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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable GEORGE V. VOINOVICH, a Senator from the State of Ohio.

The PRESIDING OFFICER. This morning we are privileged to have with us a guest Chaplain, Dr. Ronnie W. Floyd, of the First Baptist Church, Springdale, AR.

Pastor Floyd.

PRAYER

The guest Chaplain, Dr. Ronnie W. Floyd, First Baptist Church, Springdale, AR, offered the following prayer:

Let us pray together.

Holy God, I thank You that Your Word says in Romans 13:1, ''For there is no authority except from God, and those which exist are established by God.'' I am thankful the authority granted to these Senators today has not been granted simply by their constituencies but, most of all, that authority is given by You.

Therefore, O God, the responsibility is so great upon these men and women today. Every decision that is made has such a great impact all across the world.

So Lord, I ask for the Holy Spirit of God to empower these leaders in their decisionmaking today. May the Word of God be their source of authority. May the Lord Jesus Christ be the only One they desire to please. May the people they represent in this country, whether rich or poor, male or female, or whatever race they may represent, be the beneficiaries of godly, holy, decisionmaking today.

O Father, America needs spiritual revival, reformation, and awakening. So God, in the name of Your son, Jesus Christ, we close this prayer, asking You and believing in You to send a spiritual revival to our Nation that would change lives, renew churches, restore and refresh family relationships, provide hope to every American and, most of all, give You glory. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. THURMOND].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 25, 1999.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable GEORGE V. VOINOVICH, a Senator from the State of Ohio, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. VOINOVICH thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Mr. President, I yield to the distinguished Senator from Arkansas.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas.

Mr. HUTCHINSON. Mr. President, I thank the Senator for yielding.

DR. RONNIE W. FLOYD, GUEST CHAPLAIN

Mr. HUTCHINSON. Mr. President, I take a moment to express my appreciation to our guest Chaplain, Pastor Ronnie Floyd, Pastor of the First Baptist Church, Springdale, AR, who led the Senate in our opening prayer today. Chaplain Ogilvie was gracious enough to allow Pastor Floyd to lead us in prayer.

Pastor Floyd has been a dear friend of mine for many years; he has had a tremendous impact upon my family and my children. I have a son and daughter-in-law who today still worship in his church and have been greatly impacted by his ministry. Pastor Floyd has a national television ministry and has touched lives all across this country. It is a great privilege today to have him in our Nation's Capitol ministering to us in the Senate.

I thank the Chair. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire.

SCHEDULE

Mr. SMITH of New Hampshire. Mr. President, the leader has asked me to make a couple of announcements this morning.

The Senate, of course, will resume consideration of the defense authorization bill, and under the previous order the Senate will debate several amendments with the votes on those amendments occurring in a stacked sequence beginning at 2:15 today. Therefore, Senators can expect at least three votes occurring at 2:15 this afternoon. It is the intention of the majority leader to complete action on this bill as early as possible this week, and therefore Senators can expect busy sessions each day and evening.

I thank my colleagues for their attention to this matter.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2000

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 1059, which the clerk will report.

The legislative assistant read as follows:

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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A bill (S. 1059) to authorize appropriations for fiscal year 2000 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Pending:

Roberts/Warner amendment No. 377, to express the sense of the Senate regarding the legal effect of the new Strategic Concept of NATO (the document approved by the Heads of State and Government participating in the meeting of the North Atlantic Council in Washington, D.C., on April 23 and 24, 1999).

Warner amendment No. 378 (to Amendment No. 377), to require the President to submit to the Senate a report containing an analysis of the potential threats facing NATO in the first decade of the next millennium, with particular reference to those threats facing a member nation or several member nations where the commitment of NATO forces will be ''out of area'', or beyond the borders of NATO member nations.

Wellstone amendment No. 380, to expand the list of diseases presumed to be service-connected for radiation-exposed veterans.

Wellstone amendment No. 381, to require the Secretary of Defense to provide information and technical guidance to certain foreign nations regarding environmental contamination at United States military installations closed or being closed in such nations.

Wellstone amendment No. 382, to require the Secretary of Health and Human Services to provide Congress with information to evaluate the outcome of welfare reform.

Specter amendment No. 383, to direct the President, pursuant to the United States Constitution and the War Powers Resolution, to seek approval from Congress prior to the introduction of ground troops from the United States Armed Forces in connection with the present operations against the Federal Republic of Yugoslavia or funding for that operation will not be authorized.

Roth amendment No. 388, to request the President to advance the late Rear Adm. (retired) Husband E. Kimmel on the retired list of the Navy to the highest grade held as Commander in Chief, United States Fleet, during World War II, and to advance the late Maj. Gen. (retired) Walter C. Short on the retired list of the Army to the highest grade held as Commanding General, Hawaiian Department, during World War II, as was done under the Officer Personnel Act of 1947 for all other senior officers who served in positions of command during World War II.

PRIVILEGE OF THE FLOOR

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that Maj. Clint Crosier, an Air Force fellow in my office, be granted floor privileges throughout the proceedings on the fiscal year 2000 authorization and appropriations bills.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The remarks of Mr. SMITH of New Hampshire pertaining to the submission of S.J. Res. 25 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

AMENDMENT NO. 388

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 30 minutes of debate, equally divided, with an additional 10 minutes under the control of the Senator from Texas, Senator GRAMM, relative to the Roth amendment No. 388.

Mr. ROTH. I yield 5 minutes to the distinguished Senator from Massachusetts.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I strongly support this amendment, which will at long last restore the reputations of two distinguished military officers who were unfairly scapegoated for the surprise attack on Pearl Harbor by Japan at the beginning of World War II—Admiral Husband E. Kimmel of the United States Navy and General Walter C. Short of the United States Army.

This amendment gives us an opportunity to correct a serious wrong in the history of that war. Admiral Kimmel and General Short were the Navy and Army commanders at Pearl Harbor during the attack on December 7, 1941. Despite their loyal and distinguished service, Admiral Kimmel and General Short were unfairly singled out for blame for the nation's lack of preparation for that attack and the catastrophe that took place.

Justice for these men is long overdue. Wartime investigations of the attack on Pearl Harbor concluded that our fleet in Hawaii under the command of Admiral Kimmel and our land forces under the command of General Short had been properly positioned, given the information they had received, and that their superior officers had not given them vital intelligence that could have made a difference, perhaps all the difference, in America's preparedness for the attack. These conclusions of the wartime investigations were kept secret, in order to protect the war effort. Clearly, there is no longer any justification for ignoring these facts.

I first became interested in this issue when I received a letter last fall from a good friend in Boston who for many years has been one of the pre-eminent lawyers in America, Edward B. Hanify. As a young Navy lawyer and Lieutenant J.G. in 1944, Mr. Hanify was assigned as counsel to Admiral Kimmel.

As Mr. Hanify told me, he is probably one of the few surviving people that heard Kimmel's testimony before the Naval Court of Inquiry. He accompanied Admiral Kimmel when he testified before the Army Board of Investigation, and he later heard substantially all the testimony in the lengthy Congressional investigation of Pearl Harbor that followed by the Roberts Commission. In the 50 years since then, Mr. Hanify has carefully followed all subsequent developments on the Pearl Harbor catastrophe and the allocation of responsibility for that disaster.

I would like to quote a few brief paragraphs from Mr. Hanify's letter of last September, because it eloquently summarizes the overwhelming case for long undue justice for Admiral Kimmel. Mr Hanify writes:

> The odious charge of ''dereliction of duty'' made by the Roberts Commission was the cause of almost irreparable damage to the reputation of Admiral Kimmel, despite the fact that the finding was later repudiated and found groundless.
>
> I am satisfied that Admiral Kimmel was subject to callous and cruel treatment by his superiors who were attempting to deflect the blame ultimately ascribed to them, particularly on account of their strange behavior on the evening of December 6th and morning of December 7th in failing to warn the Pacific Fleet and the Hawaiian Army Department that a Japanese attack on the United States was scheduled for December 7th, and that intercepted intelligence indicated that Pearl Harbor was a most probable point of attack. Washington had this intelligence and knew that the Navy and Army in Hawaii did not have it, or any means of obtaining it.
>
> Subsequent investigation by both services repudiated the ''dereliction of duty'' charge. In the case of Admiral Kimmel, the Naval Court of Inquiry found that his plans and dispositions were adequate and competent in light of the information which he had from Washington—adequate and competent in the light of the information he had from Washington.

Mr. Hanify concludes:

> The proposed legislation provides some measure of remedial Justice to a conscientious officer who for years unjustly bore the odium and disgrace associated with the Pearl Harbor catastrophe.

I have also heard from the surviving son of Admiral Kimmel. He and others in his family have fought for over half a century to restore their father's honor and reputation. As Edward Kimmel wrote:

> Justice for my father and Major General Short is long overdue. It has been a long hard struggle by the Kimmel and Short families to get to this point.

No public action can ever fully atone for the injustice suffered by these two officers. But the Senate can do its part by acting now to correct the historical record, and restore the distinguished reputations of Admiral Kimmel and General Short.

I commend Senator BIDEN and Senator ROTH for their leadership on this amendment, and I urge the Senate to support it, and I ask unanimous consent that Mr. Hanify's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

Hon. EDWARD M. KENNEDY,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR KENNEDY: I am advised that a Resolution known as the Roth/Biden Resolution has been introduced in the Senate and

that it has presently the support of the following Senators: Roth; Biden; Helms; Thurmond; Inouye; Stevens; Specter; Hollings; Faircloth; Cochran and McCain. The substance of the Resolution is to request the President to advance the late Rear Admiral Husband E. Kimmel to the grade of Admiral on the retired list of the Navy and to advance the late Major General Walter C. Short to the grade of Lieutenant General on the retired list of the Army.

Admiral Kimmel at the time of Pearl Harbor was Commander in Chief of the Pacific Fleet then based in Pearl Harbor and General Short was the Commanding General of the Hawaiian Department of the Army.

The reason for my interest in this Resolution is as follows: In early 1944 when I was a Lieutenant j.g. (U.S.N.R.) the Navy Department gave me orders which assigned me as one of counsel to the defense of Admiral Kimmel in the event of his promised court martial. As a consequence, I am probably one of the few living persons who heard the testimony before the Naval Court of Inquiry, accompanied Admiral Kimmel when he testified before the Army Board of Investigation and later heard substantially all the testimony before the members of Congress who carried on the lengthy Congressional investigation of Pearl Harbor. In the intervening fifty years I have followed very carefully all subsequent developments dealing with the Pearl Harbor catastrophe and the allocation of responsibility for that disaster.

On the basis of this experience and further studies over a fifty year period I feel strongly:

(1) That the odious charge of ''dereliction of duty'' made by the Roberts Commission was the cause of almost irreparable damage to the reputation of Admiral Kimmel despite the fact that the finding was later repudiated and found groundless;

(2) I am satisfied that Admiral Kimmel was subject to callous and cruel treatment by his superiors who were attempting to deflect the blame ultimately ascribed to them, particularly on account of their strange behavior on the evening of December 6th and morning of December 7th in failing to warn the Pacific Fleet and the Hawaiian Army Department that a Japanese attack on the United States was scheduled for December 7th at 1:00 p.m. Washington time (dawn at Pearl Harbor) and that intercepted intelligence indicated that Pearl Harbor was a most probable point of attack; (Washington had this intelligence and knew that the Navy and Army in Hawaii did not have it or any means of obtaining it).

(3) Subsequent investigations by both services repudiated the ''dereliction of duty'' charge and in the case of Admiral Kimmel the Naval Court of Inquiry found that his plans and dispositions were adequate and competent in light of the information which he had from Washington.

The proposed legislation provides some measure of remedial Justice to a conscientious officer who for years unjustly bore the odium and disgrace associated with the Pearl Harbor catastrophe. You may be interested to know that a Senator from Massachusetts, Honorable David I. Walsh then Chairman of the Naval Affairs Committee, was most effective in securing legislation by Congress which ordered the Army and Navy Departments to investigate the Pearl harbor disaster—an investigation conducted with all the ''due process'' safeguards for all interested parties not observed in other investigations or inquiries.

I sincerely hope that you will support the Roth/Biden Resolution.

Sincerely,

EDWARD B. HANIFY.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. LEVIN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Mr. President, I yield myself 5 minutes.

On December 7, 1941, when Pearl Harbor was attacked by Japan, the commanders on the ground were Rear Admiral Kimmel and Major General Short. Rear Admiral Kimmel was serving in the grade of admiral as commander in chief of the U.S. Fleet and commander in chief, U.S. Pacific Fleet. Major General Short was serving in the grade of lieutenant general as commander of the U.S. Army Hawaiian Department. Based on their performance at Pearl Harbor, both officers were relieved of their commands and were returned to their permanent ranks of rear admiral and major general on December 16, 1941.

The duty performance of Rear Admiral Kimmel and Major General Short has been the subject of numerous military, governmental, and congressional inquiries since that time. The most recent examination was by Under Secretary of Defense Edwin Dorn in 1995.

The Defense Department, after reviewing all of these inquiries, has concluded that posthumous advancement in rank is not appropriate. In short, in this 1995 review, the Department of Defense concluded that Admiral Kimmel and General Short, as commanders on the scene, were responsible and accountable for the actions of their commands. Accountability as commanders is a core value in our Armed Forces.

Rear Admiral Kimmel's and Major General Short's superiors at the time determined that their service was not satisfactory and relieved them of their commands and returned them to their permanent grades. We should not, in my judgment, some 57 years later, substitute the judgment of a political body—the Congress—for what was essentially a military decision by the appropriate chain of command at the time.

Those who were in the best position to characterize their service have done so. Their superiors concluded that Rear Admiral Kimmel and Major General Short did not demonstrate the judgment required of people who serve at the three- and four-star level. I do not believe that this political body should now attempt to reverse that decision made by the chains of command in our military service. So I join the chairman of the Armed Services Committee in opposing this amendment.

I also note the letter from the Secretary of Defense to the then chairman of our committee, STROM THURMOND, saying the following:

While Under Secretary of Defense for Personnel and Readiness, Mr. Edwin Dorn, conducted a thorough review of this issue in 1995. He carefully considered the information contained in nine previous formal investigations, visited Pearl Harbor and personally met with the Kimmel and Short families. His conclusion was that responsibility for the Pearl Harbor disaster must be broadly shared, but that the record does not show that advancement of Admiral Kimmel and General Short on the retired list is warranted.

I appreciate the fact that the overwhelming consensus of the organizations and personnel mentioned in your letter recommend exoneration of Admiral Kimmel and General Short. Absent significant new information, however, I do not believe it appropriate to order another review of this matter.

Ed Dorn and I both agree that responsibility for this tragic event in American history must be broadly shared, yet I remain confident in the findings that Admiral Kimmel and General Short remain accountable in their positions as leaders.

To highlight very briefly the findings of the Under Secretary of Defense in the Dorn report, referred to by the Secretary of Defense, I will quote three or four of the findings.

Finding 1:

Responsibility for the Pearl Harbor disaster should not fall solely on the shoulders of Admiral Kimmel and General Short; it should be broadly shared.

Finding 2:

To say that responsibility is broadly shared is not to absolve Admiral Kimmel and General Short of accountability.

Military command is unique. A commander has plenary responsibility for the welfare of the people under his or her command, and is directly accountable for everything the unit does or fails to do. . . . Command at the three- and four-star level involves daunting responsibilities. Military officers at that level operate with a great deal of independence. They must have extraordinary skill, foresight and judgment, and a willingness to be accountable for things about which they could not possibly have personal knowledge. . . .

It was appropriate that Admiral Kimmel and General Short be relieved.

Then he goes into the information that he had.

I yield myself just 1 additional minute.

The PRESIDING OFFICER (Mr. ALLARD). The Senator may continue.

Mr. LEVIN. Mr. President, finally in finding 3, the Dorn report says:

The official treatment of Admiral Kimmel and General Short was substantively temperate and procedurally proper.

Then finally:

There is not a compelling basis for advancing either officer to a higher grade.

Their superiors concluded that Admiral Kimmel and General Short did not demonstrate the judgment required of people who serve at the three- and four-star level.

* * * * *

In sum, I cannot conclude that Admiral Kimmel and General Short were victims of unfair official actions and thus I cannot conclude that the official remedy of advancement on the retired list [is] in order.

Mr. President, I ask unanimous consent that portions of the Dorn report and the Secretary of Defense letter in opposition to the advancement of these two gentlemen be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Memorandum for the Deputy Secretary of Defense]

ADVANCEMENT OF REAR ADMIRAL KIMMEL AND MAJOR GENERAL SHORT

1. Responsibility for the Pearl Harbor disaster should not fall solely on the shoulders of Admiral Kimmel and General Short; it should be broadly shared.

2. To say that responsibility is broadly shared is not to absolve Admiral Kimmel and General Short of accountability.

3. The official treatment of Admiral Kimmel and General Short was substantively temperate and procedurally proper.

There is not a compelling basis for advancing either officer to a higher grade.

His nomination is subject to the advice and consent of the Senate. A nominee's errors and indiscretions must be reported to the Senate as adverse information.

In sum, I cannot conclude that Admiral Kimmel and General Short were victims of unfair official actions and thus I cannot conclude that the official remedy of advancement to the retired list in order. Admiral Kimmel and General Short did not have all the resources they felt necessary. Had they been provided more intelligence and clearer guidance, they might have understood their situation more clearly and behaved differently. Thus, responsibility for the magnitude of the Pearl Harbor disaster must be shared. But this is not a basis for contradicting the conclusion, drawn consistently over several investigations, that Admiral Kimmel and General Short committed errors of judgment. As commanders, they were accountable.

THE SECRETARY OF DEFENSE,
Washington, DC, November 18, 1997.

Hon. STROM THURMOND,
Chairman, Committee on Armed Services,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your interest in exonerating the names of Admiral Kimmel and General Short. In the years since the fateful events at Pearl Harbor there have been numerous formal investigations of the events leading up to the attack, including sharp debate over our state of readiness at the time.

While Under Secretary of Defense for Personnel and Readiness, Mr. Edwin Dorn conducted a thorough review of this issue in 1995. He carefully considered the information contained in nine previous formal investigations, visited Pearl Harbor and personally met with the Kimmel and Short families. His conclusion was that responsibility for the Pearl Harbor disaster must be broadly shared, but that the record does not show that advancement of Admiral Kimmel and General Short on the retired list is warranted.

I appreciate the fact that the overwhelming consensus of the organizations and personnel mentioned in your letter recommend exoneration of Admiral Kimmel and General Short. Absent significant new information, however, I do not believe it appropriate to order another review of this matter.

Ed Dorn and I both agree that responsibility for this tragic event in American history must be broadly shared, yet I remain confident in the findings that Admiral Kimmel and General Short remain accountable in their positions as leaders.

Sincerely,

BILL COHEN.

Mr. ROTH. Mr. President, I yield myself 4 minutes.

I rise to address the Kimmel-Short resolution which I and Senators BIDEN, THURMOND, and KENNEDY introduced to redress a grave injustice that haunts us from World War II.

That injustice was the scapegoating of Admiral Kimmel and General Short for the success of the disastrous Pearl Harbor attack. This unjust scapegoating was given unjust permanence when these two officers were not advanced on the retirement list to their highest ranks of wartime command, an honor that was given to every other senior commander who served in wartime positions above his regular grade.

Our amendment is almost an exact rewrite of Senate Joint Resolution 19, that benefits from the support of 23 cosponsors. It calls for the advancement on the retirement lists of Kimmel and Short to the grades of their highest wartime commands—as was done for every other officer eligible under the Officer Personnel Act of 1947.

Such a statement by the Senate would do much to remove the stigma of blame that so unfairly burdens the reputation of these two officers. It is a correction consistent with our military tradition of honor.

Allow me to review some key facts about this issue.

First, it is a fact that Kimmel and Short were the only two World War II officers eligible under the Officer Personnel Act of 1947 for advancement on the retired list who were not granted such advancement. No other officer or official paid a price for their role in the Pearl Harbor disaster. That fact alone unfairly perpetuates the scapegoating they endured for the remainder of their lives.

Second, there have been no less than nine official investigations on this matter over the last five decades. They include the 1944 Naval Court of Inquiry which completely exonerated Admiral Kimmel and the 1944 Army Pearl Harbor Board who found considerable fault in the War Department—General Short's superiors. These investigations include that conducted by a 1991 Board for the Correction of Military Records which recommended General Short's advancement on the retired list.

I can think of few issues of this nature that have been as extensively investigated and studied as the Pearl Harbor matter. Nor can I think of a series of studies conducted over five decades where conclusions have been so remarkably consistent.

They include, first, the Hawaiian commanders were not provided vital intelligence they needed and that was available in Washington prior to the attack on Pearl Harbor.

Second, the disposition of forces in Hawaii were proper and consistent with the information made available to Admiral Kimmel and General Short.

Third, these investigations found that the handling of intelligence and command responsibilities in Washington were characterized by ineptitude, limited coordination, ambiguous language, and lack of clarification followup.

