Mr. Speaker, I wish to commend my colleague from New

Jersey (Mr. PAYNE) for his perseverance.

I know he has been here until the

wee hours of the morning last night

and this evening. And for those of us

who oppose the underlying resolution,

we are indeed in his debt. And I also

want to thank him for his leadership

within our caucus, not just simply on

this particular issue but on many

issues, particularly in terms of the continent

of Africa. He is certainly someone

who commands our respect.

Mr. Speaker, I think it is important

to bring to the attention of the House

disturbing reports that have recently

appeared in the national press about

alleged efforts to tailor intelligence information

about Iraqi intentions and

capabilities to fill the contours of administration

policy. And I wish to note

two particular stories from today’s

Washington Post and yesterday’s

Miami Herald.

Mr. Speaker, I will insert the articles

now in the RECORD.

Mr. Speaker, the Herald story states,

and I am quoting now, ‘‘that a growing

number of military officers, intelligence

professionals and diplomats

within the administration have deep

misgivings about the march toward

war.’’ The story continues, and again I

am quoting from the Miami Herald,

‘‘These officials charge that the administration

hawks have exaggerated evidence

of the threat that the Iraqi leader

Saddam Hussein poses, including

distorting his links to the al Qaeda terrorist

network. They have overstated

the extent of international support for

attacking Iraq and have downplayed

the potential repercussions of a new

war in the Middle East. They charge

that the administration squelches dissenting

views and that intelligence analysts

are under intense pressure to

produce reports supporting the White

House’s arguments that Hussein poses

such an immediate threat to the

United States that preemptive military

action is necessary. ‘Analysts at the

working level in the intelligence community

are feeling very strong pressure

from the Pentagon to cook the intelligence

books,’ said one official speaking

on the condition of anonymity.’’

The article goes on to note that,

again, I am quoting, ‘‘a dozen officials

echoed his views.’’

Now today’s Washington Post discusses

what it calls a ‘‘behind-thescenes

battle over Iraq-related intelligence.’’

And, again, I am quoting:

‘‘The CIA’s detailed, unvarnished view

of the threat posed by Iraq is central,

say many lawmakers, as to how they

will vote on the matter. Yet, increasing

numbers of intelligence officials,

including former and current intelligence

agency employees are concerned

the agency is tailoring its public

stance to fit the administration’s

views.’’

The article goes on to quote a former

head of counterterrorism of the CIA,

one Vincent Cannistraro, who says that

‘‘there is a tremendous amount of pressure

on the CIA to substantiate positions

that have already been adopted

by the administration.’’

I submit, Mr. Speaker, that if these

reports are accurate, they represent a

dangerous state of affairs. When we

began our debate on this resolution

yesterday morning, we did not have the

benefit of declassified intelligence estimates

released only last night, which

indicate that Saddam Hussein is unlikely

to initiate a chemical or biological

attack against the United States

unless he concludes that a U.S.-led attack

is inevitable. Such contradictions

between classified information in the

administration’s public statements

make it very difficult for Congress to

have a meaningful debate. It puts those

few Members of Congress who have access

to this information as members of

the Permanent Select Committee on

Intelligence in a truly awkward position

and leaves the rest of us and the

American people in the dark.

Senator GRAHAM, who chairs the Senate

Permanent Select Committee on

Intelligence, has said that the classified

information he has received does

not tally with the public statements of

the administration. But, of course, he

is not permitted to explain why. Based

on what he knows, he has described the

focus on Iraq as a distraction from the

war on terrorism that allows Syria and

Iran, countries which should be at the

forefront of any intelligence effort

against state sponsors of terrorism, off

the hook.

Let me conclude by saying that we

cannot discharge our constitutional responsibilities

by allowing the administration

to control the flow of information

and simply trusting that they

know what they are doing. That is an

unacceptable situation in a democracy,

Mr. Speaker. And that is not what the

founders had in mind when they gave

Congress, not the President, the power

to declare war.

Mr. Speaker, what is the responsibility of a

great power? Sometimes it is to act when others

cannot, or will not, do so. Sometimes it is

to refrain from acting when others would, so

as not to set a dangerous precedent that others

might follow. Always it is to recognize that

for better or worse our actions shape the rules

by which the international system operates.

The rule of law is a fragile thing. And through

our actions, we either strengthen or erode it.

