Mr. President, I am

opposed to the Byrd amendment, for

this is a resolution to deter war.

The amendment proposed by Senator

BYRD would insert into the joint resolution,

language which would state

that nothing in that joint resolution: is

intended to alter the constitutional authorities

of the Congress to declare

war, grant letters of marque and reprisal,

or other authorities invested in

Congress by Article I, Section 8, of the

Constitution; or shall be construed as

granting any authority to the President

to use the U.S. Armed Forces for

any purpose not directly related to a

clear threat of imminent, sudden, and

direct attack upon the U.S. or its

armed forces unless the Congress otherwise

authorizes.

The amendment of the Senator from

West Virginia attempts to do something

that the Framers of the Constitution

did not attempt—to define,

with particularity, the extent of the

President’s powers as Commander in

Chief of the Armed Forces. Specifically,

it would limit the authority of

the President to use Armed Forces to a

narrowly defined set of circumstance—

‘‘a clear threat of imminent, sudden

and direct attack upon the United

States or its Armed Forces.’’ Even

when the United States enjoyed genuine

geographic and political isolation

from the Old World, such a limitation

could not be maintained. Within a decade

of the ratification of the Constitution,

the United States engaged in an

undeclared naval war with France.

Shortly thereafter, we engaged in

undeclared war with the Barbary

States of North Africa, who had engaged

in piratical depredations against

American shipping.

In 1861, President Lincoln, faced with

an unprecedented situation, imposed a

blockade—an act of war normally employed

against a foreign enemy—upon

the Southern Confederacy. He did this

without congressional authorization.

The Supreme Court later upheld this

action in the famous Prize Cases, stating

that the President had a constitutional

duty to meet the insurrection as

he found it; the determination that a

state of war existed was for him to

make.

This is not a Republican or Democratic

issue. Since 1945, Presidents of

both parties have repeatedly committed

American troops abroad without

formal congressional approval.

Whether in Korea, Grenada, Panama,

Kosovo, or numerous other areas of the

world, our Presidents have used their

powers as Commander in Chief to protect

the Nation and American interests

whenever they, in their considered

judgment, thought it best to do so. The

Clinton administration, which committed

American troops to military operations

abroad on an unprecedented

scale in situations not involving imminent

danger of attack to the United

States, did not request formal congressional

approval for any of those

operations—believing that the President

possessed the constitutional authority

to do so. Indeed, the Secretary

of State in 1998 publicly stated that the

1991 congressional resolution authorizing

the use of force against Iraq, together

with existing Security Council

resolutions, constituted sufficient authority

for the use of force against

Iraq.

On September 11th of last year the

American people awoke to the realization

that they were in imminent danger,

had been for some time, and this

danger gives no warning. It is a different

type of danger, but no less real

and no less threatening to the Nation

than more traditional ones. As the

President reminded us in his speech to

the Nation on Monday evening:

On the Today Show this week, Richard

Butler, former head of UNSCOM,

was asked how easy it would be for the

Iraqis to arm a terrorist group or an

individual terrorist with weapons of

mass destruction. His response was

They may already have done it. The

danger is clear, present, and imminent.

We must grant the President the authority

to use armed force to protect

the Nation, and the flexibility to employ

that force as seems best to him.

Our enemies are cunning and flexible;

we cannot defeat them with anything

less.

The Byrd amendment regarding preservation

of Congress’s constitutional

authorities is unnecessary. The portion

of the amendment that would limit the

authority of the President to wage war

is, arguably unconstitutional. The Congress

can declare war, but it cannot

dictate to the President how to wage

war. No law passed by Congress could

alter the constitutional separation of

powers.

I urge my colleagues to defeat this

amendment.

I thank the leader. I

appreciate very much the calm tone

with which he addresses this issue of a

rush to judgment. Regrettably, our colleague

from Pennsylvania used those

terms. I was reminded of being here

last Friday afternoon for 5 1⁄2 hours.

What a memorable opportunity it was

with my distinguished colleague from

West Virginia. Senator KENNEDY and

Senator DODD joined in. I think we

went about a very constructive debate

and exchanged our views. Senator

BYRD and I debated again on Monday,

Tuesday, and Wednesday. Here we are

on the fifth day.

Mr. President, this is not a rush to

judgment. This is the Senate working

diligently. Most of us were here close

to 11 o’clock last night. In parallel, as

the distinguished leader said—I remember

it so well—the period of January

10 through 12, when a resolution,

again drawn up by my colleague from

Connecticut, the principal sponsor this

time, at that time I was the principal

sponsor. It was carefully debated. The

Senate is doing its job and doing it

well. We have had a very good debate

and we will complete that debate here

today, tomorrow, or whatever the case

may be.

I wish to draw the attention of the

Senate to the last vote—a very strong

vote, not against our colleague from

West Virginia. But I thought, as he

mentioned the Gulf of Tonkin, how appropriate

it was that in the leader’s

chair, Senator MCCAIN, my partner

who is working diligently with me on

this side, spoke very softly of his experience.