Fourth, these investigations found that these failures and shortcomings of the senior authorities in Washington contributed significantly, if not predominantly, to the success of the surprise attack on Pearl Harbor.

The PRESIDING OFFICER. The 4 minutes have expired.

Mr. ROTH. Mr. President, I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I understand under the previous order I have 10 minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. GRAMM. Mr. President, I have the highest regard for Senator ROTH, our distinguished chairman of the Finance Committee. One can tell by looking at all the books on his desk that he has done considerable research in this area. I have not done similar research in this area. But this is an issue that I have followed for my period of service in Congress, and I have followed it in part because of an interest in it, and in part because of my interest in the efforts of Dr. Samuel Mudd to exonerate his name from the role that he is alleged to have played and in fact was convicted of playing in the post-assassination activities related to President Lincoln.

But I have come to the floor today to oppose this amendment because I strongly object to Congress getting into the business of rewriting history.

This is an old issue. There has been a lot of talk over the years about Admiral Kimmel and about General Short, and about the facts in the wake of the greatest military disaster in American history at Pearl Harbor. And there is no question about the fact that we were asleep on December 7th of 1941. There is no question about the fact that Kimmel and Short had a great shortcoming in that they did not talk to each other and put together the information they had. But there is probably no question about the fact that in the wake of that disaster, there was an effort to put the blame on someone. It is also true that subsequent studies have concluded there was broad culpability.

But here is the point I want to make. We have a Board for the Correction of Military Records. We have an on-going process within the Department of Defense to reevaluate decisions that have been made. This decision about Kimmel and Short bubbled all the way up to President Bush, who as you know, was the youngest naval aviator in American history in World War II.

President Bush decided to let contemporaries be the judge of historical events, and so he made the decision not to override the decision of military leaders at the time of Pearl Harbor.

We had another review that ended on December 15th of 1995. That review was headed by Under Secretary of Defense for Personnel and Readiness, Edwin S.

Dorn. Dorn concluded that, while it was clear that there was broad culpability, there was not sufficient evidence available now to override the previous decision, which did not include court-martial of these two military leaders; it simply included retiring them at their permanent rank rather than their temporary rank.

Some of you will remember this issue because we went through it with a four-star admiral when there were questions about the abuse of women on his watch in the Navy. Some of you will remember that we actually had to cast a vote in that case. The issue was whether he should retire at his permanent rank, which was a two-star admiral, or as a four-star admiral. We had a very close vote on the decision to allow him to retire with his four-star rank, which he held on the day he left the military.

It is true that normally, military flag officers are allowed to retire above their permanent rank to the higher temporary rank held on the day they are severed from the military. But that is not always the case, and it is normally done as an indication that they have provided excellent service.

It was not an extraordinary thing in the wake of Pearl Harbor to, No. 1, retire the two officers in charge and, No. 2, retire them at their permanent rank rather than elevating their rank upon retirement.

I urge my colleagues, with all due respect to Senator ROTH, to let history be the judge of what happened at Pearl Harbor. We have a process within the Defense Department where recommendations can be made, where facts can be gathered on an objective basis, where the review can come up to the level of the Secretary of Defense and then come to the President, if necessary, to make a final decision. President Bush refused to override the judgment of history. The Clinton administration, through Under Secretary Dorn, has refused to override the judgment of history.

Now, there is no doubt about the fact that Senator ROTH believes he is sufficiently knowledgeable about this case to override the judgment of history here. But I ask the other 99 Members of the Senate, are we sufficiently informed? Do we want to set a precedent here or build on precedents, bad precedents in my opinion, that have been set in the past, of trying to write history on the floor of the Senate? I think we need to leave it to the official process. We need to leave it to historians to make these judgments.

I have been personally involved now for several years with the Dr. Mudd case. What has happened in that case is that Dr. Mudd has many influential heirs and they have set a goal of exonerating him. We now have gone through this extraordinary process where we literally are on the verge of making a decision, where the Federal courts have gotten involved, not on the issue of whether Dr. Mudd was guilty. Having met John Wilkes Booth three times, being a physician whose job it was to recognize traits in people, he supposedly treated John Wilkes Booth and never recognized him. Contemporaries at the time said no. As a result, they sent him to prison. He was later pardoned due to some of the good work he did in prison. Never again in his lifetime did he challenge the judgment. But yet now we are on the verge of having, because of the political influence of that family, a decision in the Defense Department to override history.

I think we make a mistake by doing that. In this case, we have had a judgment by President Bush, a naval aviator, a hero of the very war where this decision was made, who decided not to rewrite history.

I think we should not decide to rewrite history here today. I think this amendment is well intended and based on tremendous research and on a great deal of fact. The point is, we are not the body that should be making this judgment. There is a process underway. That process has come to the level of the President once; it has come to the level of the Under Secretary of Defense once; and in both cases, they have said they would allow the judgment of history to stand.

It is not as if these two military leaders were court-martialed. They were simply retired, something that happens every day in the military. And they were retired at their permanent rank, which is not ordinary but it is certainly not extraordinary.

What should be extraordinary is that retirement at temporary rank ought to be a reward for conspicuous service. And while each of us can make our judgment about history that occurred in 1941, almost 58 years ago, I do not believe we have the ability, nor do I believe we have the moral authority as a political body, to go back and rewrite history. I ask my colleagues to oppose this amendment.

I yield back the remainder of my time.

Mr. ROTH. Mr. President, I yield myself 2 minutes.

We are not rewriting history. We are merely correcting the record. Just let me point out that the Dorn report, which has been mentioned time and again by those in opposition, specifically concluded that responsibility for the Pearl Harbor disaster should not fall solely on the shoulders of Admiral Kimmel and General Short; it should be broadly shared. Let me emphasize that: It should be broadly shared. In other words, there were others responsible, primarily in Washington. To place the blame on these two gentlemen, who had distinguished military careers, is wrong and is unfair. I believe we have a responsibility, a duty, to recommend to the President action that corrects this unfortunate misdeed.

In making this decision, let me point out that a number of endorsements of my resolution have been received from senior retired officers of the highest rank. For example, Arleigh Burke sent a letter in which he concluded that:

> It is my considered judgment that when all the circumstances are considered that you should approve this posthumous promotion and recommend it to the President.
>
> The record is clear that important information, available to the Chief of Naval Operations in Washington, was never made available to Admiral Kimmel in Hawaii.
>
> Lastly, the Naval Court of Inquiry, which exonerated Admiral Kimmel, concluded that his military decisions were proper based on the information available to him.

Let me now refer to a letter we received from several distinguished members of the Navy: Thomas Moorer, Admiral, U.S. Navy; former Chairman, Joint Chiefs of Staff, William J. Crowe, Admiral, U.S. Navy; J.L. Holloway, Admiral, U.S. Navy; Elmo Zumwalt, Admiral, U.S. Navy. They wrote:

> We ask that the honor and reputations of two fine officers who dedicated themselves to the service of their country be restored. Admiral Husband Kimmel and General Walter Short were singularly scapegoated as responsible for the success of the Japanese attack on Pearl Harbor December 7, 1941. The time is long overdue to reverse this inequity and treat Admiral Kimmel and [G]eneral Short fairly and justly. The appropriate vehicle for that is the current Roth-Biden Resolution.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, last night the distinguished Senator ROTH and I had an extensive debate on this issue, and we are basically covering much of the same ground this morning. I repeat, I just got off the phone with the Secretary of Defense Bill Cohen, his predecessor, Bill Perry.

The Dorn report went through this whole case very carefully.

I recited the list of some nine tribunals, including the Congress of the United States, that reviewed this matter, and certainly did not reach any conclusion that the action to which my good friend and colleague, the Senator from Delaware, asks the Senate to do today.

I associate myself with the remarks of our colleague from Texas.

But it is interesting. This is very extensive research performed by our colleague. I took the liberty of taking the book last night and going home to read it, which is a summary of the congressional hearings. What I find interesting is that the Congress absolutely put forward some of the most distinguished Members of the House and the Senate to form the Joint Committee on the Investigation of the Pearl Harbor Attack: Alben Barkley, Senator from Kentucky was the chairman; Jere Cooper, Representative from Tennessee, was the Vice Chairman. On the Senate side, just look at the names of the individuals. Based on my own not personal knowledge but study of their careers in the Senate, they certainly were viewed as among the giants of the Senate during that critical period in history of

World War II: Walter F. George, Senator from Georgia; Scott Lucas, Senator from Illinois; Owen Brewster, Senator from Maine; Homer Ferguson, Senator from Michigan. They were the elderly statesmen, the leaders of the Senate.

In their report, this is what the Committee on the Investigation of the Pearl Harbor Attack found. I refer to page 252. It says:

''Specifically, the Hawaiian commands failed'' to do the following. By ''the Hawaiian commands,'' of course, they are referring to the Naval command under Admiral Kimmel and the Army command under General Short:

(a) To discharge their responsibilities in the light of the warnings received from Washington, other information possessed by them, and the principle of command by mutual cooperation.

The record astonishingly shows that these two senior officers, located on the principal islands of Hawaii, just did not collaborate together and share information and ideas as to how best to plan for the defense of the men and women of the Armed Forces, our interest in the islands at that time, and the critical assets; namely, Naval ships and aircraft that were located at that forward deployed area.

(b) To integrate and coordinate the facilities for defense and to alert properly the Army and Navy establishments in Hawaii, particularly in the light of the warnings and intelligence available to them during the period November 27 to December 7, 1941.

(c) To effect liaison on a basis designed to acquaint each of them with the operations of the other, which was necessary to their joint security, and to exchange fully all significant intelligence.

I am going to repeat that—failure to exchange between the two of them and with their subordinant significant intelligence.

(d) To maintain a more effective reconnaissance within the limits of their equipment.

(e) To effect a state of readiness throughout the Army and Navy establishments designed to meet all possible attacks.

(f) To employ the facilities, materiel, and personnel at their command, which were adequate at least to have greatly minimized the effects of the attack, in repelling the Japanese raiders.

(g) To appreciate the significance of intelligence and other information available to them.

In fairness, I will read another finding, and that is:

The errors made by the Hawaiian commands were errors of judgment and not derelictions of duty.

Had there been dereliction of duty, these two men would have been court-martialed. But that was the decision made by the President of the United States, two successive Presidents—Roosevelt and Truman—not to do that. But they found them guilty of errors of judgment.

What we are asked to do is to put this body on notice that we are reversing the findings of the distinguished bipartisan panel of Senators and Members of the House of Representatives after taking all of this factual evidence into consideration. Look at the voluminous factual situation.

I asked my good friend last night: Are there any new facts on which the Senate could have as a predicate the changing of this decision of the joint congressional committee? And, quite candidly, my colleague from Delaware said no.

Just to bring to the attention of the Senate one other part in this report, it states on page 556:

The commanding officers in Hawaii had a particular responsibility for the defense of the Pacific Fleet and the Hawaiian coastal frontier. This responsibility they failed to discharge.

I repeat, Mr. President, ''This responsibility they failed to discharge.''

The failure of the Washington authorities to perform their responsibility provides extenuating circumstances for the failures of these commanders in the field.

This committee took into consideration that there were other failures but there were extenuating circumstances to bring the judgment of this panel to the conclusion that a court-martial was not to be held. But they were to be retired in the grades which they were in at permanent rank.

In this record is a request by these two officers to be retired, and the decision was made not to advance them at the time of retirement to the higher grade. That decision was made by individuals who had fresh of mind the facts of this case.

For us at this date and time to try to reverse that, in my judgment, would be to say to all of the tribunals that looked at this case—I will recite them again—the Knox investigation of December 1941; the Roberts Commission of January 1941; the Hart investigation of June 1944; Army Pearl Harbor Board, October of 1944; Navy Court of Inquiry, October of 1944; Clark investigation, September of 1944; Hewitt inquiry, July of 1945——

The PRESIDING OFFICER (Mr. SANTORUM). The time of the Senator from Virginia has expired.

Mr. WARNER. Mr. President, I ask unanimous consent that the Senator from Virginia be given an additional 5 minutes.

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

Mr. WARNER. The Clausen investigation, September 12, 1945; and, the joint congressional committee of May of 1945. It is the joint congressional committee record—to now, after these many 50-plus years, go back and reverse the decisions of all of this work done by individuals, as the Senator from Texas pointed out, with the authority to render such judgments would be to say to them: All of you are in error for not having done what the Senator from Delaware requested the Senate do these 50-plus years later.

I just think that is a very unwise decision. I think the Senator from Delaware has put an awful lot of hard work into this. I respect him for it. But I simply cannot support the Senator, nor can the current Secretary of Defense, and, indeed, the previous Secretary of Defense, and others who have looked at this set of documents previously.

I yield the floor.

Mr. ROTH. Mr. President, I yield 4 minutes to the distinguished senior Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 4 minutes.

Mr. BIDEN. Mr. President, let me begin by thanking my senior colleague, Senator ROTH, for carrying the load on this.

As we look forward to Memorial Day observances this weekend, most of us will take time to reflect on the honorable and noble traditions of our military. The amendment sponsored by myself and my good friends Senator ROTH, THURMOND, and KENNEDY is an effort to make sure Congress does its part to uphold those noble traditions.

Just to highlight two or three points: First of all, my friend from Virginia talks about the historical record. The historical record was made at that time when history was least likely to be served in the immediate aftermath of a national tragedy, and a need for an explanation that the country yearned and desired. I am not suggesting those who conducted the original investigation had any benevolent intent. I am suggesting that history is best viewed with a little bit of distance. There was not any distance. I just ask everyone to think about what would happen if something, God forbid, similarly happened today and this Senate, this body, and the administration decided they needed to investigate something immediately. My overwhelming instinct tells me there would be a need to find specific individuals who were responsible in order to satisfy our collective need for an answer.

I respectfully suggest that that is what happened here, and I respectfully suggest, as well, that we should not be fearful of the truth and we should not be fearful of going back in this open society of ours and not rewriting history, but setting the facts straight.

Ultimately, it is the President who must take action, but it is important that we in the Senate send the message that the historical truth matters and that it is never too late to acknowledge that the government did not treat the two commanding officers at Pearl Harbor on December 7, 1941, fairly.

Here's how I see it. Admiral Husband E. Kimmel and General Walter Short were publicly vilified and never given a chance to clear their names.

If we lived in a closed society, fearful of the truth, then there would be no need for the President to take action. But we don't. We live in an open society. Eventually, we are able to declassify documents and evaluate our past based on at least a good portion of the whole story. I believe sincerely that one of our greatest strengths as a nation comes from our ability to honor truth and learn the lessons from our past.

If we perpetuate the myth that Admiral Kimmel and General Short bear all of the blame for Pearl Harbor then we miss the real story. We fail to look at the readiness shortfalls they were facing—the lack of adequate reconnaissance planes, pilots, spare parts, and maintenance crews. We fail to look at the flawed intelligence model that was used—the disconnect between what was obtained and what got to the commanders in the field.

I mention these things in particular because there are some striking parallels to the problems facing today's military. Today's problems are of a different scope and scale, but it is important to see the parallels so that we can accurately judge our progress and our endemic problems.

The historic record is not flattering to our government in the case of the two commanding officers at Pearl Harbor and that is why it is our government's responsibility to acknowledge its mistake. I want to emphasize that point, because it is important.

In last night's debate over this amendment, both those for and against it agreed on most of the facts. Where there was disagreement, it seems to me, was in what to do about the facts. I believe we should urge the President to take action, because government action in the past shrouded the truth and scapegoated Kimmel and Short.

I know Senator ROTH and Senator THURMOND discussed some of the history last night, so I will just briefly review some of the critical parts.

In 1941, after lifetimes of honorable service defending this nation and its values, Admiral Kimmel and General Short were denied the most basic form of justice—a hearing by their peers. Instead of a proper court-martial, their ordeal began on December 18th with the Roberts Commission. A mere 11 days after the devastating attack at Pearl Harbor, this Commission was established to determine the facts.

In this highly charged atmosphere, the Commission conducted a speedy investigation, lasting little over a month. In the process, they denied both commanders counsel and assured both that they would not be passing judgement on their performance. That assurance was worthless. Instead, the Commission delivered highly judgmental findings and then immediately publicized those findings. The Roberts Commission is the only investigative body to find these two officers derelict in their duty and it was this government that decided to publicize that false conclusion. As one might expect, the two commanders were vilified by a nation at war.

Every succeeding investigation was clear in finding that there was no dereliction of duty. The first of these were the 1944 Army Board and Navy Court reviews. Again, it was government action that prevented a truthful record from reaching the public—a decision by the President. The findings of both of these bodies that placed blame on others than Kimmel and Short were sequestered and classified.

Fifty-seven years later, such falsehoods and treatment can no longer be justified by the necessities of war. Rear Admiral Husband E. Kimmel and Major General Walter Short were not singularly to blame for the disastrous events of Pearl Harbor in 1941. In fact, every investigation of Admiral Kimmel and General Short's conduct highlights significant failings by their superiors.

This amendment does not involve any costs, nor does it seek any special honor or award for these two officers. It does not even seek to exonerate them from all responsibility. Instead, it seeks simple fairness and their equal treatment. They are the only two eligible officers from World War II denied advancement on the retirement lists to their highest held wartime ranks.

I know my colleague from Virginia is concerned that there may be a long list of junior officers who can make similar claims. It is my understanding that there was a list of officers from World War II eligible for advancement under the Officer Personnel Act of 1947. Admiral Kimmel and General Short were the only officers on that list that were denied advancement on the retirement list.

I want to stress again for all my colleagues that this amendment simply sets the record straight—responsibility for Pearl Harbor must be broadly shared. It cannot be broadly shared if we fail to acknowledge the government's historic role in clouding the truth, nor if we continue to perpetuate the myth that Kimmel and Short bear singular responsibility for the tragic losses at Pearl Harbor.

These two officers were unjustly stigmatized by our nation's failure to treat them in the same manner with which we treated their peers. To reverse this wrong would be consistent with this nation's sense of military honor and basic fairness.

As we honor those who have given their lives to preserve American ideals and national interests this coming Memorial Day, we must not forget two brave officers whose true story remains shrouded and singularly tarnished by official neglect of the truth.

We introduced this amendment as S.J. Res. 19 earlier this year and it now has 23 co-sponsors. As I know Senator ROTH indicated last night, it has the support of numerous veterans organizations and retired Navy flag officers. These knowledgeable people and about a quarter of the Senate have already spoken up on behalf of justice and fairness.

I urge the rest of my colleagues to join us and support this amendment.

Mr. WARNER addressed the Chair

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I cannot accept the basic premise on which the distinguished Senator from Delaware addresses his case; that is, that there was a disposition among good and honest men not to accord fairness, equity, and justice to these two individuals. They were the subject of repeated inquiries. As a matter of fact, the Roberts Commission was headed by a Supreme Court Justice. Throughout the whole judicial history, in the common law of England, which we incorporated in our judicial history, speedy trial is the essence of our justice. The appellate procedure has to thereafter proceed with some expedition. You cannot wait 50-some-plus years to address an issue such as this. What do you say to the congressional committee? Do you dispute the findings of this committee?

Mr. BIDEN. Yes.

Mr. WARNER. We gave the names of some of the most revered elder statesmen of this body who presided, such as Alben Barkley. And, indeed, President Truman had to address, in 1947, as Senator ROTH and I covered last night, the tombstone promotions, which were given to officers of this category, and deny them. Truman himself had to make that decision. So I say to my good friend, many fair-minded individuals have reviewed this case and have come up with the determination that they were not the only ones who had culpability, but certainly, as I read it, this commission of the Congress of the United States found a serious basis for holding the action and making the decision that they did.

Mr. LEVIN. Mr. President, will the Senator yield a minute?

Mr. WARNER. I yield such time as the Senator from Michigan needs.

Mr. LEVIN. Mr. President, let me just add to what the Senator from Virginia just said in response to our good friend from Delaware. What I really fear, perhaps the most, is the substitution of the judgment of a political body for the judgment and findings of the appropriate chain of command. We are a political body. The chain of command at the time, which has been reviewed by the Defense Department, repeatedly made findings and held these two officers accountable. For us now to substitute our judgment more than five decades later for that of the chain of command, it seems to me, is a very, very bad precedent in terms of holding officers accountable for events.

Mr. President, the Department of Defense recently reviewed this entire matter—the so-called Dorn report—and I have quoted these findings before, but I will pick out two of them, which seems to me go to the heart of the matter.

This is a quote:

> To say that responsibility is broadly shared is not to absolve Admiral Kimmel and General Short of accountability.

Of course, accountability should be broadly shared, and maybe it wasn't as broadly shared as it should have been, but the issue is whether or not this accountability, 57 years ago, is going to be set aside by a political body 57 years later.

Mr. BIDEN. Will the Senator yield?

Mr. LEVIN. My time is over, but I will be happy to yield.

