By the grammatical negative pregnant pause, the implication is pretty clear that when the Secretary of State says in formal testimony before the Senate committee that there is no plan to ''start a war with these nations,'' referring to Iran and North Korea, there is a different plan with respect to Iraq. As I say, it may well be justified.

If there is to be a use of force and if there is to be war, under our Constitution it is the responsibility and it is the authority of the Congress of the United States to make the determination to declare war. That constitutional provision is there for a very good reason. We in the Senate and those in the House of Representatives represent the American people, and we speak for the American people. We have seen the bitter lesson from Vietnam that we cannot prosecute a war without the public support. If there is to be the authorization for the use of force or declaration of war, that is a matter that ought to come before the Congress.

These are views I have held for a very long time. In college I studied political science and international relations and served stateside during the period of the Korean war. At that time I wondered about being engaged in a war which was not a matter of congressional determination. That may be a somewhat personal aspect, having been called to service, and I was glad to spend twp years in the U.S. Air Force. I served stateside. However, the question in my mind at that time, having studied international relations and knowing the constitutional provision, was why a war was not declared.

Since coming to the Senate, I have been engaged in debates in this Chamber on this subject on many occasions. In 1983 when there was military action in Lebanon, I had an extensive colloquy with Senator Percy, then Chairman of the Foreign Relations Committee, and asked him if, in fact, Korea was not a war. He said, ''yes, it was a war.'' I asked about Vietnam, ''was it a war?'' ''Yes, it was a war.'' However, on neither occasion was the declaration determined by the Congress.

On the hearings for nominees for the Supreme Court, that was a question I posed with some frequency to nominees, illustrative of which was the confirmation of Justice David Souter. I recalled on Friday asking him, ''was Korea a war?'' I wanted to know. I had framed litigation which I took to Senator Baker for determination as to the War Powers Act and constitutionality, thinking there would be an appropriate judicial determination on that subject. Not unexpectedly, Justice Souter said he had not thought about it. So I said, take some time, and over the weekend we had an adjournment and came back on Monday. I said, ''you have had time to think about it. Was Korea a war?'' He said, ''I do not know''—which is not a bad answer. If you do not know, you do not know. There is not much you can say by questioning beyond that. I see Justice Souter from time to time, and that colloquy is something about which he comments from time to time.

When this body took up the resolution for the use of force in 1991, I have a clear recollection that President Bush did not want the resolution put before the Senate and before the House. I think he was concerned whether it would be approved. There was historic debate here in January of 1991. The Senate approved the resolution for the use of force by a vote of 52 to 47. The comments at that time went to the effect that it was a historic event. However, when President Bush had the resolution by the House and by the Senate, it was a much stronger approach.

His reluctance to come before Congress is typical of the tension which exists between the executive and legislative branches, with the Presidents traditionally saying they do not need congressional authorization to act because they have the constitutional authority as Commander in Chief, and the response institutionally from many in the Congress has been, ''no, the Congress has the sole authority to involve the United States in war by our sole constitutional authority.''

The history of the War Powers Act is a very significant development. The executive branch, the President, while complying with it, traditionally says it is not constitutional; he is not really bound to do so.

We had the issue raised again when President Clinton sent missiles into Baghdad. I took the floor on a number of occasions in 1998 arguing that with the imminence of the likelihood of action by the President on missiles in Baghdad, the House of Representatives and Senate ought to stand up and make that determination. Candidly, the Congress is never very anxious to make that determination. It is easier to let the President make the decision. If he is wrong, he gets the blame. If he is right, then the issue passes.

We did have the debate on the bombing of Yugoslavia. It passed this body. It came to a tie vote, 213–to–213, in the House of Representatives. Therefore, Congress had not authorized that attack. It takes, obviously, a resolution on both sides. However, the bombing went ahead.

We are facing a very serious situation with Iraq. Iraq is a real menace. There is no doubt about that. I think there are very strong United States national interests to topple Saddam Hussein, and I think it is very much in the interests of the people of the region that he be toppled and also very much in the interests of the people of Iraq that he be toppled.

However, I do believe that, constitutionally, it is a judgment which ought to come before the Congress of the United States. I believe there ought to be hearings by the appropriate committees of the Congress to take up these questions as to the specific threats which Saddam Hussein poses and Iraq's specific activities on terrorism—a good bit of it, doubtless, might have to be conducted in closed session. However, some of it could be conducted in an open session: what the costs would be, the casualties, and what happens afterwards.

However, the American people need to know much more of the details, and I believe the Congress needs to know much more of the details than what has been conveyed so far by the Administration. It is my hope that this issue will attract the attention of the Congress of the United States with statements such as this one, with hearings, and with our deliberative process, recognizing the seriousness of the issue and recognizing also our constitutional responsibility.

The PRESIDING OFFICER. The Senator from Pennsylvania has consumed 15 minutes.

Mr. SPECTER. I yield the floor.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred August 13, 1994 in Sioux City, IA. Two gay men were stabbed and beaten by two attackers because of the victims' sexual orientation. The assailants, Charles Samuel Thomas, 18, and Dennis Evans Smith, 23, were charged with multiple felonies, including two hate crime charges, in connection with the incident.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

TRIBUTE TO ROSS POWERS

Mr. JEFFORDS. Mr. President, it came to me as no surprise that again today I have the pleasure to rise and recognize the gold medal effort of a Vermonter on the halfpipe yesterday in Park City, UT at the 2002 Winter Olympics. Ross Powers, who hails from South Londonderry, VT, won the men's snowboarding halfpipe event, a sport that traces its roots back to Vermont, riding a Burton snowboard, which was built in Vermont.

Ross, who led the American sweep of a Winter Olympic event in 46 years, turned 23 on Sunday but is no novice at high competition. In Nagano, Japan 4 years ago, Ross brought home a bronze medal for his country. But his performance yesterday was truly special: it earned him a first-place finish and led the way for Danny Kass and J.J. Thomas to win the sliver and bronze medals,