If you think this is merely a theoretical concern,

let me share with you an article from last

Sunday’s New York Times. It is by Stephen

Sestanovich, a senior fellow at the Council on

Foreign Relations and professor international

diplomacy at Columbia University.

The article is entitled, ‘‘Putin Has His Own

Candidate for Pre-emption.’’ It described the

efforts of senior Russian officials to co-opt the

rhetoric of the Bush Administration in their war

of intimidation against the neighboring Republic

of Georgia, where some Chechen fighters

have taken refuge. Allow me to quote a few

lines:

‘‘On the eve of President Bush’s Sept. 12

speech to the United Nations on Iraq, Mr.

Putin wrote Secretary General Kofi Annan

charging that Georgia’s passivity toward

Chechen fighters on its territory violated Security

Council resolutions. Russia might therefore

have to act unilaterally. The chief of Russia’s

general staff insisted that Mr. Shevardnadze

was ‘in no way’ different from Mullah Omar of

the Taliban.’’

‘‘The Russian defense minister announced

that no United Nations vote was needed to attack

Georgia. One Russian newspaper published

military plans to occupy all of Georgia—

and thereby ‘dictate the terms’ of its future existence

as a state. The headline: ‘Pre-emption

Moscow-Style.’ ’’

Such are the dangers of unilateral assertions

of power by the leader of the free world.

Such are the risks that other nations with aggressive

intentions may use stale evidence

and ill-defined allegations to settle local

grievances.

This is not to deny that there are times

when it is necessary to strike first against an

enemy who poses a ‘‘clear and present danger’’

to the safety and security of the Nation.

The Constitution is not a suicide pact, as Justice

Jackson famously said. And the same is

true of the international legal order. We are

not compelled to stand by and allow ourselves

to be attacked before we can lawfully take action.

But any nation that engages in the preemptive

use of force bears a heavy burden of

showing that its actions were justified by the

nature of the threat confronting it.

The principles that apply were formulated by

none other than Daniel Webster, who was

Secretary of State when the British launched

a surprise attack on an American ship, the

*Caroline,* in 1837.

Webster set forth the two conditions that

must exist: first, the need for self-defense

must be ‘‘instant, overwhelming, and leaving

no choice of means and no moment for deliberation.’’

And second, the degree of force

used must be proportionate to the threat.

The resolution before us permits the President

to take us into war without satisfying either

of these requirements. It imposes no obligation

upon him to show that the danger is

truly immediate and the use of force truly necessary.

Indeed, it speaks of a ‘‘continuing

threat,’’ which suggests an ongoing situation

of indefinite duration. And it imposes no requirement

that U.S. military actions be measured

or proportionate to the threat we face.

In short, the resolution offers no rationale for

the exercise of its broad grant of authority. Nor

has the President provided one.

Last night, President Bush presented his

case for a preemptive military strike against

Iraq. I studied his speech with care, hoping

that he would set forth clear and convincing

evidence of the threat he perceives.

The speech offered ample evidence that

Saddam Hussein is a bloodthirsty tyrant who

has terrorized his own people and endangered

his neighbors.

The speech offered ample evidence that

Saddam Hussein has defied Security Council

resolutions for 11 years by continuing to develop

weapons of mass destruction.

And the speech made clear—in case anyone

doubted it—that Saddam Hussein is

deeply hostile to American interests.

What the speech failed to demonstrate is

that Saddam Hussein poses a threat to America

or vital U.S. interests that—Webster’s

words—is ‘‘instant, overwhelming, . . . leaving

no choice of means and no moment for deliberation.’’

In fact, it demonstrated just the opposite.

The President did not say, ‘‘Saddam Hussein

presents an imminent threat to the United

States.’’ He said, ‘‘The danger is . . . significant

and it only grows worse with time.’’

That is an argument for containment. It is an

argument for coercive measures, including unconditional

inspections, disarmament, and the

freezing of assets. It may even be an argument

for sanctions. But it is not an argument

for launching an unprovoked military attack.

The President stated that the Iraqi regime

has continued to pursue the development of

nuclear weapons, and could one day soon be

in a position to threaten America or the Middle

East. He cited the Cuban missile crisis as

precedent for a preemptive strike to contain that danger.