Mr. BIDEN. Mr. President, I ask unanimous consent for 1 minute.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BIDEN. Mr. President, this is a rhetorical question. The report suggested that Generals Marshall and Stark were also partially responsible. My point is that the idea that the entirety of the blame, that the children and the children of the children of these two men will live forever thinking that they were the only two people responsible for this, is a historical inaccuracy, unfair, and a blemish that is not warranted to be carried by the two proud families whose names are associated with them. It is as simple as that.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. I ask unanimous consent for 2 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROTH. Mr. President, what we are talking about today is a matter of justice and fairness, a matter that goes to the core of our military tradition and our Nation's sense of military honor. Just let me point out once again the Dorn report says:

> Responsibility for the Pearl Harbor disaster should not fall solely on the shoulders of Admiral Kimmel and General Short. It should be broadly shared.

Unfortunately, it was not broadly shared. The only two people who were singled out for punishment, or not to be promoted to their wartime rank, were Admiral Kimmel and General Short. They were held singularly responsible for what happened in Pearl Harbor. That is not fair. That is not just. Just let me point out that we have had the essence of the tremendous number of endorsements we have received from senior retired officers of the highest rank. Once again, I point out that admiral after admiral—Burke, Zumwalt, Moorer and Crowe—have asked that this be corrected. All we seek today is justice and fairness to two officers who served their Nation with excellence.

The PRESIDING OFFICER. All time has expired.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I ask for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Virginia.

Mr. WARNER. Mr. President, the admirals the Senator enumerated were ones I had the pleasure of knowing, serving with several, and for whom I have a great deal of respect. But I note the absence of any similar number of Army generals coming forward on behalf of General Short. Perhaps the Senator has something in the RECORD. But I think that silence speaks to authenticate the position that this Senator and others have taken.

To the very strong, forceful statement of my colleague who said it is implicit that all responsibility for this tragedy is assigned to these two individuals, that is not correct. The Dorn report said it is to be shared. In fact, General Marshall stepped forward with courage and accepted publicly, at the very time this was being examined, his share of responsibility.

So I say others, indeed, General Marshall and others, stepped forward.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. ROTH. May I just make a 15-second statement?

Mr. WARNER. The Chair has ordered the yeas and nays?

The PRESIDING OFFICER. Yes.

Mr. WARNER. I say, as a courtesy to my good friend and others who have sponsored this, we will not, of course, move to table.

Mr. ROTH. I point out the Army Board for Correction of Military Records, in 1991, recommended that General Short be restored to his full wartime rank.

AMENDMENT NO. 377

The PRESIDING OFFICER. All time has expired. The question now is on the Roberts amendment. There is an hour equally divided.

Mr. ROBERTS. Mr. President, I have had the privilege this year to serve as the first chairman of the Senate Armed Services Committee's Subcommittee on Emerging Threats and Capabilities. I would like to recognize Senator WARNER, the chairman of the Armed Services Committee, for his vision and foresight in creating this subcommittee to deal with the nontraditional threats to U.S. national security.

The Subcommittee on Emerging Threats and Capabilities was established to provide oversight for the Department of Defense's efforts to counter new and emerging challenges to vital United States interests. Through a series of hearings and detailed oversight of budget accounts, the subcommittee highlighted: the proliferation of weapons of mass destruction; terrorism directed at U.S. targets both at home and abroad; information warfare and the protection of our defense information infrastructure; and trafficking of illegal drugs. The subcommittee sought to identify the technology, operational concepts and capabilities we need to deter—and, if necessary—combat these perils.

I would like to briefly highlight the initiatives included in this bill to address the emerging threats to our national security:

Protection of our homeland and our critical information infrastructure are two of the most serious challenges facing our Nation today. In the area of counterterrorism, the bill before the Senate includes full funding for the five Rapid Assessment and Initial Detection (RAID) teams requested by the administration, and an increase of $107 million to provide a total of 17 additional RAID teams in fiscal year 2000. We have further required the Department to establish a central transfer account for the Department's programs to combat terrorism to provide better visibility and accounting for this important effort.

We have included an Information Assurance Initiative to strengthen the Department's critical information infrastructure, enhance oversight and improve organizational structure. As a part of this initiative, we added $120 million above the President's budget request for programs to enhance our ability to combat cyber-attacks. In addition, this initiative will provide for a test to plan and conduct simulations, exercises and experiments against information warfare threats, and allow the Department to interact with civil and commmercial organizations in this important effort. The provision encourages the Secretary of Defense to strike an appropriate balance in addressing threats to the defense information infrastructure while at the same time recognizing that Department of Defense has a role to play in helping to protect critical infrastructure outside the DOD.

We have included a legislative package to strengthen the science and technology program. This legislation will ensure that since the science and technology program is threat-based and that investments are tied to future warfighting needs. The legislation is also aimed at promoting innovation in laboratories and improving the efficiency of RDT&E operations. The bill also includes a $170 million increase to the science and technology budget request.

And finally, in the area of nonproliferation, we have authorized over $718 million for programs to assist Russia and other states of the former Soviet Union destroy or control their weapons of mass destruction. However, it is important to note, this is an increase of $29.6 million over the fiscal year 1999 funding level. I would like to take a moment to share my thoughts on this issue.

I am very concerned about the findings of the recently released GAO report that the U.S. cost of funding the nuclear material storage facility in Mayak, Russia has increased from an original estimate of $275 million to $413 million. This Cooperative Threat Reduction (CTR) project may eventually have a price tag of $1 billion. These increased costs to the U.S. have occurred because Russia has failed to fund its share of the costs of this project. I also understand that the chemical weapons destruction facility will not be open until 2006, in part due to Russia's failure to provide the needed information about the chemical weapons to be destroyed.

The CTR program is becoming more and more one-sided. This program is also in the interest of the Russians. Matter of fact, much of the destruction of the Russian inventory, funded by the CTR program, enables Russia to meet its obligations under existing arms control treaties.

In addition, I am concerned with the daily press reports that the Russians are enhancing their military capabilities. For example:

Earlier this month, President Yeltsin reportedly ordered the Russian military to draw up plans for the development and use of tactical nuclear forces.

On May 4, The Russian Defense Minister threatened to reconsider Russian support for the revision of the Conventional Forces in Europe (CFE) Treaty.

On April 16, the Duma unanimously adopted a resolution calling for increased defense budgets.

Although I have serious concerns about this program, we included an authorization for CTR at the budget request of $475.5 million, an increase of $35 million over the FY 99 level. However, before FY 2000 funds may be obligated we require the President to recertify that the Russians are foregoing any military modernization that exceeds legitimate defense requirements and are complying with relevant arms control agreements. The most recent certification by the Administration was completed before these numerous statements by Yeltsi and other Russian officials.

I am also concerned with the deficiencies in the management and oversight of the DOE programs in Russia—in particular, the Initiative for Proliferation Prevention (IPP) and the Nuclear Cities Initiative (NCI). If these programs are to succeed, we need to get past the implementation problems pointed out in the GAO report, in press reports, by our House colleagues, and by the Russians. In addition, the Russian economic crisis and lack of infrastructure are making these programs more difficult to manage. I am afraid if we do not exercise strong oversight now we are in danger of losing these programs.

I have proposed a number of initiatives that I believe will go a long way towards correcting the deficiencies in the management of the IPP program, establishing a framework for effective implementation and oversight of both programs, and ensuring that sufficient accountability exists. Further, I believe the U.S. nonproliferation goals and U.S. national security will be better served by these improvements.

Finally, I believe DoE should spend FY 2000 tightening up the implementation of IPP and NCI rather than broadening the program. Therefore, the committee authorized the IPP and NCI below the administration's request of $30 million for each program. The bill includes an authorization of $15 million for NCI and an authorization of $25 million for IPP, an increase of $2.5 million for each program over FY 99 levels. These are the only programs in the entire DoE nonproliferation budget that the committee authorized below the budget request. Overall, we authorized $266.8 million for DoE nonproliferation programs in the former Soviet Union countries—an increase of $13.4 million over FY 99.

I believe the bill before you takes significant steps to focus the Department of Defense's efforts to counter new and emerging threats to vital national security interests. I urge my colleagues to support this bill.

Once again, Mr. President, I am asking the support of my colleagues for a simple sense of the Senate that calls also for complete transparency on the part of the President and Senate consideration regarding the de facto editing of the original North Atlantic Treaty.

My sense of the Senate asks the President to certify whether the new Strategic Concept of NATO, the one adopted at the 50th anniversary of NATO in Washington about a month ago—this formalization of new and complicated United States responsibilities in Europe, as evidenced by the war in Kosovo and the possibility of future Kosovos around the world—is in fact a document that obligates the United States in any way, shape, or form.

If so, my sense of the Senate affirms that this body be given the opportunity to debate, to accept or to reject, the new blueprint for future NATO operations, these actions which will undoubtedly include substantial components of our own Armed Forces engaged completely outside the province of the original treaty.

Yesterday the distinguished Senator from Michigan, my colleague and my friend, Senator LEVIN, asked where the Congress was in 1990, in regard to the last Strategic Concept adoption. The Senator has rightly pointed out there were changes made in the Concept at that particular time. Without question, that should have been an alarm bell of things to come. But there are key differences, I tell my friend, in the world today as opposed to the world in 1990.

Second, and just as important, there are significant differences regarding the Strategic Concept adopted in April of 1999, just a month ago, which is the document that I hope is still on the desk of all Senators, and the Concept that was adopted in 1990 as referenced by the Senator.

First of all, Bosnia had not occurred and, more especially, Kosovo was not the proof of the direction that NATO intended to go. That direction is an offensive direction. That is not meant to be a pun.

The crafting of language in the new Strategic Concept was carefully done. Look, my colleagues, if you will, at the removal of the following wording of paragraph 35 of the 1991 Concept. I will repeat it:

> The alliance is purely defensive in purpose. None of its weapons will ever be used except in self defense.

That was removed. That removal was not an oversight. The current Strategic Concept sets in motion a new NATO that is inconsistent with article 1 of the 1990 treaty or concept. The North Atlantic Treaty, article 1:

> The parties undertake as set forth in the Charter of the United Nations to settle any international dispute which they may be involved in by peaceful means, in such a manner that international peace and security and justice are not endangered, and to refrain in their international relations from the threat or use of force in any manner inconsistent with the purpose of the United Nations.

That was in 1990, the reference to the United Nations, to settle any international dispute by peaceful means, not by military means.

The original wording and intent of article 4 of the North Atlantic Treaty is straightforward. The North Atlantic Treaty, article 4:

> The parties will consult together when in the opinion of any of them the territorial integrity—

All the debate about whether we are conducting a military campaign and crossing borders of a sovereign state, I say it again:

> The parties will consult together when in the opinion of any of them the territorial integrity or political independence or the security of any of the parties is threatened.

However, paragraph 24 of the new Concept significantly alters article 4 of the NATO treaty in the following way:

> Arrangements exist within the alliance for consultation among the allies under article 4 of the Washington Treaty—

My colleagues, pay attention to this—

> and, where appropriate, the coordination of their efforts including the responses to such risks.

The portion that includes ''the coordination of their efforts including their responses to such risk,'' it is new, and strongly suggests offensive action, i.e., Kosovo. It is a possible response to a threat, and that is a radical shift for NATO—not from 1949 but also from 1990.

The new Concept has significantly expanded the global coverage of NATO. For example, paragraphs 20, 21, and 22 clearly indicate a global reach for NATO.

Paragraph 20 states:

> The resulting tensions could lead to crises affecting Euro-Atlantic stability, to human suffering and to armed conflicts. Such conflicts could affect the security of the conference by spilling over to neighboring countries including NATO countries or in other ways, and could also affect the security of neighboring states.

The point is that NATO justifies action well beyond the original boundaries of NATO and now includes threats to member states anywhere in the world. Is that what we want the NATO of the future to be?

I say to my friend from Michigan, he is right that Congress was asleep at the switch when the Strategic Concept of 1990 was adopted. But there is no reason for Congress to remain asleep in

1999. In fairness to my colleagues, no one envisioned that in less than 9 years the purely defensive alliance of NATO would have conducted offensive action out of area, against a sovereign nation, albeit a terribly oppressive nation, in an action that was not in our vital national interests.

Let me share some comments I have gleaned from the Foreign Media Reaction Daily Digest which all Members receive from the U.S. Information Agency. This is from the leading press around the world, as they view, in terms of their commentary, what this Strategic Concept means to them.

I know some critics, myself included, will say their views, some of the views, are unimportant or biased or that they are from state-run presses. I know that. But I think they are a valuable tool to understand how we and NATO are being perceived by non-NATO members—and some NATO members as well. Here is the summary—early May:

The Alliance's adoption of a ''new strategic concept''. . . has swung to the negative [in regard to the comments by the foreign press]. Criticism of the Alliance's vision of a ''new world order''. . . . many underscored the problems with NATO's expanded purview and questioned the feasibility of trying to promote and impose—beyond European borders and ''by force if necessary''—a ''consistent'' standard on human rights. The vast majority of media outside of Europe remained harshly critical of NATO's [read the U.S.'s] new blueprint, with most reiterating their concerns that NATO is ''transforming itself into a global police force, ignoring the role of the U.N.'' . . . NATO is being enlarged—both spatially and doctrinally—in order to ensure U.S. military and political dominance over Europe, Russia and the rest of the world.

I don't buy that, but it is important to understand that other countries certainly think that.

It goes on to say:

The idea that a part of the world, formed by the most ''civilized'' nations, can be responsible for the respect of human rights in the whole world—resorting, if necessary, to the use of force . . . is neither viable nor fair.

They are asking:

. . . whether Kosovo is an exception or a rule in NATO's new strategy, and whether the Allies will be equally firm, but also consistent, when its comes to the Kurds . . . Tibetans, Palestinians, Tutsis, Hutus [or] Native Americans. Ethnic cleansing in Chechnya, Turkey, Colombia, Indonesia show that NATO is now punishing randomly, that is only enemies and only those countries that don't have any nuclear weapons.

Mr. President, several headlines—and I do not agree with all of these headlines—in May should be brought to the attention of my colleagues.

The newspaper Reforma in Mexico:

What is the reason for the desire to impose a solution in defense of the Albanians in Yugoslavia while at the same time three ethnic groups that hate each other are forced to co-exist in Bosnia? What could happen in Mexico in the future? Within several months, NATO members [have now agreed] to intervene anywhere they see fit without the need to consult with the U.N. and to run the risk of a veto from Russia or China. This will be a two century jump backwards.

That is from Mexico. I am not saying it speaks for the entire country of Mexico, although President Zedillo said much the same thing.

Ethnos, a paper in Greece:

What occurred in Washington was the U.N.'s complete weakening. It is now a mere onlooker of NATO's decisions and initiatives. What has taken place is the complete overthrow of the legal system.

A newspaper called Folha de S. Paulo in Brazil:

NATO celebrates its 50th anniversary and in practice formalizes the end of the U.N. As it has become clear this past month, the world's power is, in fact, in NATO, meaning in the hands of the United States. And, almost no Government dares to protest against it.

The Economist in Great Britain, a respected newspaper:

Limping home from Kosovo would certainly oblige NATO to rethink its post-Cold War aims of intervention, not just for member's defense, but also for broader interest in humanitarian and international order. NATO might go into terminal decline. The Alliance needs to persist in explaining to other countries the principles that guided NATO's decision to intervene in Kosovo. This necessity is not so much to prove that this was a just cause but to reassure a suspicious world that NATO has not given itself the right to attack sovereign nations at whim.

Il Sole 24–Ore. of Italy:

We cannot say what emerged from the weird birthday-summit war council in Washington is a strategic concept. Indeed, NATO should have been more precise about its future. The war in Kosovo forces us to revise international law as we have known it.

This is from a newspaper in a country that is a NATO ally:

The concept suggests laying the foundation of an ''ethical foreign policy.'' A democratic West which tolerates ethnic and religious diversities, which is stable and economically free, can even fight to give these values to other people. It is a very nice picture, but to impose freedom is a contradiction in terms.

Another headline: Al-Dustur in Jordan, the new King of which just paid a visit to this country:

The Anglo-American alliance imposed on NATO during the summit in Washington is a new orientation marked by imperialist arrogance and disregard for the rest of the world.

Those are pretty strong words.

This is a serious danger that faces the world, and to overcome it all non-NATO countries should cooperate and seek to develop weapons of mass destruction.

Is that what the new Strategic Concept is leading to in the minds of some of the critics in foreign countries?

Al Watan in Kuwait, the country we freed in regard to Desert Storm:

NATO does not have a strategy for the next 50 years, except America will remain the master, Europe the subordinate, Russia a marginalized state and the rest of the world secondary actors.

That is pretty tough criticism.

Asahi newspaper in Japan:

One such lesson is that members of an alliance often resort to their own military activities, paying scant attention to the trend of the U.N. Security Council, or international opinion. Another lesson is that the United States, the only superpower, often acts in accordance with its own logic or interests rather than acting as supporter for its allies.

This newspaper sums it up:

This has relevance to the U.S.-Japanese military alliance.

The newspaper Hankyoreh Shinmun of South Korea, an ally:

The summit decision to give the Alliance an enlarged role in the future is a dangerous one in that it may serve in the long term to merely prop up America's hegemonic endeavors. The talk of NATO's expanded role confuses everyone and even threatens global peace. NATO's new role could unify countries like Russia and China that oppose U.S. dominance, provoking a new global conflagration between them and the West.

In Taiwan, The China Times:

NATO's new order requires different agents to act on the U.S.'s behalf in different regions and to share the peace-keeping responsibility for the peace of greater America. In the Kosovo crisis, NATO on one hand tries to stop the Yugoslav government's slaughter. On the other hand, to show respect for Yugoslav sovereignty it also opposes Kosovar independence. This means that a country cannot justify human rights violations by claiming national sovereignty. By the same token, calls for independence in a high tension area are forbidden since they would naturally lead to war. These two principles have now become the pillars of the NATO strategic concept. Both sides of the Taiwan Strait have also repeatedly received similar signals: Beijing should not use force against Taiwan, and Taiwan should not declare independence.

There is a parallel.

Finally, in India, the newspaper Telegraph:

NATO will definitely try to make things difficult for nations like India which are planning to join the nuclear league. Though Russia, and now China, are seeking India's cooperation and active participation to build a multi-polar world order against the United States, Deli appears to be reluctant to play. This reluctance stems from the fear that the West, with help from Pakistan, might turn Kashmir into another Kosovo, highlighting human rights violations in the valley and Kashmir then might become a fit case for NATO intervention.

I do not buy that. I do not think we are going to do that. Some of the warnings, some of the descriptions that I have just read to my colleagues, I do not buy, but it shows you the attitude, it shows you how other people feel about the new Strategic Concept.

We have the same kind of commentaries from Argentina, from Canada, from Mexico again.

La Jornada, a newspaper in Mexico:

The decision by NATO leaders to turn that organization from a defensive into an offensive entity and to carry out military actions regardless of the U.N. is a defeat of civilized mechanisms that were so painfully put in place after World War II. If the Alliance really wanted to impose democratic values by force, it should start by attacking some of its own members, like Turkey, which carries out systematic ethnic cleansing campaigns against the Kurds.

Tough words.

My point remains that this new Strategic Concept, a concept that radically alters the focus and direction of NATO, has been adopted without the consultation of the Senate. Are we willing, as

Senators, to stand by and not debate, discuss, or give consent to a document that fundamentally alters the most successful alliance in history? What we discussed, what we ratified in regard to expansion is totally different than the new Strategic Concept. It has had no debate, it has had no discussion and, yet, it is a blueprint for our involvement in the future of NATO.

It is a document that fundamentally alters the most successful alliance in history and one that may cost the blood of our men and women and billions of dollars from our Treasury. We should at least debate it.

I urge my colleagues to support my sense-of-the-Senate amendment. I reserve the remainder of my time.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER (Mr. ENZI). The Chair recognizes the Senator from Michigan.

Mr. LEVIN. Mr. President, I will be voting for this amendment because it is worded very differently from earlier versions. This version of the amendment simply requires the President to certify whether or not the new Strategic Concept of NATO imposes any new commitment or obligation on the United States.

In 1991, we had major changes in the alliance's Strategic Concept. These were huge changes. Section 9 of the alliance's new Strategic Concept in 1991, for instance, said:

> Risks to allied security are less likely to result from calculated aggression against the territory of the allies but rather from the adverse consequences of instabilities that may arise from serious economic, social and political difficulties, including ethnic rivalries and territorial disputes which are faced by many countries in Central and Eastern Europe. They could lead to crises inimical to European stability and even to armed conflicts which could involve outside powers or spill over into NATO countries.

Then in paragraph 12, it says:

> Alliance security must—

This is 1991—not this new one, but the Strategic Concept that was adopted in 1991.

> Alliance security must take into account the global context. Alliance security interests can be affected by other risks of a wider nature, including proliferation of weapons of mass destruction, disruption of the flow of vital resources, and actions of terrorism and sabotage.

The reason that this 1991 Strategic Concept was not sent over to the Senate for ratification was very straightforward, very simple, in my judgment; and that is that the Strategic Concept then did not contain new commitments or obligations for the United States. This is a strategic concept; this is not a legally binding document. This is not a treaty-specific document which contains obligations and commitments on the part of the parties. This is a strategic concept document, both in 1991 and in 1999.