I don’t know of anyone in this

Chamber more qualified than he to

speak to that period, and the relevance

of that resolution. I was Secretary of

the Navy for 5 years, and Under Secretary

during that period of time, and

we remember well that period.

I wish to talk about the President of

the United States. As I look upon this

situation and listen to the debate, I

think we are of a mind, all 100 of us, of

the seriousness of these weapons of

mass destruction. We may have a difference

of conscience as to the level of

threat posed perhaps today, tomorrow,

in the future, but it is there. This is no

question.

I stop to think that the United Nations

has done nothing for 4 years.

They have not sought to enforce the

resolutions, 16 in number. It has been

this President, President George Bush,

who has taken the initiative to go not

only to the American people, but to the

whole world, and very carefully and

methodically tell the world we should

be on alert; we cannot do nothing. We

should join as a community of nations

to address it. He said that at the

United Nations very brilliantly. I think

everyone in this body respects him.

As we are debating today, another

debate is taking place in the U.N. To

the extent this resolution remains

strong as it is now is the extent to

which we can expect an equal and perhaps

even stronger statement of resolve

by the United Nations to fulfill

its mandate, to fulfill its charter.

The League of Nations failed to act

at a critical time in the history of this

Nation, and it went into the dustbin of

history. The United Nations will not go

into the dustbin of history. I am confident

that this time they will stand

up, that they will devise a 17th resolution.

I look upon the action by the Senate

today in voting a strong bipartisan

vote for this resolution as not an act of

war. It is an act to deter war, to put in

place the tools for our President and

our Secretary of State to get the

strongest possible resolution in the

United Nations. It is an act seen to

force, I repeat, the last option as our

President has said ever so clearly time

and again. It is an act to deter war to

make the last option the use of force.

I yield the floor.

I will take a few minutes

under my time and give to this

Chamber two quotations that frame

the entire debate. The first quotation

is from 40 years ago. It was the President

of the United States, John F. Kennedy,

in 1962:

This is precisely what this amendment

does. It is a total substitute for

the work that has been done by the

Senator from Connecticut, working

with others, the leadership on both

sides of the aisle, and the President’s

staff. That would all come down, and in

its place would be this resolution

which has provisions that could be interpreted

as a veto, questions the authority

of the President, and puts too

much reliance that the United Nations

is going to devise a resolution which

would meet the criteria that our President

and other nations deem essential

for a new inspection regime.

That was a quote by President Kennedy.

Now, 40 years forward, a second

quote:

Continuing:

That quote was made just over 40

minutes ago by the distinguished majority

leader of the Senate.

The House of Representatives debated

language identical in both Chambers.

To achieve that united Congress,

we must maintain the integrity of the

amendment that is presently pending.

That is the amendment by Senator

LIEBERMAN and myself, Senator

MCCAIN, and Senator BAYH.

I yield the floor.

The Senator raises a

key point on which I was going to conclude,

and that is, as we are debating,

the Secretary of State is working before

the U.N. Security Council.

He has made it clear

to the Senator from Delaware, I am

certain, as he has made it clear to me,

that the two-step process will not

achieve the goals a coalition of nations

now working—Great Britain and the

United States—desire to achieve; am I

not correct?

I have listened carefully

to our colleague. His amendment

is very simple on its face. But behind

the simplicity lies a great deal of history.

This Nation of ours has been protected

by the two oceans, and by wonderful

neighbors to the north and to

the south. We have had a sense of security.

But with the advent of high technology,

and with the advent of worldwide

syndicates of terrorists, America

will never be the same again.

That is a tough thing for me to tell

my children and my grandchildren because

I have labored in my life—as everyone

in this Chamber has—to provide

not only for my family, friends and

neighbors such that they can enjoy the

life we have enjoyed these many years.

However, high technology, while it

benefits mankind in so many ways, has

brought about dramatic change.

If you wish to have the standard of

imminent threat placed in the bill that

Senator LIEBERMAN, Senator MCCAIN,

Senator BAYH and I have crafted, I say

to you most respectfully, with the advent

of this extraordinary evolution of

technology, the time involved in warning

that is implicit in imminent threat

left us with the end of the 20th century.

The 21st century high technology has

erased that. Imminent danger struck

us on September 11th. We didn’t know

it was coming. The doctrine of imminent

danger, as I say, has changed in

this 21st century. It no longer gives us

the warning that we must have.

I urge my colleagues to let this resolution

remain unchanged by this

amendment as they have with the

other amendments that have been

brought before us.

I expect Senator REID in the Chamber

momentarily. I know he has a concluding

matter by way of a unanimous

consent request.

Before I, ask for regular order, I want

to make certain that

I understand the Senator’s

concerns, and I believe that the

Department of Defense is already very

sensitive to this situation, as reflected

in the assignment policies of the military

services. I trust the Department

will continue to make every reasonable

effort, through existing practices and

policies, to avoid situations in which

both parents would be deployed to a

combat zone.

I thank the Senator from California

for once again focusing attention on

this issue.