But the missile crisis involved the imposition

of a naval quarantine to interdict the delivery

of nuclear missiles capable of hitting the

United States—as clear an example of a proportionate

response to an imminent threat as

can be imagined. In the present situation, the

CIA’s best estimate is that Iraq ‘‘will probably

have a nuclear weapon during this decade.’’

Perhaps anticipating that some future administration

might one day cite the missile crisis

to justify preemptive military action, President

Kennedy’s own legal adviser expressly

distinguished the Cuban missiles from what he

called ‘‘threatening deployments or demonstrations

that do not have imminent attack as their

purpose or probable outcome.’’

The President noted that Saddam Hussein

has used chemical agents against civilian populations

in his own country. This is true. It is

also true that these attacks last occurred

some 14 years ago—with the full knowledge

of a U.S. government that did nothing to prevent them.

What is the imminent threat that such weapons

might be used against the United States?

The President didn’t say. He said that Saddam

Hussein ‘‘could decide on any given day to

provide a biological or chemical weapon to a

terrorist group.’’ Indeed he could. So could

any number of other nations, from Iran to

North Korea.

But the historical record suggests that he

can be deterred from deploying these weapons.

One the eve of Operation Desert Storm,

Secretary of State Baker notified Iraq that any

use of its weapons of mass destruction would

result in a devastating American response.

And the weapons were never used.

In fact, according to declassified intelligence

estimates released only last night, Saddam is

unlikely to initiate a chemical or biological attack

against the United States unless he concludes

that ‘‘U.S.-led attack could no longer be

deterred.’’ In other words, Saddam will unleash

his arsenal only when he is facing annihilation—

with nothing left to lose.

The President claimed that Saddam Hussein

has links to international terrorism that

justify a preemptive strike against his regime.

What is the evidence? The President offered

four arguments. First, he said that Iraq and al-

Qaida ‘‘share a common enemy—the United

States of America.’’ Well, the United States

and Iraq share a common enemy—Iran. But

that’s hardly evidence that we support Iraqi aggression.

Second, he said that the Iraqi regime ‘‘gleefully

celebrated the terrorist attacks on America.’’

This is hardly admirable, but it is also

hardly evidence that they were behind the attacks.

Any more than others who shared such

sentiments elsewhere in the Arab world.

The President’s last two arguments are

more serious: that Iraq is continuing to finance

terror in the Middle East and has continued to

associate with leaders of al-Qaida, offering

them safe harbor, medical treatment, and

training in terrorist techniques. Yet assuming

that these allegations are correct, they argue,

not for invasion, but for treating Iraq as we

treat the many other countries that provide

various kinds of support for terrorism but

against whom we are not making plans for war.

I do not mean to minimize these concerns.

They are serious and deserve to be addressed,

whether they occur in Iraq or in any

other country—especially one in which internal

repression, the appetite for conquest, and the

possession of advanced weaponry go hand in hand.

I applaud the President’s demand for immediate

Iraqi compliance with Security Council

resolutions. I would support a resolution that

authorizes the limited use of our Armed

Forces in support of international efforts to locate

and dismantle Iraq’s weapons of mass

destruction should Iraq fail to comply.

Such a resolution would achieve the President’s

desire that we ‘‘tell the United Nations

and all nations that America speaks with one voice.’’

Instead, the President insists on a resolution

that goes further. That authorizes the President

to ‘‘use the Armed Forces as he determines

to be necessary and appropriate.’’

The President says that ‘‘approving this resolution

does not mean that military action is

imminent or unavoidable.’’ If so, I am relieved

to hear it. But if military action is imminent or

unavoidable.’’ If so, I am relieved to hear it.

But if military action is not imminent, then the

broad language that would authorize it premature.

If the American people are satisfied that our

cause is just and war is forced upon us, they

will do what needs to be done. But before we

risk the lives of our soldiers and countless innocent

Iraqi civilians, before we divert untold

billions of dollars from our other battles, before

we forfeit the moral authority that has distinguished

America among the family of nations,

we had better be sure we’ve taken every reasonable

step to resolve this crisis without bloodshed.

Until then, I cannot support a resolution that

gives the President a blank check to launch a

military strike that meets none of the legal requirements

for preemptive action. We have

been down that road before. It is not a lesson

we should have to learn again. And it’s not the

kind of example that the United States should

set for the world.