So when my good friend from Kansas says that I said the Congress was asleep in 1991, the Congress was not asleep in 1991. The Congress was exactly right in 1991. When this Strategic Concept was adopted in 1991, there were no new obligations or commitments that required the Senate to ratify this document. And there are no new obligations or commitments now.

The President has already told us that. He has already sent a letter to Senator WARNER. The President has sent a letter to Senator WARNER dated April 14, 1999, that says:

> The Strategic Concept will not contain new commitments or obligations for the United States.

So the certification, which is required in this amendment—and rightfully so, by the way, in my judgment—has already been made. I see no reason it would not be made again.

So I do not believe that the Congress was sleeping in 1991, and it surely is not sleeping now. Senator ROBERTS is, as far as I am concerned, very appropriately saying to the administration, if this contains new commitments or obligations—if it contains new obligations and commitments—then you should send this to us as a treaty amendment.

Of course, I happen to think that is correct. This amendment does not find that there are new obligations and commitments. An earlier version of this amendment, by the way, did. This amendment does not do that. This amendment says to the President: Tell the Congress whether or not the new Strategic Concept—those are the precise words of this amendment—constitutes, involves, contains, new obligations or commitments.

Mr. WARNER. Would the Senator yield?

Mr. LEVIN. I would be happy to.

Mr. WARNER. The Senator points out that the letter was sent to me—correct—in response to a letter that I forwarded to the President. That is in last night's RECORD.

First, we welcome the Senator's support on this. But I think he would agree with me that that letter was written at the time when the language was still being worked, and of course it predates the final language as adopted by the 50th anniversary summit. That language is the object of this, I think, very credible inquiry by Mr. ROBERTS, myself, and others.

Mr. LEVIN. It is very appropriate.

Mr. WARNER. It is very well that the Senate may forward a letter that puts this matter to rest and, most importantly, clarifies in the minds of our other allies, the other 18 nations, exactly what this document is intended to say from the standpoint of America, which, I point out time and time again, contributes 25 percent of the cost to the NATO operations.

Mr. LEVIN. I think that is correct. The timing of the letter is exactly as the chairman says it is. But the statement of the President is that ''the Strategic Concept will not contain new commitments or obligations for the United States.''

The caption of the amendment by the Senator from Kansas is ''Relating to the legal effect of [this] new Strategic Concept.'' I think it is quite clear from our conversations with the State Department that the President can, indeed, and will, indeed, make this certification, and should—and should. I think it is an important certification.

I commend the Senator from Kansas. I think we need clarity on this subject. If there is a legally binding commitment on the United States in this new Strategic Concept, it ought to be sent to the Senate for ratification. But if this 1999 Strategic Concept is like the 1991 Strategic Concept—not a legally binding document but a planning document, a document setting out concepts, not legal obligations—that is a very different thing.

NATO has adopted strategic concepts continually during its existence. By the way, again, let me suggest there is nothing much broader than section 12 of the 1991 Strategic Concept which said: ''Alliance security must take into account the global context.'' Does that represent a binding commitment on the United States? It surely did not, in my judgment, and need not have been submitted to the Senate for ratification. I believe that the current Concept, which has been adopted, does not contain legally binding commitments.

Mr. WARNER. If the Senator will yield, the amendment, as carefully crafted, does not have the word ''legal'' in it. It imposes any ''new commitment.'' Indeed, there are political commitments that give rise to actions from time to time. So I recognize the Senator's focus on ''legal,'' but it does not limit the certification solely to legal. It embraces any new commitment or obligation of the United States.

Mr. LEVIN. Mr. Chairman, I think it clearly means the legal effect of this. But let us, rather than arguing over what is in or not in this amendment—I understand that there was going to be an effort made here to clarify language on the certification. If there is going to be such an effort, I would ask that be made now and that we then ask for the yeas and nays so we are not shooting at a moving target here. Really, I think it would be useful, if in fact that change relative to the certification requirement is going to be sent to the desk, it be sent to the desk at this point; and then I am going to ask for the yeas and nays.

Mr. ROBERTS. If the Senator will yield?

Mr. LEVIN. I do yield.

AMENDMENT NO. 377, AS MODIFIED

(Purpose: Relating to the legal effect of the new Strategic Concept of NATO)

Mr. ROBERTS. I do have that clarification in the form of an amendment, which I send to the desk, and I ask unanimous consent that in title X, at the end of subtitle D, that this amendment would be added.

Mr. BIDEN. Reserving the right to object.

The PRESIDING OFFICER. Is there objection?

Mr. BIDEN. There is objection. I would like to reserve the right to object, if you let me explain; otherwise, I will just simply object.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. I reserve the right to object because if, in fact, the Senator wishes to change his amendment, I ask that we consider on line 7 adding the word ''legal,'' because failure to do so rewrites constitutional history here. Presidents make commitments all the time. Commitments and obligations do not a treaty make and do not require a supermajority vote under the Constitution by the Senate to ratify those commitments. I, at least for the time being, object and hope that after we finish this debate, before we vote, my colleague and I can have a few minutes in the well to see whether he will consider amending it to add the word ''legal'' on line 7 of his amendment. So I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I will yield the floor in just 2 minutes. I read this document quite clearly as meaning any new commitment or obligation, because it uses the word ''impose.'' I know no other way to impose an obligation or a commitment other than legal. When you use the word ''impose,'' it seems to me it is quite clear that that means it is imposed. So that is the way I read this language. If others want to read the language in a different way, they may. But I think that the certification requirement, which the Senator from Kansas wants to move into the front of this amendment instead of in the sense-of-the-Senate part of it, is simply a clarification of what was always the clear intent, which is that there be such a certification. And I think that that is more of a technical change than anything.

I have no objection to an amendment which moves the certification requirement to the front of the amendment before the sense-of-the-Senate language and imposes that as a certification requirement—not sense of the Congress but as a requirement on the President. In my judgment, there is no doubt but that it is only if there is a legally binding commitment or obligation that this would require a referral to the U.S. Senate, because no other requirement or obligation other than one that is legally binding on us would rise to the dignity of a treaty.

I hope the Senator will have a chance to move the certification requirement to an earlier position in his amendment. If I could just ask one question of my friend from Kansas, as I understand, that is what the modification does provide and nothing more; is that correct?

Mr. ROBERTS. I say to the Senator, I am not sure. I had thought we had an agreement that there would not be an objection to the amendment by unanimous consent. That obviously is not the case. We are going to have to consider this. Let us work on this.

I will be happy to visit here on the floor with the Senator from Delaware and my good friend from Michigan. I am not entirely clear, after listening to the Senator, that his description of this amendment is the one that I have. Let us work it out, and if push comes to shove, although I think it is entirely reasonable for a Senator to be allowed to amend his own amendment, if this has caused some concern on the part of both Senators, we can always bring this up as a separate amendment, which may be the best case. If, in fact, you say ''legal,'' you put the word ''legal'' in there, obviously I do not think the President is going to have any obligation to report on anything. In terms of obligation, if I might say so, if the Senator will continue to yield, if Kosovo is not an obligation, I am not standing here on the floor of the Senate. That is my response.

Why don't we visit about this if we can, and then, if necessary, we will just introduce an amendment at a later time as a separate amendment.

Mr. BIDEN. Mr. President, will the Senator from Michigan yield me 1 minute?

The PRESIDING OFFICER. The Chair recognizes the Senator from Delaware.

Mr. BIDEN. Just 1 minute and then afterwards I see others will seek recognition to speak.

I want to make it clear, I do not know where the Senator got the impression that there would be no objection. I did not agree to that. What I suggested was that when he asked me whether or not I objected, I asked him to withhold until after I made my talk and asked some questions. Then I would not object. We are getting the ''cart before the horse'' here. I want to make it clear, I may not ultimately object. I just want to have an opportunity to speak to this before he sends his amendment to the desk.

Mr. ROBERTS addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. Mr. President, I ask unanimous consent that Senator SMITH of New Hampshire be added as an original cosponsor of Roberts amendment No. 377.

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

Mr. ROBERTS. I yield 5 minutes to the distinguished Senator from Texas.

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas.

Mrs. HUTCHISON. I thank the Chair.

I thank the Senator from Kansas for pursuing this, because I do think it is a very important amendment. I think it is very important that we ask the President to come forward and tell us if this new Strategic Concept we have all been reading imposes a new commitment or obligation on the United States.

The original NATO treaty, the whole treaty, is very clear. It is a defensive alliance. That has never been questioned until what is happening today in Kosovo, which is clearly not defensive. It is offensive. NATO has started airstrikes on a sovereign nation that is not a member of NATO. So I think it is, before our eyes, evolving into a new Strategic Concept for NATO, and I think we most certainly must have the right to approve it. It is an addition to a treaty obligation that was made 40-plus years ago.

Now, I am not necessarily against NATO having an offensive part of a treaty obligation, but I am absolutely certain that the Senate must approve this kind of added obligation and that we not walk away from the very important concept that a treaty sets out certain obligations and it is required to be ratified by Congress. And most certainly, we must ratify the changing of a treaty obligation from a defensive alliance to an offensive alliance.

There is no question that the founders of our country chose to make it difficult to declare war. They chose to make it difficult to declare war by giving the right to Congress. They could have given it to the President, but they were going away from the English system, where the King declared war and implemented the same war. They wanted a division of responsibility, and they wanted it to be difficult to put our troops in harm's way. Indeed, every President we have had has said that it should be difficult to put our troops in harm's way; perhaps until this President, that is.

So it is important that we pass this amendment and that the President certify that we either do have a new obligation or we do not. I think we do, and I think we need to debate it.

As I said, I am not against NATO having some offensive responsibilities. I do question that they have in our NATO treaty the right to do what they are doing right now. I think we need to debate it, and I think we need to clarify exactly what would be in a new offensive strategy that would be a part of a NATO treaty obligation of the United States of America.

I can see a role for NATO that would declare that we have security interests that are common and that we would be able to determine what those common security interests are and that we would fight them together, stronger than any of us could fight independently. I do not know that Kosovo meets that test, but I think others certainly do believe that. I do believe that a Desert Storm does meet the test or Kim Jong-Il, with nuclear capabilities, does meet that test.

Mr. President, I support the amendment, and I ask unanimous consent to be added as a cosponsor of the amendment. I think it is incumbent on the Senate to stand up for our constitutional responsibility and that is what this amendment does.

I thank the Chair.

Mr. ROBERTS. Mr. President, may I ask how much time I have remaining?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. ROBERTS. I do not know if the Senator from Delaware would like to speak at this moment.

Mr. BIDEN. Mr. President, I would, if I may.

The PRESIDING OFFICER. The Chair recognizes the Senator from Delaware.

Mr. BIDEN. The distinguished Senator from Michigan indicated that I could yield myself such time as he has remaining.

Mr. President, I say to my friend from Kansas, I have no objection, after talking to him, if he wishes to send his amendment to the desk now. I will yield the floor.

Mr. ROBERTS. Mr. President, I send a modification to my amendment to the desk.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment (No. 377), as modified, is as follows:

In title X, at the end of subtitle D, add the following:

SEC. 1061. LEGAL EFFECT OF THE NEW STRATEGIC CONCEPT OF NATO.

(a) CERTIFICATION REQUIRED.—Not later than 30 days after the date of enactment of this Act, the President shall determine and certify to the Senate whether or not the new Strategic Concept of NATO imposes any new commitment or obligation on the United States.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that, if the President certifies under subsection (a) that the new Strategic Concept of NATO imposes any new commitment or obligation on the United States, the President should submit the new Strategic Concept of NATO to the Senate as a treaty for the Senate's advice and consent to ratification under Article II, Section 2, Clause 2 of the Constitution of the United States.

(c) REPORT.—Together with the certification made under subsection (a), the President shall submit to the Senate a report containing an analysis of the potential threats facing NATO in the first decade of the next millennium, with particular reference to those threats facing a member nation, or several member nations, where the commitment of NATO forces will be ''out of area'' or beyond the borders of NATO member nations.

(d) DEFINITION.—For the purpose of this section, the term ''new Strategic Concept of NATO'' means the document approved by the Heads of State and Government participating in the meeting of the North Atlantic Council in Washington, D.C., on April 23 and 24, 1999.

Mr. ROBERTS. Mr. President, I ask unanimous consent that ''In title X at the end of subtitle D'' be added to my original amendment.

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

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, one of the things that we sometimes confuse here—I know I do—is what is a political obligation and what is a constitutional obligation. I respectfully suggest that there is no constitutional requirement for the President of the United States—this President or any future President—to submit to the Senate for ratification, as if it were an amendment to a treaty, a Strategic Concept that is a political document. We use the words interchangeably on this floor. A new commitment or obligation, as I said, does not a treaty make.

Our Strategic Concept has always been a political, not legal document. Before last month's summit, NATO had revised the Strategic Concept five times in the past and never once had required the Senate's advice and consent. Doing so now would gravely undermine NATO's alliance and our efforts, as well as being a significant overreach in terms of our constitutional authority.

Let's not be fooled by the fact that the Roberts-Warner amendment only expresses the sense of the Senate. My concern is that unless we know exactly its dimension, it will be read in other NATO capitals as much more than it is. Just as my friend from Kansas quoted from the headlines and editorials of other newspapers—I might note that they were not governments, but other newspapers—I point out that people in other countries can misread actions taken by a country or group of countries. My concern is that in NATO capitals our actions will be misread.

The amendment sets out political criteria in point 1; and then in point 2 transforms them into legally binding ones that would require the Senate's advice and consent. This is a clever use of a non sequitur.

NATO's Strategic Concept has always given political guidance to the alliance's members. To that extent, this sixth revision of the Strategic Concept imposes commitments. But contrary to the assertions made by my distinguished friend from Kansas, it in no way changes the fundamental purpose of the North Atlantic Treaty of 1949.

We should oppose this amendment for four reasons, but if we are not going to oppose it now that it has been changed from its original amendment, we should at least recognize four important points:

One, to suggest that—if it were to be suggested—the Strategic Concept should be treated as an amendment to the treaty would set a terrible precedent and send a horrible signal at a time when we are striving to maintain alliance unity.

It would signal our NATO allies that the United States will not implement the new Strategic Concept without formal Senate advice and consent.

If we pass this amendment, couldn't the British, French, or Germans say tomorrow that they are going to disregard NATO's operating procedures? Couldn't they say tomorrow that they are no longer going to be bound by their commitment to beef up their military capacity as they committed to in 1991?

Given that NATO's decisions require unanimity, and that all 19 NATO member parliaments might then assert that they would have to ratify each and every future change in an operating procedure, we would be building in chaos to the alliance. How could we operate under those circumstances?

The second point I want to make is that we should remember that there have been many other changes in the Strategic Concept, as my friend from Michigan has pointed out, and they were never considered the equivalent of a new international treaty.

As I mentioned, before this year, NATO's original 1949 Strategic Concept had been revised five other times. Included among those were three fundamental transformations.

In 1957, the alliance adopted a new strategy, which would have shocked my friend from Kansas. It was called Massive Retaliation. Talk about a commitment—a commitment that was, I might add, totally consistent with the provisions of the treaty. It was an operating procedure.

In 1967, NATO abandoned the doctrine of Massive Retaliation in favor of the doctrine of Flexible Response. And then, in 1991, to continue to make the treaty relevant operationally, NATO recognized that after the end of the Soviet threat, NATO would nonetheless be confronted by a series of new threats to the alliance's security, such as ethnic rivalries and territorial disputes. It altered the Strategic Concept accordingly.

These were dramatic changes to alliance strategy, yet not once did the Senate, notwithstanding the fact it was not asleep, believe it had to provide its advice and consent.

There was a great deal of discussion about the 1991 Strategic Concept. I participated in it, others participated in it, and it revolved around what was the purpose of NATO and how we were operationally going to function now that the worry was no longer having 50 Soviet divisions coming through the Fulda Gap in Germany—a recognition that the territorial integrity of member states was still threatened, and instead of Soviet divisions rolling through the Fulda Gap with Warsaw Pact allies, there was a different threat, nonetheless real, nonetheless warranting this mutual commitment made to defend the territorial integrity of member states.

We discussed it. We debated it. There were those who thought it didn't go far enough. There are those who thought it went too far. But it wasn't that we were asleep and didn't pay attention. In fact, maybe it was because—and I am not being facetious—my friend was in the House where they don't deal with treaties, where it is not their constitutional obligation, and where foreign policy is not the thing they spend the bulk of their time on. But we weren't asleep over here. In fact, the current 1999 version of the Strategic Concept is much more similar to its 1991 predecessor than the 1991 document was to any of its predecessors.

My third point is simple. The revised Strategic Concept does not require advice and consent because it is not a treaty.

The rules under U.S. law on what constitutes a binding international agreement are set forth in the Restatement of Foreign Relations Law of the United States, as well as in the State Department regulations implementing the Case-Zablocki Act.

Under the Restatement, the key criterion as to whether an international agreement is legally binding is if the parties intend that it be legally binding and governed by international law. (Restatement, Sec. 301(1)).

Similarly, the State Department regulations state that the ''parties must intend their undertaking to be legally binding and not merely of political or personal effect.'' (22 Code of Federal Regulations §181.2(a)(1)).

Thus, many agreements that are not binding are essentially political statements. There is a moral and political obligation to comply in such cases, but not a legal one.

The most well-known example of such a political statement is the Helsinki Final Act of 1975, negotiated under the Ford administration and credited by most of us as the beginning of the end of the Soviet Union, the most significant political act that began to tear the Berlin Wall down. That was a political statement—commitments we made, but not of treaty scope requiring the advice and consent of the Senate.

The second key criterion is whether an international agreement contains language that clearly and specifically describe the obligations that are to be undertaken.

An international agreement must have objective criteria for determining the enforceability of the agreement. (22 C.F.R. §181.2(a)(3)).

Another criterion is the form of the agreement. That is, a formal document labeled ''Agreement'' with final clauses about the procedures for entry into force is probably a binding agreement. This is not a central requirement, but it does provide another indication that an agreement is binding. (22 C.F.R. §181.2(a)(5)).

A reading of the Strategic Concept clearly indicates that it is not a binding instrument of which treaties are made.

Rather, the Strategic Concept is merely a political statement with which my colleague from Kansas and others disagree. I respect that. I respect their disagreement with the political commitment that was made. But their political disagreement with a political commitment does not cause it to rise to the level of a binding treaty obligation requiring the advice and consent of the Senate, no matter how important each of them may be, no matter how relevant their objectives may be, no matter how enlightened their foreign policy may be.

Rather, the Strategic Concept is merely a political statement that outlines NATO's military and political strategy for carrying out the obligations of the North Atlantic Treaty.

Nowhere in the Strategic Concept can you find binding obligations upon the members of NATO.

For, if that were the case, all of our European allies as of a year ago, with the exception of Great Britain, would have been in violation of their treaty obligations—would have been in violation of their treaty obligations because of the commitments they made to build up—I will not bore the Senate with the details—their military capacity. Yet no one here on the floor has risen to suggest over the past several years, even though we have decried their failure to meet their obligations, that they have violated their treaty obligations.

Instead, the language of the Strategic Concept contains general statements about how NATO will carry out its mission.

The most important question, as I stated, is the intent of the parties. As the President wrote to the Chairman of the Committee on Armed Services on April 14, ''the Strategic Concept will not contain new commitments or obligations for the United States.''

Of course, the Strategic Concept creates a political commitment. And we take our political commitments seriously.

All member states, the United States included, assume political obligations when they take part in the alliance's integrated military planning.

That is what target force goals are all about. And, Mr. President, that lies at the heart of burden-sharing, whose importance several of us continually stress to our NATO allies.

The 1999 Strategic Concept creates a planning framework for NATO to act collectively to meet new threats if they arise.

So I would summarize the key point in this way: the Strategic Concept imposes political obligations to create military capabilities, but it does not impose legal obligations to use those capabilities.

My fourth point is that I understand the concern that NATO's core mission—alliance defense—not be altered. It has not been.

Our negotiators at last month's NATO summit did exactly what the vast majority of Senators wanted.

They consciously incorporated the Senate's concerns that NATO remain a defensive alliance when they negotiated the revised Strategic Concept.

The revised Strategic Concept duplicates much of the language contained in the Kyl amendment to the Resolution of Ratification on NATO Enlargement.

You all remember the Kyl amendment. We were not asleep at the switch. We were not failing to pay attention. We debated at length—my friend from Virginia, and I, and others—NATO enlargement. It is one of the few areas on which we have disagreed.

We debated at length the Kyl amendment. Let me remind my colleagues that the amendment was adopted by the Senate in April of 1998 by a 90–9 vote.

