s

read what Hamilton says. He is one of

the three authors of the ‘‘Federalist

Papers.’’ Hamilton, who was shot to

death in Weehawken, NJ, on the 11th of

July, 1804. He died on the 12th of July,

1804; shot by the Vice President of the

United States; murdered by the Vice

President of the United States. Let’s

hear what Alexander Hamilton has to

say in the Federalist Paper No. 69.

Read it. These are the ‘‘Federalist Papers.’’

There are 85 of them written by

Jay, Hamilton, and Madison. Let’s hear

what he says about the Commander in

Chief. I want the Commander in Chief

to hear me. I want the Commander in

Chief to hear not what ROBERT BYRD

said—who is he?—but read what Alexander

Hamilton said:

Get that down there at the other end

of the avenue. Read it.

That is Hamilton.

I am reading from the Federalist Papers.

Perhaps I ought to send a copy

down to the White House. I will see if

I can’t do that. I will send them a copy.

It will not cost them anything, just a

gift from ROBERT C. BYRD.

Now, I have a little more to say. Suffice

it to say there are other of my colleagues,

and I, who have stood on this

floor and we have pointed to the Constitution

of the United States. We have

said time and time again, as we have

offered amendments, to try to uphold

this Constitution of the United States,

read those amendments. They went

down, I am sorry to say, but I am not

discouraged.

Let me read some verses from the

Book of Luke in the Holy Bible, beginning

with chapter 16, verse 19 and continuing

through verse 31:

There you have it. We can speak

until we are blue in the face, we can

speak until our tongues fall out, and

they will not hear us. So if there were

those who were brought from the dead,

would some listen?

Some would; some would not.

We have spoken. We have spoken out

of our hearts, and we can speak until

our hearts fall from our bodies, but

some would not hear. Let those who

will not hear understand that this Constitution

will endure. It will endure because

it was written, as John Marshall

said, to endure for the ages.

In closing, I want to thank my dear

friends in this Senate who have stood

in this Chamber day after day in the effort

to educate our people.

The Senate is a great institution, but

somehow I think we are failing. We are

failing to educate the people. Why? Because

we do not want to spend enough

time. How much time have we spent on

this resolution as of yesterday at 4

p.m.? A little over 25 hours on this

bill—25 hours. Why, many of the larger

municipalities in this country would

spend a week on an application for a

sewer permit. And here we spend 2

days?—that is what it amounts to, 25

hours—and we are ready to quit.

We know we might as well quit because

this cloture rule is being used

against us. Why at this critical time,

when we are discussing the most critical

legislation we have had before the

Senate this year, the most critical legislation

we may have in a long time?

We have been stampeded, we have been

rushed, and it is unfair to the people of

this country. Yet it has to be that way.

I have letters from constitutional

scholars in response to my inquiry of

them as to the war powers of the

United States Congress. I received several

letters from constitutional scholars

from around the country, and I ask

unanimous consent that they be printed

in the RECORD: A letter by Jane E.

Stromseth, professor of law, Georgetown

University Law Center; a letter

from Tufts University, the Fletcher

School of Law and Diplomacy, a letter

signed by Michael J. Glennon, professor

of international law.

There being no objection, the material

was ordered to be printed in the

RECORD, as follows:

I do, I do. And I say further

to my dear friend that as soon as

this resolution is adopted and signed

by the President of the United States,

Congress is out of it. It is on the sidelines.

We may wish we could say something.

We may wish we could do something.

But as far as the human eye can

see, we are out of it until such time as

Congress asks to repeal this legislation

or to put a limit on it internally.

There is no limit.

I offered an amendment, and the distinguished

Senator from Maryland supported

that amendment today, as the

distinguished Senator from Minnesota

supported it, the distinguished Senator

from Michigan, the distinguished Senator

from New York, but we only got 31

votes. That amendment was defeated.

It does. And it is easy

enough, I suppose, to pass this resolution.

But should we try to negate it,

should we try to repeal it, should we

try to change the law, a President can

veto any change that Congress might

bring along later, any change it might

enact, in order to overturn this law it

is now about to adopt.