Rather than reviewing the specifics of the document, because time does not permit, nor do I think memories have to be refreshed that clearly, because everyone remembers, I ask unanimous consent that I be allowed to enter into the RECORD a document provided by the Clinton administration that reviews paragraph by paragraph the similarities between the Kyl amendment and the 1999 Strategic Concept.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE KYL AMENDMENT AND THE STRATEGIC CONCEPT OF NATO

(Document drafted for Assistant Secretary of the State Marc Grossman on April 29, 1999 and handed out by Secretary Grossman to Members of the Senate on May 5, 1999)

Assistant Secretary for European Affairs Marc Grossman in SFRC testimony on April 21: ''During the NATO enlargement debate some 90 Senators led by Senator Kyl passed an amendment laying out clear criteria for NATO's updated Strategic Concept. We heard your message and made the criteria established by Senator Kyl our own.''

Language from the Kyl Amendment: ''The Senate understands that the policy of the United States is that the core concepts contained in the 1991 Strategic Concept of NATO, which adapted NATO's strategy to the post-Cold War environment, remain valid today, and that the upcoming revision of that document will reflect the following principles:''

I. FIRST AND FOREMOST, A MILITARY ALLIANCE

Strategic Concept Paragraph 6: ''. . . safeguard freedom and security . . . by political and military means.''

SC Para 25: ''. . . a broad approach to security which recognizes the importance of political, economic, social and environmental factors in addition to the indispensable defense dimension.''

II. PRINCIPAL FOUNDATION FOR DEFENSE OF SECURITY INTERESTS

SC Para 4: ''. . . must safeguard common security interests in an environment of further, often unpredictable change.''

SC Para 8: ''. . . the Alliance enables them through collective effort to realize their essential national security objectives.''

SC Para 25: ''NATO remains the essential forum for consultation . . . and agreement on policies bearing on security and defense commitments . . .''

III. STRONG U.S. LEADERSHIP PROMOTES/ PROTECTS U.S. VITAL SECURITY INTERESTS

SC Para 27: ''. . . a strong and dynamic partnership between Europe and North America . . .''

IV. U.S. LEADERSHIP ROLE THROUGH STATIONING FORCES IN EUROPE, KEY COMMANDERS

SC Para 42: ''presence of US conventional and nuclear forces in Europe remains vital . . .''

SC Para 62: ''. . . supreme guarantee of the security of Allies is provided by the strategic nuclear forces of the Alliance, particularly those of U.S.''

V. COMMON THREATS

a. potential re-emergence of hegemonic power.

SC Para 20: ''. . . large-scale conventional threat is highly unlikely, but the possibility of such a threat emerging exists.''

b. rogue states and non-state actors with WMD.

SC Para 22: ''. . . can pose a direct military threat to Allies' populations, territory, and forces.''

c. wider nature, including disruption of flow of vital resources, other transnational threats.

SC Para 24: ''. . . of a wider nature, including acts of terrorism, sabotage and organised crime, and by the disruption of the flow of vital resources.''

d. conflict stemming from ethnic and religious enmity, historic disputes, undemocratic leaders.

SC Para 20: ''Ethnic and religious rivalries, territorial disputes, inadequate or failed efforts at reform, the abuse of human rights, and the dissolution of states . . .''

VI. CORE MISSION IS COLLECTIVE DEFENSE

SC Para 27: ''. . . Alliance's commitment to the indispensable transatlantic link and the collective defense of its members is fundamental to its credibility and to the security and stability of the Euro-Atlantic area.''

SC Para 28: ''The maintenance of an adequate military capability and clear preparedness to act collectively in the common defense remain central to the Alliance's security objectives.''

VII. CAPACITY TO RESPOND TO COMMON THREATS

SC Para 52: ''The size, readiness, availability and deployment of the Alliances military forces will reflect its commitment to collective defense and to conduct crisis response operations, sometimes at short notice, distance from home stations . . .''

SC Para 52: ''They must be interoperable and . . . must be held at the required readiness and deployability, and be capable of . . . complex joint and combined operations, which may also include Partners and other non-NATO nations.''

VIII. INTEGRATED MILITARY STRUCTURE: COOPERATIVE DEFENSE PLANNING

SC Para 43: ''. . . practical arrangements . . . based on . . . an integrated military structure . . . include collective force planning, common funding, common operational planning . . .''

IX. NUCLEAR POSTURE: AN ESSENTIAL CONTRIBUTION TO DETER AGGRESSION; U.S. NUCLEAR FORCES IN EUROPE; ESSENTIAL LINK BETWEEN EUROPE AND NORTH AMERICA ENSURE UNCERTAINTY IN MIND OF AGGRESSOR

SC Para 42: ''presence of U.S. conventional and nuclear forces in Europe remains vital to the security of Europe, which is inseparably linked to that of North America.''

SC Para 46: ''. . . remain essential to preserve peace.''

SC Para 62: ''. . . fulfill an essential role by ensuring uncertainty in the mind of any aggressor . . .''

X. BURDENSHARING: SHARED RESPONSIBILITY FOR FINANCING AND DEFENDING

SC Para 30: ''. . . Allies have taken decisions to enable them to assume greater responsibilities . . .;'' will enable all European Allies to make a more coherent and effective contribution to the missions . . . of the Alliance;'' ''. . . will assist the European Allies to act by themselves as required.''

SC Para 42: ''The achievement of Alliance's aims depends critically on the equitable sharing of the roles, risks and responsibilities . . . of common defense.''

Mr. BIDEN. Mr. President, let me also remind my colleagues that NATO's decisions require unanimity. I know we all know that. We got that unanimity at a recent Washington summit after long and tough negotiations.

By appearing to withhold U.S. support for the revised Strategic Concept—and perhaps eventually even blocking its implementation—this amendment, if misread, would put the alliance in great jeopardy.

And that could lead to the collapse of NATO, which I am sure is not the goal of my colleague from Kansas.

One final comment. I know that my friend from Kansas is strongly opposed to the conduct of the current war in Yugoslavia, and, while disagreeing with him, I respect his views.

But, I would remind him and the rest of my colleagues that the 1999 revision of the Strategic Concept is neither the justification for, nor the driving force behind, NATO's bombing campaign or actions in Kosovo.

NATO's bombing campaign began a full month before the newest revision of the Strategic Concept was approved at the Washington Summit.

To sum up, there are no compelling political or legal arguments for the Roberts amendment. in terms of making this concept subject to treaty amendment.

I urge my colleagues to join me in voting against this amendment.

I yield the floor. I thank my colleagues.

Mr. ROBERTS. Mr. President, might I inquire of the distinguished acting Presiding Officer how much time remains?

The PRESIDING OFFICER. Five minutes.

Mr. ROBERTS. I thank the Presiding Officer.

Mr. President, I ask unanimous consent that the Senator from Oklahoma, Mr. INHOFE, be added as an original cosponsor of the Roberts amendment.

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

Mr. ROBERTS. Mr. President, I yield to the distinguished Senator from Colorado, my friend and colleague, 3 minutes of the remaining time.

The PRESIDING OFFICER. The Chair recognizes the Senator from Colorado.

Mr. ALLARD. I thank the Senator from Kansas for yielding.

I ask unanimous consent that I be made a cosponsor of the Roberts amendment.

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

PRIVILEGE OF THE FLOOR

Mr. ALLARD. Mr. President, I ask unanimous consent that Doug Flanders of my staff have floor privileges during the entire debate on the National Defense Authorization Act for fiscal year 1999.

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

Mr. ALLARD. Mr. President, I rise in strong support of the Roberts amendment. The reason I do that is I think that the North Atlantic Treaty Organization, which we refer to as NATO in this debate, is suffering from mission creep. I look at what has happened with the Strategic Concept in 1991. I look at the passing of the 1999 new Strategic Concept, and I think it becomes clear how mission creep is moving in.

In 1991, NATO established a new Strategic Concept which altered the concept dramatically from the original treaty. It allowed for more flexibility in the ability to get into a wide range of military operations. However, I add that it did maintain in part 4, under Guidelines for Defense, entitled ''Principle of Alliance Strategy''—I want to quote specifically from that Strategic Concept.

The alliance strategy will continue to reflect a number of fundamental principles. The alliance—

And this is underlined—

The alliance is purely defensive in purpose. None of its weapons will ever be used except in self defense. And it does not consider itself to be anyone's adversary.

Then, if we look at the 1999 new Strategic Concept, it still says that their core purpose is the collective defense of NATO members. It adds that NATO:

. . . should contribute to peace and stability in the region.

But, while a lot of the debate here on the floor has been about what does the Concept say, the important point I want to make here is what is important is what it does not say. In the 1999 new Strategic Concept, there is no mention that the alliance will never use its weapons except in self-defense. So, in 1991 the new Strategic Concept said the alliance was purely defensive in purpose. In 1999, there is no mention that the alliance will never use its weapons other than in self-defense.

I think that is a real important distinction. That is why I think it is so important we have a debate on the mission of NATO.

The PRESIDING OFFICER. The Senator's time has expired. The Chair recognizes the Senator from Oklahoma.

Mr. NICKLES. Mr. President, I compliment my colleague from Kansas for this amendment. I know there are additional speakers—on this side, at least—who desire to speak on it, so I ask unanimous consent both sides have an additional 8 minutes to speak on this amendment.

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

Mr. NICKLES. Mr. President, will my colleague yield 3 minutes?

Mr. ROBERTS. I am delighted to yield my distinguished colleague and friend 3 minutes.

Mr. NICKLES. Mr. President, I thank the Senator for this amendment. I think this is a very important amendment. I wish we would debate it at much greater length, because I am afraid, from some of the things I have read, from comments made by the President of the United States, that he is expanding NATO's role, commitment, obligation, frankly, far beyond the treaty we have signed, which has been so successful, the 50th anniversary of which we commemorated this year.

I look at the President's statement he made on May 27, 1997. He did this in concert with French President Chirac and Russian President Yeltsin in France. He stated:

> In turn, we are building a new NATO. It will remain the strongest alliance in history, with smaller, more flexible forces, prepared to provide for our defense, but also trained for peacekeeping.

He goes on, and I will just read the last sentence:

> It will be an alliance directed no longer against a hostile bloc of nations, but instead designed to advance the security of every democracy in Europe—NATO's old members, new members, and non-members alike.

A couple of days later he made a speech at the United States Military Academy, a commencement speech at West Point, May 31, 1997:

> To build and secure a new Europe, peaceful, democratic and undivided at last, there must be a new NATO, with new missions, new members and new partners. We have been building that kind of NATO for the last three years with new partners in the Partnership for Peace and NATO's first out-of-area mission in Bosnia. In Paris last week, we took another giant stride forward when Russia entered a new partnership with NATO, choosing cooperation over confrontation, as both sides affirmed that the world is different now. European security is no longer a zero-sum contest between Russia and NATO; but a cherished, common goal.

Clearly, President Clinton is trying to redefine NATO's mission far beyond a defensive alliance, as our colleague from Kansas pointed out. The purpose in the charter of NATO under article 5 was a defensive alliance. Now he is expanding it to include nonmembers. He is including out-of-area conflicts. He includes ethnic conflicts or trying to resolve ethnic conflicts. I think, clearly, if he is going to do so, he needs to rewrite the NATO charter and submit that as a treaty to the Senate for its ratification.

So I compliment my colleague for this amendment. I think it is one of the most important amendments we will consider on this bill. I urge my colleagues to vote in favor of the Roberts amendment, and I thank him for his leadership.

Mr. ROBERTS. Mr. President, how much time do we have remaining now?

The PRESIDING OFFICER. The Senator controls 7 minutes.

Mr. ROBERTS. Mr. President, I ask unanimous consent that Senator SESSIONS be added as an original cosponsor of the Roberts amendment.

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

Mr. ROBERTS. I yield the distinguished Senator 2 minutes.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank the Senator from Kansas for bringing forward a very critical amendment. I spent 17 years as a U.S. attorney or assistant U.S. attorney, representing the United States in court. I am looking at the legal implications of this amendment as a lawyer for the United States.

What we are doing here is very, very historic. This Congress has ratified a defensive treaty. We are moving into a new world. We are looking at an entirely different approach to life, and the President is unilaterally expanding the commitments of this Nation under the guise of a new NATO that is involved in new missions, as the Senator from Oklahoma has just noted; committing us solemnly with the same depth of commitment that we put our lives, our fortunes, and our honor to preserve the integrity of democracy against totalitarian communism for all of these years.

That is what is being asked here. To have that done without full debate and full approval of this Congress is astounding and would represent a major legal erosion of the powers of the Senate and the Congress, particularly the Senate, to review these matters. So I cannot express too strongly how important it is this Senate reassert its historic responsibility to advise and consent to involvement in these kind of foreign policies.

Once the President commits us, we pay for it. Right now this action in Kosovo amounts to 19 NATO nations meeting and deciding how to deploy the U.S. Air Force. We are paying for this war in their own backyard, and they are voting on how to conduct it. We simply have to get a better grip on it.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. SESSIONS. I thank the Senator from Kansas.

Mr. ROBERTS. I yield 2 minutes to the Senator from Oklahoma.

Mr. WELLSTONE. I ask my colleague whether I could have 10 seconds to have some fellows granted the privilege of the floor? They have been waiting outside. May I do that without taking anybody's time?

Mr. ROBERTS. Certainly.

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Ben Highton, Rachel Gragg, John Bradshaw, and Michelle Vidovic, who are fellows, be granted the privilege of the floor for the duration of the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I know the Senator from Delaware, the Senator from Alabama, and others have been talking about the legal ramifications of what this amendment is all about. You can study the sections and subsections and sub-subsections and quote all of these things, but I think we all know this was an alliance that was set up to be a defensive alliance. Now we are getting into something that is far more than that.

But I would put out two things that have not been said. First of all, I just came back from the Canada-United States interparliamentarian meeting up there. It is very clear to me they are involved in this, with a very modest contribution, only because we are in there. I wonder how many other of these countries are getting involved because we are providing that leadership.

No. 2, my concern about this is not a legalistic concern. It is what effect is this having on our state of readiness. I happen to be chairman of the Readiness Subcommittee. This is what is very frightening. We can remember in this Chamber in 1994, in 1995, talking about Bosnia; we were going to be sending people over to Bosnia. What was the main argument used? We have to protect the integrity of NATO. Then we have the same thing coming up on Kosovo. It has come up in other places, too.

These are areas where we do not have national strategic interests. What it has done is to put us in a position where we cannot carry out the minimum expectations of the American people or our national military strategy, which is to defend America on two fronts.

I want to tell you how proud I was of General Hawley the other day, Air Combat Command, who came out and said we, right now, are not in a position to respond if we should be called upon to respond in areas where we do have a national strategic interest such as North Korea or the Persian Gulf.

It is very, very important that we get to the bottom of this and we make a determination as to what our future commitments are going to be as far as NATO is concerned.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I believe this debate is taking on excellent participation. I think we can allocate another 10 minutes to both sides—10 minutes under the control of the Senator from Kansas and 10 minutes under the control of my distinguished colleague from Michigan.

Mr. LEVIN. Reserving the right to object, and I do not plan to object, I wonder if the Chair can inform us as to how much time is remaining on both sides under the previous extension.

The PRESIDING OFFICER. Almost 3 minutes on this side and 8 minutes on the side of the Senator from Michigan.

Mr. LEVIN. I want to protect the rights of the Senator from Minnesota who has been waiting.

Mr. WELLSTONE. Mr. President, I say to my colleague, this is an important debate. I agree with both of the managers. We should go on with the debate. I ask the question whether or not I may bring this amendment up after the caucuses or speak for a while but then have some time later.

Mr. WARNER. Mr. President, I can address that and make a suggestion. On this side, we are prepared to accept the third amendment. I suggest perhaps at the hour of 12:25, the distinguished ranking member and I and Mr. WELLSTONE can address the three amendments and conclude them before the caucus. Will that be convenient?

Mr. WELLSTONE. I say to my colleague, I thank him for two of the amendments. I am committed to having a rollcall vote on the welfare tracking amendment, so that would not work out for me. I am pleased to go on with this debate, and I will come back later.

Mr. ROBERTS. Will the distinguished Senator yield?

Mr. WARNER. Mr. President, this is the first time we have known of the Senator's desire to have a rollcall vote on the third amendment. We are prepared to accept it.

Mr. WELLSTONE. Mr. President, I say to my colleague from Virginia, I appreciate working with him on the other amendments. I have been down this path before with voice votes and then it is out in conference. I am committed to having a debate and vote on this. I am sorry my colleague is surprised by this. I am more than willing to wait. I think this debate is very important. I will come back later and do this.

Mr. WARNER. Mr. President, I want the opportunity to consult with the chairman of the committee that has jurisdiction over the subject matter of the third amendment and with the majority leader and presumably the minority leader, and set a time for the rollcall vote, which the Senator is entitled to have. For the moment, we are prepared to accept the two amendments and then allow the debate——

The PRESIDING OFFICER. Under the previous order, the time is set for the Wellstone amendment.

Mr. WARNER. On the two amendments from Senator WELLSTONE.

Mr. LEVIN. Mr. President, if the chairman will yield, may I make a suggestion that after we conclude the debate on the pending amendment, we immediately proceed to the first of the two Wellstone amendments, accept those before lunch, and then determine at that time whether to conclude the debate on the third. In any event, the rollcall vote on the third amendment will have to come after lunch under the existing unanimous consent agreement.

Mr. ROBERTS. If the Senator will yield, basically how much additional time to the time we have left has the Senator asked for? I am not sure there are any more Members who want to speak on the minority side. I can wrap up in 5 minutes or less. I am adding cosponsors every minute, so I am happy to stay here for a while.

Mr. WARNER. Mr. President, for the purpose of the party caucuses, we hope to complete all debate on the underlying amendment circa 12:30, which is roughly a half hour. I wish to speak a few more minutes on the amendment offered by the Senator from Kansas, as does the ranking member.

My suggestion is, if possible, while Senator WELLSTONE is on the floor, do the voice voting of his two amendments, reserving, of course, scheduling the third, and then we can continue with this debate. It will not take but a minute on the two voice votes on the two Wellstone amendments.

Mr. ROBERTS. I have no problem.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. We have not put it in the form of a unanimous consent request.

Mr. WELLSTONE. Mr. President, I apologize. I was in a discussion with the staff on the majority side. What are we talking about here?

Mr. LEVIN. Mr. President, the suggestion was we immediately take up the two Wellstone amendments that we are going to voice vote, then go back to the Roberts amendment, and then come back to the third amendment afterwards.

Mr. WELLSTONE. That will be fine with me.

AMENDMENT NO. 381, AS MODIFIED

Mr. WELLSTONE. Mr. President, first, on amendment No. 381, I send a modification to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

On page 83, between lines 7 and 8, insert the following:

SEC. 329. PROVISION OF INFORMATION AND GUIDANCE TO THE PUBLIC REGARDING ENVIRONMENTAL CONTAMINATION AT U.S. MILITARY INSTALLATIONS FORMERLY OPERATED BY THE UNITED STATES THAT HAVE BEEN CLOSED.

(a)(1) REQUIREMENT TO PROVIDE INFORMATION AND GUIDANCE.—The Secretary of Defense shall publicly disclose existing, available information relevant to a foreign nation's determination of the nature and extent of environmental contamination, if any, at a site in that foreign nation where the United States operated a military base, installation, and facility that has been closed as of the date of enactment of this Act.

(2) CONGRESSIONAL LIST.—Not later than September 30, 2000, the Secretary of Defense shall provide Congress a list of information made public pursuant to paragraph (1).

(b) LIMITATION.—The requirement to provide information and guidance under subsection (a) may not be construed to establish on the part of the United States any liability or obligation for the costs of environmental restoration or remediation at any site referred to in subsection (a).

(c) NATIONAL SECURITY.—Information the Secretary of Defense believes could adversely affect U.S. National Security shall not be released pursuant to this provision.

Mr. WELLSTONE. Mr. President, I will take a very brief period of time on each amendment. Basically what this amendment says is:

The Secretary of Defense shall publicly disclose existing, available information relative to a foreign nation's determination of the nature and extent of environmental contamination, if any, at a site in that foreign nation where the United States operated a military base, installation, and facility that has been closed as of the date of the enactment of this Act.

I thank both colleagues, and I really hope these amendments will be supported in conference committee.

To make a long story short, when we leave a country, close our base, quite often what happens is that there is some environmental contamination. We want to make sure those countries have access to information as to the extent of what chemicals or substances are there which might pose a danger to their citizens.

It is a very reasonable amendment. It is important for our foreign relations with these countries. I believe it has strong bipartisan support. I thank Senator LEVIN and Senator WARNER for their support and make the request—I think both Senators will do this—that this be kept in conference committee. That is why I do not need a recorded vote.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. May I seek clarification of our colleague from Minnesota, on his third amendment: What number does he designate this being? He just mentioned he wanted to send an amendment—

Mr. WELLSTONE. I thought we were going to do two amendments right now: One is on environmental impact when we close bases, and the second amendment is on atomic vets, both of which the Senator is prepared to accept.

Mr. WARNER. Correct.

Mr. WELLSTONE. The third amendment, No. 382, deals with tracking, reporting on what is actually happening in the country right now with welfare reform.

Mr. WARNER. Mr. President, I am familiar with that, and the Senator first wishes to amend the text of No. 382?

Mr. WELLSTONE. No; I just did—

Mr. WARNER. You just did it.

Mr. WELLSTONE. I modified amendment No. 381.

Mr. WARNER. Addressing No. 382, what amount of time will the Senator require for debate on No. 382?

Mr. WELLSTONE. The UC provides for an hour equally divided.

Mr. WARNER. And does the Senator wish to adhere to that previous order?

Mr. WELLSTONE. I say to my colleague, yes, I have been trying to get this amendment on the floor for some time. I am talking to a good friend, my friend from Virginia, as I make my case. I believe my friend from Virginia will agree that this is well worth the focus on the part of the Senate.

Mr. WARNER. I am only addressing procedure.

Mr. WELLSTONE. One hour equally divided is the UC.

Mr. WARNER. We would like to complete that amendment by 1 o'clock. Will the Senator reduce his amount of time? In all likelihood, we will yield back the half hour reserved for us, because there is not likely to be any opposition.

Mr. WELLSTONE. Mr. President, I am delighted if there is not any opposition. If the Senator is going to yield back his time, clearly—I do need to go to the caucus, but I would rather not yield back time. I will try to shorten

my presentation. If there is not a response, so be it; we will get a strong vote.

Mr. WARNER. For the convenience of the Senate, does the Senator think he can give us any estimate as to how he can shorten it from a half hour down to, say, 10 or 12 minutes?

Mr. WELLSTONE. Mr. President, I am not going to shorten this amendment to 10 or 12 minutes in any way, shape or form, because it is too important to have a chance to talk about what is happening to these women and children and make sure that we track what is happening.

Mr. WARNER. I am just seeking to try to accommodate the Senate.

Mr. WELLSTONE. We should stay with the UC agreement.

Mr. WARNER. Beg your pardon?

I have to address the Chair. There is a UC requirement of the expenditure of that time prior to the normal weekly recess today at 12:30?

The PRESIDING OFFICER. There is.

Mr. WARNER. This is the dilemma that the Senator from Virginia, the manager of the bill has, in that, as drawn, the UC of last night requires it to be completed prior to 12:30. So now let's figure out how we accommodate the Senate. Perhaps we can move your amendment to some point this afternoon, that is, amendment No. 3, when the Senator could avail himself of the full 30 minutes, if he so desires.

Mr. WELLSTONE. Mr. President, I would be more than willing —if several of my colleagues want to speak on the very important amendment that Senator ROBERTS has offered, I would be willing to bring my amendment up right after the caucuses and go to it right then.

Mr. WARNER. If I may say, Mr. President, right after our caucuses are votes on other amendments, including Senator ROBERTS' amendment.

Mr. WELLSTONE. After we have those votes then I would bring the amendment up.

Mr. WARNER. I will need to check other commitments we made with regard to time. I will work on it and come back in a minute or two and clarify this.

In the meantime, if we can proceed with the Roberts amendment.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERTS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Kansas.

AMENDMENT NO. 377, AS MODIFIED

Mr. ROBERTS. Mr. President, I inquire, after all that, how much time do we have remaining on either side?

The PRESIDING OFFICER. Three minutes on the Senator's side; 8 minutes on the other side.

Mr. ROBERTS. But was there a request by unanimous consent that either party wanted some additional time? The minority has 8 minutes remaining; is that not correct?

The PRESIDING OFFICER. That is correct.

Mr. ROBERTS. Does the chairman want to speak on this? Is that correct? You wish to speak on the Roberts amendment?

Mr. WARNER. The Senator is correct, for about 3 minutes, in support.

Mr. ROBERTS. I can get my remarks done in 5, so I ask unanimous consent that we add 8 minutes, along with the other 8 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROBERTS. Mr. President, I ask unanimous consent that Senator BINGAMAN of New Mexico be added as a cosponsor of the Roberts amendment.

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

Mr. ROBERTS. I yield the distinguished chairman—what was the request, Mr. Chairman, 3 minutes, 5 minutes?

Mr. WARNER. I would suggest that we try to conclude the Roberts amendment in 5 or 10 minutes. Then we will proceed to the Wellstone amendment, and then we can adhere to the time agreements.

Mr. ROBERTS. I ask the distinguished chairman, how much time would the distinguished chairman like?

Mr. WARNER. Just 2 minutes.

Mr. ROBERTS. I yield the distinguished Senator 2 minutes.

Mr. WARNER. Mr. President, I want to address the document that was submitted to the Senate by the Senator from Delaware entitled: The Kyl Amendment and the Strategic Concept of NATO. I went back and asked the Senator from Delaware to clarify the date, time, group, and when it was prepared and submitted to the Senate. He is doing that.

But I just wish to draw the attention to the Senate, as I read this document—and I have seen it before—it simply refers to those portions in the Kyl amendment that were incorporated into the final draft of the Strategic Concept. But it does not, on its face, nor do I believe it was intended to, say that it covered everything by the new Strategic Concept.

Indeed, I agree with the Senator from Kansas this document in no way is intended to represent that it encompasses all of the new Strategic Concept. The Senator from Kansas is quite properly pointing out there are those of us—the Senator from Kansas, myself, and others—who feel the Strategic Concept went beyond the Kyl amendment.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Kansas.

Mr. ROBERTS. Might I inquire of my distinguished friend from Michigan if he, the minority, seeks any additional time?

Mr. LEVIN. We are just using about 3 of our 8 minutes.

Mr. ROBERTS. I would be happy if the Senator would like to proceed at this time. I would like to close, if that is all right.

Mr. LEVIN. Sure.

The PRESIDING OFFICER. The Chair recognizes the Senator from Michigan.

Mr. LEVIN. Mr. President, I support this amendment for the reasons previously given. It does not reach any conclusion as to whether there are any additional obligations upon the United States. Unlike earlier versions, it simply asks the President to certify whether or not there are additional obligations imposed on the United States.

I have read from what was called then the new Strategic Concept of NATO in 1991. At the heading of that Concept, it was stated that:

> The alliance recognizes that developments taking place in Europe would have a far-reaching impact on the way in which its aims would be met in the future.

And, indeed, adopted language such as:

> Alliance security must also take into account the global context. Alliance security interests can be affected by other risks of a wider nature, including proliferation of weapons of mass destruction, disruption of flow of vital resources, actions of terrorism and sabotage.

That did not impose any new obligations. It is very broad language.

Listen to some of this language in this 1991 alliance new Strategic Concept:

> The primary role of the alliance military forces to guarantee security and territorial integrity of member states remains unchanged [we said in 1991]. But this role must take account of the new strategic environment in which a single massive and global threat has given way to diverse and multidirectional risks. Allied forces have different functions to perform in peace, crises, and war.

That is section 40 in 1991.

How about this one, section 41:

> Allies could be called upon to contribute to global stability and peace by providing forces for United Nations missions.

How about that for a mission in 1991? Did that impose an obligation on us, legal obligation on this body, or on this Nation? Boy, I hope not. Not in my book it did not.

> Allies could be called upon to contribute to global stability and peace by providing forces for United Nations missions.

This was adopted in 1991 as a new Strategic Concept. That did not impose a thing on us. It was a new Strategic Concept adopted by NATO, not a legally binding commitment on the alliance.

It was not submitted to us then as a treaty change because it was not a treaty change, nor is this new Strategic Concept of 1999 legally binding upon us any more than the 1991 Strategic Concept was.

So I think we ought to adopt this amendment. It is something which is highly appropriate to ask the President whether or not the new Strategic Concept of NATO imposes any new commitment or obligation on the United States, the key word there to me being ''imposes.''

I ask, Mr. President, before I yield the floor, that the yeas and nays be ordered on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

PRIVILEGE OF THE FLOOR

Mr. LEVIN. Mr. President, I ask unanimous consent that the privileges of the floor be granted to the following Pearson Fellow on the staff of the Foreign Relations Committee, Joan Wadelton, during the pendency of the Department of Defense Authorization legislation.

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

Mr. LEVIN. I thank the Chair.

Again, I will be supporting this amendment.

Mr. ROBERTS. With the debate we have had on the floor, although there is support—and the better part of judgment would be for me to simply yield the floor—we will try to split the shingle one more time. The debate is centered around whether or not the new Strategic Concept adopted at the 50th anniversary of NATO is legally binding, a treaty, or different from the 1991 Concept, let alone the 1949 Concept.

Let me just say that the 1991 document really stressed that—as a matter of fact, it assured—no NATO weaponry will ever be used offensively. We are sure doing that now in regard to Kosovo. In addition, in terms of the 19 parties who met in Washington, I am sure that each one of them certainly thought it was binding. And if the men and women in the uniform of all our allies do not think it is binding, I think they had better look for a new definition.

I believe any document that contains even tacit commitment by the United States and other nations to engage in new types of NATO missions—and let me simply say that these missions are now described as problems with drugs, problems with social progress, with reform, with ethnic strife; about the only thing that is not in there is don't put gum in the water fountain—outside the domain of the original treaty, as well as a commitment to structure military forces accordingly, can be considered an international agreement.

I refer again to the U.S. Department of State Circular 175, the Procedure on Treaties, that sets forth eight considerations available for determining whether or not an agreement or an accord should be submitted to the Senate for ratification. Four of them I will repeat again: The extent to which the agreement involves commitments or risks affecting the Nation as a whole—if Kosovo is not a risk, I do not know what is—whether the agreement can be given effect without the enactment of subsequent legislation by the Congress; past U.S. practices as to similar agreements; the preference of Congress as to a particular type of agreement.

It seems to me, if I recall the debate and the two copies of the original 1949 document, and then the Strategic Concept document, No. 1, they said no offensive weapons. No. 2, they said we are going to stay within our borders and we will meet with you before we go outside the borders and go wandering in the territory of a sovereign nation. Then lastly, we are going to consult with the U.N. It is going to be in cooperation with the U.N. All that is different.

I think to say that it is not different in regard to 1991 is simply not accurate.

I don't know. I suppose per se, legally—I am not a lawyer—that this Strategic Concept is not a treaty. But it sure walks like a treaty duck and it quacks like a treaty duck and it is wandering into different areas like a treaty duck. In the quacking and the walking, it is causing a lot of problems.

I simply say, in closing, I do respect the Senator from Michigan and his support and the Senator from Delaware for his accommodating my amendment. It is true that the Senator from Delaware said that I was in the House of Representatives, the other body, what Senator BYRD refers to as the lower body. In 1990 we were not asleep. We were not asleep at all. We admired the Senator from Delaware from afar. We were spellbound, as a matter of fact, by his oratorical skills, his sartorial splendor, and his ability to be heard above all in the Senate, regardless of whether the acoustical system was working or not. So I thank the Senator from Delaware for his comments.

I urge Senators to support this amendment and send a strong message that we are adhering to our constitutional right when we change an agreement that in effect directly affects the lives of our American men and women and our national security, that the Senate stepped up to the plate.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. Under the previous order, the Roberts-Warner amendment No. 377 will be temporarily laid aside.

Mr. WARNER. And the vote will occur, Mr. President, if you continue to read the order.

The PRESIDING OFFICER. The vote will occur after the Roth amendment at 2:15.

Mr. WARNER. I thank the Chair.

Now, Mr. President, we are ready to receive the comments under the standing order for the day from our distinguished colleague from Minnesota. These comments will be relative to what I call the third amendment, No. 382. Perhaps we could take this time to vote the first two by voice.

Mr. WELLSTONE. Mr. President, besides the environmental assessment amendment, the second amendment we are taking deals with atomic vets—is that correct—compensation for atomic vets? I am pleased to do so, and I thank both my colleagues for their help and comments.

Mr. WARNER. We are happy to be of accommodation. Would the Senator urge the adoption of the two amendments?

Mr. WELLSTONE. I urge the adoption of the two amendments.

The PRESIDING OFFICER. Without objection, the two amendments are agreed to.

Mr. WELLSTONE. These are amendments Nos. 380 and 383?

The PRESIDING OFFICER. Amendments 380 and 381.

Mr. WELLSTONE. I am sorry, 380 and 381.

Mr. LEVIN. As modified.

The PRESIDING OFFICER. As modified.

The amendments (No. 380 and No. 381), as modified, were agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 380

Mr. WELLSTONE. Mr. President, I rise today to speak on an amendment I offered that would remove some of the frustrating and infuriating obstacles that have too often kept veterans who were exposed to radiation during military service from getting the disability compensation they deserve. This amendment would add three radiogenic conditions to the list of presumptively service-connected diseases for which atomic veterans may receive VA compensation, specifically: lung cancer; colon cancer; and tumors of the brain and central nervous system. It is based on a bill I introduced during the last Congress, S. 1385, the Justice for Atomic Veterans Act.

At the outset, let me say that this amendment was accepted and adopted by the Senate just a few months ago as a part of S. 4, the Soldiers', Sailors', Airmen's, and Marines' Bill of Rights Act of 1999. Because that bill appears to be dead on arrival in the House, I am offering it on the Defense Authorization bill. I think this amendment was relevant to S. 4 and it is certainly relevant to this bill. But I mention the history of this amendment to my colleagues in the belief that what was acceptable to the Senate three months ago will be acceptable today.

I want to explain why this amendment is topical to the Defense Authorization bill. I believe that the way we treat our veterans does send an important message to young people considering service in the military. When veterans of the Persian Gulf War don't get the kind of treatment they deserve, when the VA health care budget loses out year after year to other budget priorities, when veterans benefits claims take years and years to resolve, what is the message we are sending to future recruits?

How can we attract and retain young people in the service when our government fails to honor its obligation to provide just compensation and health care for those injured during service?

One of the most outrageous examples of our government's failure to honor its obligations to veterans involves

''atomic veterans,'' patriotic Americans who were exposed to radiation at Hiroshima and Nagasaki and at atmospheric nuclear tests.

For more than 50 years, many of them have been denied compensation for diseases that the VA recognizes as being linked to their exposure to radiation—diseases known as radiogenic diseases. Many of these diseases are lethal forms of cancers.

I received my first introduction to the plight of atomic veterans from some first-rate mentors, the members of the Forgotten 216th. The Forgotten 216th was the 216th Chemical Service Company of the U.S. Army, which participated in Operation Tumbler Snapper. Operation Tumbler Snapper was a series of eight atmospheric nuclear weapons tests in the Nevada desert in 1952.

About half of the members of the 216th were Minnesotans. What I've learned from them, from other atomic veterans, and from their survivors has shaped my views on this issue.

Five years ago, the Forgotten 216th contacted me after then-Secretary of Energy O'Leary announced that the U.S. Government had conducted radiation experiments on its own citizens. For the first time in public, they revealed what went on during the Nevada tests and the tragedies and trauma that they, their families, and their former buddies had experienced since then.

Because their experiences and problems typify those of atomic veterans nationwide, I'd like to tell my colleagues a little more about the Forgotten 216th. When you hear their story, I think you have to agree that the Forgotten 216th and other veterans like them must never be forgotten again.

Members of the 216th were sent to measure fallout at or near ground zero immediately after a nuclear blast. They were exposed to so much radiation that their Geiger counters went off the scale while they inhaled and ingested radioactive particles. They were given minimal or no protection. They frequently had no film badges to measure radiation exposure. They were given no information on the perils they faced.

Then they were sworn to secrecy about their participation in nuclear tests. They were often denied access to their own service medical records. And they were provided no medical followup.

For decades, atomic veterans have been America's most neglected veterans. They have been deceived and treated shabbily by the government they served so selflessly and unquestioningly.

If the U.S. Government can't be counted on to honor its obligation to these deserving veterans, how can young people interested in military service have any confidence that their government will do any better by them?

I believe the neglect of atomic veterans should stop here and now. Our government has a long overdue debt to these patriotic Americans, a debt that we in the Senate must help to repay. I urge my colleagues on both sides of the aisle to help repay this debt by supporting this amendment.

My legislation and this amendment have enjoyed the strong support of veterans service organizations. Recently, the Independent Budget for FY 2000, which is a budget recommendation issued by AMVETS, Disabled American Veterans (DAV), Paralyzed Veterans of America (PVA), and the Veterans of Foreign Wars (VFW), endorsed adding these radiogenic diseases to VA's presumptive service-connected list.

Let me briefly describe the problem that my amendment is intended to address. When atomic veterans try to claim VA compensation for their illnesses, VA almost invariably denies their claims. VA tells these veterans that their radiation doses were too low—below 5 rems.

But the fact is, we don't really know that and, even if we did, that's no excuse for denying these claims. The result of this unrealistic standard is that it is almost impossible for these atomic veterans to prove their case. The only solution is to add these conditions to the VA presumptive service-connected list, and that's what my amendment does.

First of all, trying to go back and determine the precise dosage each of these veterans was exposed to is a futile undertaking. Scientists agree that the dose reconstruction performed for the VA is notoriously unreliable.

GAO itself has noted the inherent uncertainties of dose reconstruction. Even VA scientific personnel have conceded its unreliability. In a memo to VA Secretary Togo West, Under Secretary for Health Kenneth Kizer has recommended that the VA reconsider its opposition to S. 1385 based, in part, on the unreliability of dose reconstruction.

Mr. President, I ask unanimous consent that the text of Dr. Kizer's memo be printed in the RECORD at the end of my remarks.

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

[See exhibit 1.]

Mr. WELLSTONE. In addition, none of the scientific experts who testified at a Senate Veterans' Affairs Committee hearing on S. 1385 on April 21, 1998, supported the use of dose reconstruction to determine eligibility for VA benefits.

Let me explain why dose reconstruction is so difficult. Dr. Marty Gensler on my staff has researched this issue for over five years, and this is what he has found.

Many atomic veterans were sent to ground zero immediately after a nuclear test with no protection, no information on the known dangers they faced, no badges or other monitoring equipment, and no medical followup.

As early as 1946, ranking military and civilian personnel responsible for nuclear testing anticipated claims for service-connected disability and sought to ensure that ''no successful suits could be brought on account of radiological hazards.'' That quotation comes from documents declassified by the President's Advisory Committee on Human Radiation Experiments.

The VA, during this period, maintained classified records ''essential'' to evaluating atomic veterans' claims, but these records were unavailable to veterans themselves.

Atomic veterans were sworn to secrecy and were denied access to their own service and medical records for many years, effectively barring pursuit of compensation claims.

It's partly as a result of these missing or incomplete records that so many people have doubts abut the validity of dose reconstructions for atomic veterans, some of which are performed more than fifty years after exposure.

Even if these veterans' exposure was less than 5 rems, which is the standard used by VA, this standard is not based on uncontested science. In 1994, for example, GAO stated: ''A low level dose has been estimated to be somewhere below 10 rems [but] it is not known for certain whether doses below this level are detrimental to public health.''

Despite persistent doubts about VA's and DoD's dose reconstruction, and despite doubts about the science on which VA's 5 rem standard is based, these dose reconstructions are used to bar veterans from compensation for disabling radiogenic conditions.

The effects of this standard have been devastating. A little over two years ago the VA estimated that less than 50 claims for non-presumptive diseases had been approved out of over 18,000 radiation claims filed.

Atomic veterans might as well not even bother. Their chances of obtaining compensation are negligible.

It is impossible for many atomic veterans and their survivors to be given ''the benefit of the doubt'' by the VA while their claims hinge on the dubious accuracy and reliability of dose reconstruction and the health effects of exposure to low-level ionizing radiation remain uncertain.

This problem can be fixed. The reason atomic veterans have to go through this reconstruction at all is that the diseases listed in my amendment are not presumed to be service-connected. That's the real problem.

VA already has a list of service-connected diseases that are presumed service-connected, but these are not on it.

This makes no sense. Scientists agree that there is at least as strong a link between radiation exposure and these diseases as there is to the other diseases on that VA list.

You might ask why I've included these three diseases in particular—lung cancer; colon cancer; and tumors of the brain and central nervous system—in my amendment. The reason is very simple. The best, most current, scientific evidence available justifies

their inclusion. A paper entitled ''Risk Estimates for Radiation Exposure'' by John D. Boice, Jr. of the National Cancer Institute, published in 1996 as part of a larger work called Health Effects of Exposure to Low-Level Ionizing Radiation, includes a table which rates human cancers by the strength of the evidence linking them to exposure to low levels of ionizing radiation. According to this study, the evidence of a link for lung cancer is ''very strong''—the highest level of confidence—and the evidence of a link for colon and brain and central nervous system cancers is ''convincing''—the next highest level of confidence. So I believe I can say with a great deal of certainty, Mr. President, that science is on the side of this amendment. And I ask unanimous consent that a copy of the table I just mentioned be printed in the RECORD at the conclusion of my remarks.

Last year, the Senate Veterans Affairs Committee reported out a version of S. 1385, the Justice for Atomic Veterans Act, which included three diseases to be added to the VAs presumptive list. Two of those diseases, lung cancer and brain and central nervous system cancer, I have included in my amendment. The third disease included in the reported bill was ovarian cancer. Mr. President, I'd like to explain why I substituted colon cancer for ovarian cancer. It is true that the 1996 study I just cited states that the evidence of a linkage for ovarian cancer to low level ionizing radiation is ''convincing,'' just as it is for colon cancer. But Mr. President, there are no female atomic veterans. The effect of creating a presumption of service connection for ovarian cancer is basically no effect—because no one could take advantage of it. However, the impact of adding colon cancer as a presumption for atomic veterans is significant; atomic veterans will be able to take advantage of that presumption.

The President's Advisory Committee on Human Radiation Experiments agreed in 1995 that VA's current list should be expanded. The Committee cited concerns that ''the listing of diseases for which relief is automatically provided—the presumptive diseases provided for by the 1988 law—is incomplete and inadequate'' and that ''the standard of proof for those without presumptive disease is impossible to meet and, given the questionable condition of the exposure records retained by the government, inappropriate.'' The President's Advisory Committee urged Congress to address the concerns of atomic veterans and their families ''promptly.''

The unfair treatment of atomic veterans becomes especially clear when compared to both Agent Orange and Persian Gulf veterans. In recommending that the Administration support S. 1385, Under Secretary for Health Kenneth Kizer cited the indefensibility of denying presumptive service connection for atomic veterans in light of the presumption for Persian Gulf War veterans and Agent Orange veterans.

In 1993, the VA decided to make lung cancer presumptively service-connected for Agent Orange veterans. That decision was based on a National Academy of Sciences study that had found a link only where Agent Orange exposures were ''high and prolonged,'' but pointed out there was only a ''limited'' capability to determine individual exposures.

For atomic veterans, however, lung cancer continues to be non-presumptive. In short, the issue of exposure levels poses an almost insurmountable obstacle to approval of claims by atomic veterans, while the same problem is ignored for Agent orange veterans.

Persian Gulf War veterans can receive compensation for symptoms or illnesses that may be linked to their service in the Persian Gulf, at least until scientists reach definitive conclusions about the etiology of their health problems. Unfortunately, atomic veterans aren't given the same consideration or benefit of the doubt.

I believe this state of affairs is outrageous and unjust. The struggle of atomic veterans for justice has been long, hard, and frustrating. But these patriotic, dedicated and deserving veterans have persevered. My amendment would finally provide them the justice that they so much deserve.

Let me say this in closing. As I have worked with veterans and military personnel during my time in the Senate, I have seen a troubling erosion of the Federal Government's credibility with current and former service members. No salary is high enough, no pension big enough to compensate our troops for the dangers they endure while defending our country. Such heroism stems from love for America's sacred ideals of freedom and democracy and the belief that the nation's gratitude is not limited by fiscal convenience but reflects a debt of honor.

This is one of those issues which test our faith in our government. But the Senate can take an important step in righting this injustice. I urge my colleagues from both sides of the aisle to join me in helping atomic veterans win their struggle by supporting my amendment.

EXHIBIT 1

DEPARTMENT OF VETERANS AFFAIRS,
April 21, 1998.

From: Under Secretary for Health (10).

Subject: Request for Reconsideration of the Department's Position on S. 1385 (Wellstone).

To: Secretary (00).

1. I request that you reconsider the Department's position on S. 1385 (Wellstone), which would add a number of conditions as presumptive service-connected conditions for atomic veterans to those already prescribed by law. I only learned that the Department was opposing this measure last night on reading the Department's prepared testimony for today's hearing; I had no input into that testimony. Indeed, my views on this bill have not been obtained. I would strongly support this bill as a matter of equity and fairness.

2. I do not think the Department's current opposition to S. 1385 is defensible in view of the Administration's position on presumed service-connection for Gulf War veterans, as well as its position on Agency Orange and Vietnam veterans.

3. While the scientific methodology that is the basis for adjudicating radiation exposure cases may be sound, the problem is that the exposure cannot be reliably determined for many individuals, and it never will be able to be determined in my judgment. Thus, no matter how good the method is, if the input is not valid then the determination will be suspect.

4. I ask that we formally reconsider and change the Department's position on S. 1385. I feel the proper and prudent position for the Department is to support S. 1385.

KENNETH W. KIZER, M.D., M.P.H.

Table 8.4—Strength of evidence that certain human cancers are induced following exposure to low levels of ionizing radiation.

Evidence	Cancer
Very strong	Leukemia, Female breast, Thyroid, Lung.
Convincing	Stomach, Colon, Bladder, Ovary, Brain/CNS, Skin.
Weak, inconsistent	Liver, Salivary glands, Esophagus, Multiple myeloma, Non-Hodgkin lymphoma, Kidney.
Not convincing	CLL, Male breast, Hodgkin's disease, Cervix, Prostate, Testes, Pancreas, Small intestine, Pharynx, hypopharynx, larynx, Certain childhood cancers, Skeleton support tissues.
Only at very high doses.	Bone, Connective tissue, Rectum, Uterus/Vagina.
High-Let exposures: Thorotrast (TH–232), Radium, Radon.	Liver, Leukemia, Bone, Lung.

AMENDMENT NO. 381

Mr. WELLSTONE. Mr. President, my amendment, amendment 381, entitled ''Provision of Information and Guidance to the Public Regarding Environmental Contamination at U.S. Military Installations Formerly Operated by the United States that Have Been Closed,'' is a simple, straightforward amendment, but one which can potentially go a long way toward ensuring that the United States leaves a positive environmental legacy behind when we withdraw from military bases overseas. As we have withdrawn from our bases around the world, the U.S. military has taken some steps to clean-up contamination at those bases before leaving. But there are still many convincing reports that contamination has been left behind. As the New York Times noted last December in an editorial, ''Fuels, lubricants, cleaning fluids and other chemicals are leaching into groundwater, and unexploded shells linger on testing grounds long after American soldiers leave.'' This is especially true in the Philippines, where we withdrew from Subic Bay and Clark Air Base, in 1992. And it will soon apply to Panama where will finish our withdrawal at the end of 1999.

I understand very well that the Pentagon has no legal obligations under our treaties with these countries to pay for a clean-up of environmental contamination. And I am not calling for any funding for such a clean-up. What this amendment requires the Pentagon to do is simply to provide as much information as possible and to cooperate in interpreting that information so that nations such as the Philippines can complete environmental

studies to tell them exactly what has been left behind.

So far the Pentagon has turned over substantial information to the Philippine government, but it has done so slowly and grudgingly. We need to be more forthcoming to help the Filipinos deal with this issue before the contamination in the Subic and Clark areas causes further health problems.

This amendment is intended to protect the legacy of the U.S. in those countries where we maintained bases. It does not look at the environmental issue as a legal issue but as a moral one. At a time when anti-Americanism may be growing in certain parts of the world we need to ensure that in those countries that are our longtime allies, we do what we can to promote a positive image of the U.S. even after we leave our bases.

We will continue to have close military and political relations with countries such as the Philippines and Panama and we should not let this environmental issue fester and become an impediment to good relations.

The amendment as modified applies only to bases already closed. Initially I had intended to extend it to bases which would be closing in the future, which would include our facilities in Panama. However, since I understand that sensitive negotiations are underway on this very issue between the U.S. and Panama and I did not want this amendment to in any way interfere with the successful conclusion of those negotiations. But I want the record to show that I believe that we should be very forthcoming in releasing information on environmental conditions at our facilities in Panama as we close them. I would like to see the Pentagon avoid the long delays in providing information which we have seen in the Philippine case by following the spirit of this amendment. Of course, if we see a similar problem in the case of Panama we may have to revisit this issue next year and propose a similar provision to require the Department of Defense to make information available publicly.

If we assist our strategic partners in their efforts to complete environmental baseline studies, it is quite likely that any clean-up which occurs down the road will be done by American companies, who are the leaders in this field. Without the information and the necessary studies these countries are unable to identify the scope of the problem and begin to move toward some type of amelioration. Once the studies are in hand they may be able to approach international lenders, such as the World Bank, for funding and subsequently some clean-up contracts may go to U.S. companies.

Mr. President, when we close our bases and leave behind environmental contamination, the people who suffer from the contamination are almost always people already living in poverty and already struggling to maintain good health. They do not also need to contend with a toxic legacy left by the U.S. military. Just to highlight one of the most disturbing cases, I want to discuss the situation in the Philippines and especially at the site of the former Clark Air Base.

According to a recent report in the Philippine Star Newspaper, a forensic expert at the Commission of Human Rights (CHR) identified 29 persons who were living at volcano evacuation centers who were found to be suffering from various ailments attributed to mercury and nitrate elements left by the Americans when they abandoned their air base at Clark in 1991.

''The clinical manifestation exhibited by the patients were consistent with chemical exposure,'' the report said. It noted that 13 children aged one to seven ''manifested signs and symptoms of birth defects and neurological disorders,'' adding that ''four females suffered spontaneous abortions and still births.''

''These can be attributed to mercury exposure,'' the report said. It also reported ''central nervous system disorders, Kidney disorder and cyanosis'' among the persons at evacuation center at Clark, ailments he said can be traced to nitrates exposure.''

Earlier, the CHR forensic office staff collected water samples from the deep wells at the evacuation center in Clark and the Madapdap resettlement site for volcano victims in Mabalacat, Pampanga.

The samples were later brought to the metals lab of the Environmental Management Bureau (EMB) for analysis. In a report dated April 16, the EMB found 200 milligrams of mercury per liter of water and from 386 to 27 mg of nitrate per liter of water in the Clark area.

''These two chemicals, together with coliform for bacteria were found to be present in water in values exceeding the standard set by the WHO,'' the report said.

The report recommended the immediate removal of the residents at Clark, and the thorough diagnosis and treatment of the patients.''

Among the victims identified in the report were Edmarie Rose Escoto, 5; Kelvin, 7; Martha Rose Pabalan, 4; 8-month-old Alexander; Sara Tolentino, and Abraham Taruc, who all had deformities to their lower limbs and cannot walk.

Rowell Borja, 5, and Sheila Pineda, 3, both had congenital heart ailments. Skin disorders were also found prevalent in other children, while cysts and kidney disorders were observed in adults.

The People's Task Force for Bases Cleanup (PTFBC) has pointed out that ''there is more than enough preliminary evidence of the toxic waste problem at the former U.S. bases in the Philippines.''

Among the documents that have confirmed the presence of toxic wastes at the former bases are pamphlets from the U.S. Department of Defense entitled ''Environmental Review of the Drawdown Activities at Clark Airbase'' (September 1991) and ''Potential Restoration sites on Board the U.S. Facility, Subic Bay.'' (October 1992).

The PTFBC also cited 2 reports of the U.S. Government Accounting Office titled ''Military Base Closure, U.S. Financial Obligations at the Philippines'' (Oct. 1992) as well as an independent report of the WHO on May 9, 1992.

Mr. President, I recently received a letter from the Philippine Study Group of Minnesota expressing their concerns about the environmental contamination left by the U.S. military at the former Clark Air Base. They reported the results of a trip to the Philippines by two young Filipina-American women, Christina Leano and Amy Toledo, who have been working with the affected populations near Clark field and have been meeting with my staff in Minnesota and here in Washington.

When these two young women returned from the Philippines, they communicated the concern of the Filipino people about the problems of toxic waste remaining at both Clark and Subic. The problems are of sufficient concern to municipal governments near Clark that they tried to develop systems to deliver alternative water sources to the affected populations. However, they do not have the necessary resources. They said that the concerns of the people near Clark have been front page news in the Philippines and Philippine Senator Loren Legarda will soon hold hearings in this issue. The Philippine Study Group of Minnesota wrote to me, and I quote:

> These bases . . . have severe problems that demand immediate attention. It is very unfortunate that the U.S. Department of Defense will not admit that they left polluted sites when they vacated the bases. Contrary to statements made by Secretary of State Albright, when she was in the Philippines last summer, the Department of Defense will not even release important documents needed by Philippine Development authorities.

We need at a minimum to see that all relevant documents are turned over to Philippine authorities. This includes key documents such as information on the construction of the wells and water supply system at Clark and hydrologic surveys for Clark which should be released to the Clark Development Corporation (CDC). Currently, the CDC does not have drawings or data on the water system and they are trying to improve the water delivery system without the data they need. The Philippine Study Group of Minnesota say they ''are incredulous that the Defense Department will not even release those non-military technical documents that would be of great help to Philippine authorities.''

This amendment would require the Defense Department to do that. It is a simple, reasonable step toward improving the environmental situation for the people of the Philippines. It is a step in the direction of assuring our allies that when the U.S. closes a military base, it leaves behind a legacy of friendship,

cooperation, and sensitivity to environmental justice—not a toxic legacy.

Mr. President, we have a long history with the Philippines. From the turn of the century until 1991, except for the period of Japanese occupation during WWII, U.S. military forces used lands in Central Luzon and around Subic Bay in the Philippines as military bases which grew to be among the largest U.S. overseas bases in the world. The main purpose of Subic Bay Naval Base was to service the U.S. Navy Seventh Fleet. Forested lands were also used for training exercises. Clark Air Base served as a major operations and support facility during the Korean and Vietnam conflicts.

In 1991, more than 7,000 military personnel were stationed at Clark in addition to dependents and civilian support. Operations carried out on the bases included, but were not limited to: fuel loading, storage, distribution, and dispensing; ship servicing, repair, and overhaul; ammunition transfer, assembly, destruction, and storage; aircraft servicing, cleaning, repair, and storage; base vehicle fleet servicing, cleaning, repair, overhaul, and operation; power generation; electricity transformation and distribution; steam generation; water treatment and distribution; sewage collection and treatment; hazardous waste storage and disposal; bitumen production; electroplating; corrosion protection; and weed and pest control.

These activities, for many years not conducted in a manner protective of the environment, lead to substantial contamination of the air, soil, groundwater, sediments, and coastal waters of the bases and their surroundings. This was not unique to the Philippines. Military and industrial activities in the U.S. and around the world have had similar effects. Contaminants include, but are not limited to, petroleum hydrocarbons, aromatic hydrocarbons, chlorinated hydrocarbons, pesticides, PCB's metals, asbestos, acids, explosives and munitions. Whether or not radioactive wastes are present is uncertain.

The Philippine Senate voted in 1991 not to renew the bases agreement between the two countries. In June of that same year, Mt. Pinatubo erupted hastening U.S. withdrawal from Clark Air Base. U.S. forces left Subic Naval Base in 1992, ending almost a century of occupation of these vast areas of Luzon. Notwithstanding initial Department of Defense protestations to the contrary, substantial amounts of hazardous materials and wastes were left behind at the time of the U.S. departure both on the surface and in various environmental media. According to a GAO report issued in 1992,

> If the United States unilaterally decided to clean up these bases in accordance with U.S. standards, the costs for environmental cleanup and restoration could approach Superfund proportions.

Environmental officers at both Subic Bay Naval Facility and Clark Air Base have proposed a variety of projects to correct environmental hazards and remedy situations that pose serious health and safety threats.'' None of these projects was undertaken prior to U.S. departure from the baselands. A study commissioned by the WHO in 1993, in order to assess potential environmental risks at Subic Bay, identified a number of contaminated and potentially contaminated sites and recommended a complete environmental assessment.

Two study teams visited the sites in 1994, under the sponsorship of the Unitarian Universalist Service Committee, and not only found evidence of environmental contamination but carefully documented the lack of existing capacity in the Philippines, whether in government, university, or private sectors, to assess and remediate this complex problem.

The health and safety issues are not theoretical or contingent on future development of the bases. At the present time rusting and bulging barrels of hazardous materials are sitting uncovered at Clark. There are reports of exposed asbestos insulation in buildings vacated by departing U.S. personnel. For years waste materials from the ship repair facility were dumped or discharged directly into Subic Bay, contaminating sediments, and now residents from surrounding communities eat fish and shellfish harvested from this area. Thousands of evacuees displaced from homes destroyed by the eruption of Mt. Pinatubo and lava flows which followed have been temporarily housed in tents and makeshift wooden structure on Clark Air Base at a site previously occupied by a motorpool. They obtain drinking and bathing water from groundwater wells.

Just beyond the Dau gate, about 300 yards from this evacuation center, is the permanent community of Dau where many thousands of residents routinely use groundwater for drinking, cooking, and bathing. Because of complaints of gross contamination of water from some of the wells in the evacuation area, including visible oily sheen, foul taste, and gastrointestinal illness, one sample was tested at the laboratories of the University of the Philippines in early 1994 and found to contain oil and grease. Limited by laboratory capability, the analysis did not include the wide range of volatile and semi-volatile organic compounds, fuels, fuel additives, and other compounds which commonly contaminate groundwater in the U.S. and in other countries where similar military and industrial activities have taken place.

Many of these substances have important health effects when present even in extremely small amounts—health effects which may take years to become apparent—including cancer, birth and developmental abnormalities, and neurological or immunological damage. Moreover, there are numerous instances in the U.S. where contaminated groundwater at military bases has migrated off-base, sometimes for a distance of several miles, entering the drinking water of surrounding communities and posing a threat to public health. This is not only possible but likely at Clark Air Base, only one of numerous sites of concern at both bases, and one which is beyond existing Philippine capacity to assess let alone to remediate.

When President Clinton visited the Philippines in November 1994 both he and President Ramos acknowledged that the issue of base contamination would need to be further investigated. However, President Clinton stated that, ''We have no reason to believe at this time that there is a big problem that we left untended. We clearly are not mandated under treaty obligations to do more.'' He went on to say ''. . .we decided we should focus on finding the facts now, and when we find them, deal then with the facts as they are.''

Though there may be no treaty obligation to address this issue, there are obvious moral and public health arguments which should compel the U.S. to accept responsibility for environmental assessment and remediation of the former bases in the Philippines. There are other overseas bases in, for example, Canada, Germany, Italy and Japan, where in response to host-country discovery and complaints of environmental contamination, the U.S. has provided assessment and clean-up. After nearly a century of occupation of these Philippine baselands, the obligation is no less. Meanwhile, as the political resolution of this issue unfolds, thousands of Filipinos, many of whom are living in marginal refugee conditions, and drinking and bathing in water which may be contaminated with hazardous substances resulting from U.S. military activities.

If these circumstances were to exist in the U.S. the groundwater would already have been comprehensively tested for a broad spectrum of substances and the public's health protected, while resulting plumes of contamination were being mapped and remediation strategies executed. Until we can answer with certainty whether or not this water is safe for consumption, an answer which neither Philippine government, public health officials, nor academicians are able to provide without assistance, and eliminate any identified hazardous exposures, the U.S. may be viewed as bearing responsibility for any resulting health effects.

AMENDMENT NO. 382

Mr. WARNER. Having done that, we will now proceed to amendment No. 382, on which the Senator will address the Senate pursuant to the standing order, and then at a time later we will schedule the vote.

Mr. WELLSTONE. Mr. President, I will be ready to go, if I could have just 30 seconds to also say on the floor of Senate, when I say ''we,'' I don't mean as in me. I mean the collective us. This is for both Senator LEVIN and Senator WARNER. You also, in a bipartisan way,

through your efforts, were able to put an amendment into this bill that deals with family violence. I thank you. I think this is an extremely important amendment.

The problem was that all too often, when a spouse usually a woman—would report violence, there was no real right of guarantee of confidentiality, which we needed. In other words, a woman could go to a doctor and then her report to a doctor could get out publicly. This really will enable women who are the victims of this violence to be able to go to someone and receive some support and help. It is extremely important. Both of you have supported this. I think there is similar language over in the House side. I thank the two of you. This is an amendment I am really proud of. I thank you.

Mr. WARNER. Once again, Mr. President, I am advised that the vote on No. 382, the amendment the Senator is about to debate in the Senate under the standing agreement, can be voted as the third vote in sequence this afternoon.

Mr. WELLSTONE. That is correct.

Mr. WARNER. All right.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. WARNER. Have the yeas and nays been ordered on that amendment?

Mr. WELLSTONE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I wonder if it would be in order, if there would be any objection, to ask unanimous consent that no further business be held between now and the recess so that people know there is not going to be any additional——

Mr. WARNER. Mr. President, I am not objecting, but I think we should just simply say that at 1, at which time the 30 minutes expires, the Senate will stand in recess until the first vote, which is scheduled for 2:15.

Mr. LEVIN. But for some of us who planned to actually leave here at 12:30, I think it is important, if there is an understanding to this effect, that there be no further amendments offered or any other business carried on between now and the time that we recess for the luncheons. Is that agreeable?

Mr. WARNER. Mr. President, I have no agreement, but let's make it very clear that we will now begin to address amendment No. 382. As soon as that debate is concluded, the Senate will stand in recess until the hour of 2:15, when the first vote is to take place, and there would be no intervening business transacted.

Mr. ALLARD. Mr. President, just to clarify, I don't have any objection to that unanimous consent request, but I want to make some general remarks in regard to the total bill. I just wanted to try——

Mr. WARNER. I am prepared to accommodate the Senator. What about the hour of 4 today? You have 30 minutes.

Mr. ALLARD. That would be fine. I appreciate that. I think if we set aside 20 minutes, that would be fine. I appreciate that.

Mr. WARNER. We would be glad to do that and make it a part of the unanimous consent request which we are jointly propounding, Mr. LEVIN and myself. Is that agreeable?

Mr. LEVIN. I apologize.

Mr. WARNER. We just added, 4 to 4:20, this colleague may speak on the bill.

Mr. President, I am happy to restate it, but I think the Chair is——

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. WARNER. I thank the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, this amendment speaks to the priorities of the Senate or lack of priorities of the Senate.

We have here a bill that really talks about authorization, leading to appropriation of hundreds of billions of dollars for defense, for the Pentagon.

I will talk about the priorities of some low-income families in our country. Their priorities are how to keep a roof over their children's heads. Their priorities are how to get food in their children's stomachs. Their priorities are how to earn a wage that pays their bills.

And their priorities are how to obtain medical assistance when they are sick or when their children are sick.

Mr. President, 2 years ago we passed a welfare bill, and as we start to see more and more families slide deeper and deeper into poverty, and as we see around the country some of these families losing their benefits, I have not heard so much as a whisper of concern, let alone a shout of outrage, from the Senate.

So I rise to propose an amendment. It is an amendment that I hope will receive the support of every Senator, Democrat and Republican alike. It is simple and it is straightforward.

Current law requires the Secretary of Health and Human Services to provide an annual report to Congress. My amendment requires the Secretary to include information about families who have moved off the welfare rolls. What kind of jobs do they have? What is their employment status? What kind of wages are they making? Is it a living wage? What is the child care situation with their children? Have they been dropped from medical assistance? Do they have any health insurance coverage at all?

Mr. President, like my colleagues, I had hoped that the welfare reform bill—though I voted against it because I had real reservations about how it would really take shape and form throughout the country—would work. But I have my doubts. On the basis of some of the evidence I present here today, I believe we need to find out with certainty what is happening to families, mainly women and children, when they no longer receive welfare assistance in our country.

Since August of 1996, 1.3 million families have left welfare. They are no longer receiving welfare assistance. That is 4.5 million recipients, and they are mainly women and children. The vast majority of these 4.5 million citizens are children. On the basis of these numbers, too many people have deemed welfare reform a success.

But to see the welfare rolls reduced dramatically does not mean necessarily that we have reduced poverty in this country. It doesn't mean these families have moved from welfare to self-sufficiency. It doesn't mean these families have moved from welfare to economic self-sufficiency. These statistics, the drop in the welfare caseload, which has been so loudly talked about as evidence of success by Republicans, Democrats, and by this Democratic administration, doesn't tell us what is really happening. It doesn't tell us anything about how these women and children are doing. It doesn't tell us whether or not these families are better off now that they are no longer receiving welfare assistance, or whether they have fallen further into poverty. It doesn't tell us if the mothers can find work. It doesn't tell us if they are making enough of an income to lift themselves and their children out of poverty. It doesn't tell us whether these mothers have adequate access to affordable child care, and it doesn't tell us whether or not these mothers and these children have any health care coverage at all.

No one seems to know what has happened to these families. Yet, we keep trumpeting the ''victory'' of welfare reform. The declining caseloads tell us nothing at all about how families are faring once they no longer receive assistance. I am worried that they are just disappearing and this amendment is all about a new class of citizens in our country. I call them The Disappeared.

Let me give you some examples. We are hearing a lot about the plunge in food stamp participation. Over the last 4 years, the number of people using food stamps dropped by almost one-third—from 28 million to 19 million people. Some people want to interpret this as evidence of diminished need. But just like the decline in the welfare rolls, there are important questions left unanswered. I hope this drop in food stamp assistance means that fewer people are going hungry, but I have my doubts. If people are no longer needy, then how can we account for the fact that 78 percent of the cities surveyed by the U.S. Conference of Mayors for its ''Report on Hunger'' reported increases in requests for emergency food

in 1998? This January, a survey conducted by Catholic Charities U.S.A. reported that 73 percent of the diocese had an increase by as much as 145 percent in requests for emergency food assistance from the year before.

How can we account for such findings without questioning whether or not the reformers' claim of success are premature?

What is going on here? What is happening to these women and children? Should we not know? The esteemed Gunnar Myrdal said, ''Ignorance is never random.'' Sometimes we don't know what we don't want to know.

This amendment says we ought to do an honest evaluation and have the Secretary of Health and Human Services provide a report to us as to exactly what is happening with these women and children.

A story Friday from the New York Times suggests one explanation. One welfare recipient was told incorrectly that she could not get food stamps without welfare. Though she is scraping by, raising a family of five children and sometimes goes hungry, she has not applied for food stamps. ''They referred me to the food pantry,'' she said. ''They don't tell you what you really need to know; they tell you what they want you to know.''

The truth of the matter is that there is an information vacuum at the national level with regard to welfare reform. What has happened to the mothers and children who no longer receive any assistance? In a moment, I am going to talk about some findings from NETWORK, a national Catholic social justice organization—findings that should disturb each and every Senator. At the outset, let me read a brief excerpt from the report that outlines the problem:

> Even though government officials are quick to point out that national welfare caseloads are at their lowest point in 30 years, they are unable to tell us for the most part what is happening to people after they leave the welfare rolls—and what is happening to people living in poverty who never received assistance in the first place.

I am especially concerned because the evidence we do have suggests that the goals of welfare reform are not being achieved. People are continuing to suffer and continuing to struggle to meet their basic needs, and I am talking primarily about women and children. I challenge the Senate today with this amendment. At the very minimum, we should call on the Secretary of Health and Human Services to give us a report on the status of those women and those children who no longer receive any welfare assistance. Should we not at least know what is happening to these families?

I have already mentioned the dramatic decline in welfare caseloads. We must recognize that it is naive to assume that all of the 1.3 million of these families have found jobs and are moving toward a life of economic self-sufficiency. After all, the caseload decline has not been matched by a similar decline in poverty indicators. Moreover, since 1995, colleagues, what we have seen is an increase among the severest and harshest poverty. This is when income is less than one-half of what the official definition of poverty is. We have found an increase of 400,000 children living among the ranks of the poorest of poor families in America. Could this have something to do with these families being cut off welfare assistance? We ought to at least know.

I have already mentioned the NETWORK report. What this group did was collect data on people who visited Catholic social services facilities in 10 States with large numbers of people eligible for aid, and I will summarize these very dramatic findings.

Nearly half of the respondents report that their health is only fair or poor; 43 percent eat fewer meals or less food per meal because of the cost; they can't afford it. And 52 percent of soup kitchen patrons are unable to provide sufficient food for their children, and even the working poor are suffering as 41 percent of those with jobs experience hunger. The people who are working work almost 52 weeks a year, 40 hours a week, and they are still so poor that they can't afford to buy the food for their children. I am presenting this evidence today because I want us to have the evidence.

In another study, seven local agencies and community welfare monitoring coalitions in six States compared people currently receiving welfare to those who stopped getting welfare in the last few months.

The data show that people who stopped getting welfare were less likely to get food stamps, less likely to get Medicaid, more likely to go without food for a day or more, more likely to move because they couldn't pay rent, more likely to have a child who lived away or was in foster care, more likely to have difficulty paying for and getting child care, more likely to say ''my life is worse'' compared to 6 months ago.

Is that what we intended with this welfare reform bill?

The National Conference of State Legislatures did its own assessment of 14 studies with good information about families leaving welfare. It found that:

> Most of the jobs [that former recipients get] pay between $5.50 and $7 an hour, higher than minimum wage but not enough to raise a family out of poverty. So far, few families who leave welfare have been able to escape poverty.

Just this month, Families USA released a very troubling study. It finds that:

> Over two-thirds of a million low-income people—approximately 675,000—lost Medicaid coverage and became uninsured as of 1997 due to welfare reform. The majority (62 percent) of those who became uninsured due to welfare reform were children, and most of those children were, in all likelihood, still eligible for coverage under Medicaid. Moreover, the number of people who lose health coverage due to welfare reform is certain to grow rather substantially in the years ahead.

Let me just translate this into personal terms.

Here is the story of one family that one of the sisters in the NETWORK study worked with:

> Martha and her seven-year-old child, David, live in Chicago. She recently began working, but her 37-hour a week job pays only $6.00 an hour. In order to work, Martha must have childcare for David.

That is the name of my oldest son, David.

> Since he goes to school, she found a sitter who would receive him at 7 a.m. and take him to school. This sitter provided after school care as well. When Sister Joan sat down with Martha to talk about her finances, they discovered that her salary does not even cover the sitter's costs.

By the way, as long as we are talking about afterschool care, let me just mention to you that I remember a poignant conversation I had in East L.A. I was at a Head Start center, and I was talking to a mother. She was telling me that she was working. She didn't make much by way of wages, but she was off welfare, and she wanted to work. As we were talking and she was talking about working, all of a sudden she started to cry. I was puzzled. I felt like maybe I had said something that had upset her. I said: Can I ask you why you are crying?

She said: I am crying because one of the things that has happened is that my first grader—I used to, when I was at home, take her to school, and I also could pick her up after school.

She lived in a housing project. It is a pretty dangerous neighborhood.

She said: Now, every day when my daughter, my first grader, finishes up in school, I am terrified. I don't know what is going to happen to her. There is no care for her, and she goes home, and I tell her to lock the door and take no phone calls.

Colleagues, this amendment asks us to do a study of what is going on with these children. How many children don't play outside even when the weather is nice because there is nobody there to take care of them?

Let me talk about an even scarier situation— families that neither receive government assistance nor have a parent with a job. We don't know for certain how large this population is, but in the NETWORK study 79 percent of the people were unemployed and not receiving welfare benefits. Of course this study was focused on the hardest hit.

Let me just say that in some of the earlier State studies, what we are seeing is that as many as 50 percent of the families who lost welfare benefits do not have jobs.

Can I repeat that?

Close to 50 percent perhaps—that is what we want to study—of the families who have been cut off welfare assistance do not have jobs, much less the number of families where the parents—usually a woman—has a job, but it is $6 an hour and she can't afford child care and her children don't have the necessary child care. Now her medical assistance is gone and she is worse off

and her children are worse off. They are plunged into deeper poverty than before we passed this bill.

Don't we want to know what is happening in the country?

How are these families surviving? I am deeply concerned and worried about them. They are no longer receiving assistance. And they don't have jobs. They are literally falling between the cracks and they are disappearing. I want us to focus on the disappeared Americans.

What do we do about this? I want to have bipartisan support.

I was a political science teacher before becoming a Senator. In public policy classes, I used to talk about evaluation all the time. That is one of the key ingredients of good public policy. That is what I am saying today. We want to have some really good, thorough evaluation. We have some States that are doing some studies. But the problem is there are different methodologies and different studies that are not comprehensive.

Before we passed this bill, when we were giving States waivers—Minnesota was one example—43 of 50 States have been granted waivers. They were all required to hire an outside contractor to evaluate the impact of the program.

After this legislation passed, we didn't require this any longer of States. Now we are only getting very fragmentary evidence. As a result, we do not really know what is happening to these women. We don't know what is happening to these children. The money that we have earmarked is Labor-HHS appropriations, for Health and Human Services—$15 million to provide some money for some careful evaluation. That is what we need, policy evaluation. But the money has been rescinded.

What I am saying—I am skipping over some of the data—is at the very least, what we want to do is to make sure that we do some decent tracking and that we know in fact what is really going on here.

Let me just give you some examples that I think would be important just to consider as I go along. Let me read from some work that has been done by the Children's Defense Fund.

Alabama: Applying for cash assistance has become difficult in many places. In one Alabama county, a professor found workers gave public assistance applications to only 6 out of 27 undergraduate students who requested them despite State policy that says anyone who asks for an application should get one.

In other words, I know what was going on. This professor was saying to students, go out there as welfare mothers and apply and see what happens. They did. What they found out is that very few of them were even given applications.

Arizona: 60 percent of former recipients were taken off welfare because they did not appear for a welfare interview.

We are talking about sanctions.

After holding fairly steady from 1990 to 1993, the number of meals distributed to Arizona statewide, Food Charity Networks, has since risen to 30 percent, and a 1997 study found that 41 percent of Networks' families had at least one person with a job.

Quite often what happens is the people who are off the rolls aren't off the rolls because they found a job, but because they have been sanctioned. The question is, Why have they been sanctioned? The question is, What happened to them? What has happened to their children?

California: Tens of thousands of welfare beneficiaries in California and Illinois are dropped each month as punishment. In total, half of those leaving welfare in these States are doing so because they did not follow the rules.

This was from an AP 50-State survey. It was also cited in the Salvation Army Fourth Interim Report.

In an L.A. family shelter, 12 percent of homeless families said they had experienced benefit reductions or cuts that led directly to their homelessness.

One of the questions, colleagues, is this rise of homelessness and this rise of the use of food pantry shelves. Does it have something to do with the fact that many of these women have found jobs but they don't pay a living wage, or they haven't found work but the families have been cut off assistance?

Florida: More than 15,000 families left welfare during a typical month last year. About 3,600 reported finding work, but nearly 4,200 left because they were punished. The State does not know what happened to almost 7,500 others.

Iowa: 47 percent of those who left welfare did so because they did not comply with requirements such as going to job interviews or providing paperwork.

Kentucky: 58 percent of the people who leave welfare are removed for not following the rules.

Minnesota: In Minnesota, case managers found that penalized families were twice as likely to have serious mental health problems, three times as likely to have low intellectual ability, and five times more likely to have family violence problems compared with other recipients.

Mississippi Delta region: Workfare recipients gather at 4 a.m. to travel by bus for 2 hours to their assigned workplaces, work their full days, and then return another 2 hours home each night. They are having trouble finding child care during these nontraditional hours and for such extended days.

I could give other reports of other States. Let me just say to every single Senator here, Democrat and Republican alike, you may have a different sense of what is going on with the welfare bill. That is fine. But what I am saying here is if you look at the NETWORK study, if you look at the Conference of Mayors study, if you look at the Conference of State Legislatures study, if you look at the Children's Defense Fund study, and if you just travel—I am likely to do quite a bit of travel in the country over the next couple of years to really take a look at what is happening—but if you just travel and talk to people, you have reason to be concerned. Right now we do not know and we cannot remain deliberately ignorant. We cannot do that.

Policy evaluation is important. So I challenge each and every Senator to please support this amendment which calls for nothing more than this, that every year when we get a report from the Secretary of Health and Human Services we get a report on what has happened to these women and children—that is mainly the population we are talking about—who no longer receive welfare assistance. Where are they? What kind of jobs do they have? Are they living-wage jobs? Is there decent child care for the children? Do they have health care coverage? That is what we want to know.

I remember in the conference committee last year, and I will not use names because no one is here to debate me, I remember in a conference committee meeting last year we got into a debate. I wanted mothers to at least have 2 years of higher education and have that not counted against them. I was pushing that amendment. I remember, it was quite dramatic. In this committee, there were any number of different Representatives from the House, and some Senators, who said: You are trying to reopen the whole welfare reform debate and you are trying to change welfare policy. This has been hallmark legislation, the most important legislation we passed since Franklin Delano Roosevelt's legislation.

I said to them: Let me ask you a question. Can any of you give me any data from your States? I know the rolls have been cut substantially.

I hear my own President, President Clinton, talking about this. But, President Clinton, you have not provided one bit of evidence that reducing the welfare rolls has led to reduction of poverty. The real question is not whether or not people are off the rolls; the real question is, Are they better off? I thought the point of welfare reform was to move families, mainly women and children, from welfare to economic self-sufficiency, from welfare to a better life. I thought all Senators think it is important that people work, but if they work, they ought not to be poor in America.

We can no longer turn our gaze away from at least being willing to do an honest evaluation of what is happening. This amendment calls for that. I cannot see how any Senator will vote against this. I tried to bring this amendment to the juvenile justice bill. It would have been a good thing to do, because, frankly, there is a very strong correlation between poverty and kids getting into trouble and which kids get incarcerated. I think this piece of legislation is creating a whole new class

of people disappeared Americans. Many of them are children. That is my own view.

But as that bill went along, I agreed I would not do it if I could introduce this amendment to the next piece of legislation, which is the DOD legislation right now. I hope there will be an up-or-down vote. I hope there will be strong support for it.

If colleagues want to vote against it—I do not know how you can. We ought to be willing to do an honest evaluation. I tell my colleagues, if you travel the country, you are going to see some pretty harsh circumstances. You are going to see some real harsh circumstances. I do not remember exactly, and I need to say it this way because if I am wrong I will have to correct the record, but I think in some States like Wisconsin that have been touted as great welfare reform States, and I talked to my colleague, Senator FEINGOLD, about this, and there is low unemployment so it should work well—I think, roughly speaking, two-thirds of the mothers and children now have less income than they did before the welfare bill was passed. That is not success. That is not success.

Do you all know that in every single State all across the country—and it depends upon which year, it is up to the State—there is a drop-dead date certain where families are going to be eliminated from all assistance? Shouldn't we know, before we do that, before we just toss people over the cliff—shouldn't we know what is going on? Shouldn't we have some understanding of whether or not these mothers are able to find jobs? Shouldn't we know what is going on with their children? Shouldn't we know whether there are problems with substance abuse or violence in the homes? Shouldn't we make sure we do that before we eliminate all assistance and create a new class of the disappeared, of the poorest of the poor—of the poor who are mainly children?

I have brought this amendment to the floor before, but this time around I do not want a voice vote. I want a recorded vote. If Senators are going to vote against this, I want that on the record. If they are going to vote for it, I will thank each and every one of them. Then, if there is an effort to drop this in conference committee because it is on the DOD bill, do you know what. Here is what I say: At least the Senate has gone on the record saying we are going to be intellectually honest and have an honest policy evaluation. That is all I want. That is all I want to see happen. If it gets dropped, I will be back with the amendment again, and again, and again and again—until we have this study. Until we are honest about being willing—I am sorry—until we are willing to be honest about what is now happening in the country and at least collect the data so we can then know.

I feel very strongly about this, colleagues, very strongly about this. I am going to speak on the floor of the Senate about this. I am going to do some traveling in the country. I am going to try to focus on what I consider to be really some very harsh conditions and some very harsh things that are happening to too many women and to too many children.

I also speak with some indignation. I can do this in a bipartisan way. I want us to have this evaluation. I say to the White House, to the administration—I ask unanimous consent I have 1 more minute. I actually started at 12:30, so I do not know how I could be out of time. I had a half hour.

The PRESIDING OFFICER. The official clock up here shows time expired, but without objection, 1 minute.

Mr. WELLSTONE. I thank the Chair. I don't want to get into a big argument with the Chair. I can do it in 1 minute.

I think I have heard the administration, Democratic administration, I have heard the President and Vice President talk about how we have dramatically reduced the welfare rolls with huge success. Has the dramatic reduction in the welfare rolls led to a dramatic reduction in poverty? Are these women and children more economically self-sufficient? Are they better off or are they worse off? That is what I want to know. I say that to Democrats. I say that to Republicans. We ought to have the courage to call upon the Secretary of Health and Human Services to provide us with this data. As policymakers, we need this information.

Please, Senators, support this amendment.

I yield the floor.

PRIVILEGE OF THE FLOOR

Mr. BURNS. Mr. President, I ask unanimous consent that Daniel J. Stewart, a fellow in my office, be granted the privilege of the floor during the debate on the defense authorization bill.

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

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until the hour of 2:15, at which time there will be three stacked votes.

Thereupon, at 1 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. INHOFE).

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2000

The Senate continued with the consideration of the bill.

AMENDMENT NO. 388

The PRESIDING OFFICER. Under the previous order, there are 2 minutes equally divided on the Roth amendment. Who yields time?

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, for 58 years, two distinguished commanders, Admiral Kimmel and General Short, have been unjustly scapegoated for the Japanese attack on Pearl Harbor. Numerous studies have made it unambiguously clear that Short and Kimmel were denied vital intelligence that was available in Washington. Investigations by military boards found Kimmel and Short had properly disposed their forces in light of the intelligence and resources they had available.

Investigations found the failure of their superiors to properly manage intelligence and to fulfill command responsibilities contributed significantly, if not predominantly, to the disaster. Yet, they alone remain singled out for responsibility. This amendment calls upon the President to correct this injustice by advancing them on the retired list, as was done for all their peers.

This initiative has received support from veterans, including Bob Dole, countless military leaders, including Admirals Moorer, Crowe, Halloway, Zumwalt, and Trost, as well as the VFW.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, on behalf of the managers of this bill, we vigorously oppose this amendment. Right here on this desk is perhaps the most dramatic reason not to grant the request. This represents a hearing held by a joint committee of the Senate and House of the Congress of the United States in 1946. They had before them live witnesses, all of the documents, and it is clear from this and their findings that these two officers were then and remain today accused of serious errors in judgment which contributed to perhaps the greatest disaster in this century against the people of the United States of America.

There are absolutely no new facts beyond those deduced in this record brought out by my distinguished good friend, the senior Senator from Delaware. For that reason, we oppose it.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to amendment No. 388. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 47, as follows:

[Rollcall Vote No. 142 Leg.]

YEAS—52

Abraham	Biden	Campbell
Akaka	Bingaman	Cleland
Baucus	Boxer	Cochran
Bayh	Breaux	Collins
Bennett	Bunning	Daschle