

support for private business, a new electoral law, and a general election;

Whereas the Varela Project is supported by 140 opposition organizations in Cuba and has received no money or support from foreign citizens or foreign governments;

Whereas the Varela Project is the largest petition drive in Cuban history;

Whereas the Varela Project is a step in moving Cuba toward achieving international standards for human rights;

Whereas the goal of United States policy in Cuba is to promote a peaceful transition to democracy; and

Whereas the Varela Project is engaged in the promotion of a peaceful transition to democracy in Cuba: Now, therefore, be it

Resolved,

That the Senate—

(1) supports the constitutional right of the citizens of Cuba who have signed the Varela Project to petition the Cuban National Assembly for a referendum;

(2) calls on the Cuban National Assembly to give serious consideration to the Varela Project petition in accordance with Article 88 of the Cuban Constitution and to the holding of a referendum on civil liberties, including freedom of speech, an amnesty for political prisoners, support for private business, a new electoral law, and a general election;

(3) praises the bravery of Oswaldo Paya and his colleagues in collecting 11,020 verified signatures in support of the Varela Project;

(4) calls on the Cuban government to provide its citizens with internationally accepted standards for civil and human rights, and the opportunity to vote in free and fair elections; and

(5) urges the President to support the right of the citizens of Cuba who have signed the Varela Project to petition the Cuban National Assembly for a referendum and the peaceful transition to democracy.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. REID. I move to reconsider the vote.

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent the Senate proceed to a period of morning business, with Senators allowed to speak for not to exceed 5 minutes each.

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

WAR POWERS AND THE CAMPAIGN AGAINST TERRORISM

Mr. FEINGOLD. Madam President, today I would like to address one of the most complicated but ultimately one of the most important constitutional questions confronting this country as we respond to the atrocities of September 11: that is, the question of how America decides to go to war. This is no easy issue, but it is one that Congress is duty-bound to address.

As we know, war powers are purposefully divided under our Constitution. Under Article I, Section 8, Congress has the responsibility to declare war, and to raise and support the Armed

Forces. The President, under Article II, Section 2, is the Commander in Chief, which gives him responsibility for leading the Armed Forces. The War Powers Resolution of 1973 fulfills the intent of the Framers of the Constitution by providing a framework for balancing these powers, and thereby ensuring that the collective judgment of both the Congress and the President will apply to the introduction of the Armed Forces into hostilities, or into situations where imminent involvement in hostilities is likely.

In April, I had a chance to chair a hearing in the Constitution Subcommittee of the Judiciary Committee to consider this balance of war powers authority under the Constitution, particularly as we move forward with our fight against terrorism. In the hearing, there was much praise for the respect demonstrated by President Bush, this President Bush, for both the Congress and the Constitution in seeking congressional authorization to respond with appropriate force to the attacks of September 11. The language in that authorization, Senate Joint Resolution 23, paralleled some of the careful oversight provisions contained in the use-of-force resolution that former President Bush obtained before launching Operation Desert Storm in 1991. In those two cases, both Presidents took the important and constitutionally mandated step of obtaining congressional approval for an expansive new military operation. And in both cases, I do believe, congressional support strengthened the President's response.

History demonstrates that respect for our Constitution and for the shared war powers authority of Congress is politically practical. Indeed, as our Founders and many subsequent commentators have recognized, the separation of war powers between the two branches of government wisely forces us to develop a broad national consensus before placing our Nation's young people in harm's way. And as we have seen time and again, the United States is indeed the most formidable military force on this planet, provided our soldiers are entrusted with a clear military goal, and through congressional authorization, with the popular mandate that is needed to back them up.

Senate Joint Resolution 23, which was passed by both Houses of Congress and signed into law by the President in the aftermath of September 11, provides the President with statutory authorization to prevent related acts of terrorism. In adopting the use-of-force resolution, the President recognized that Congress he said, "acted wisely, decisively, and in the finest traditions of our country." The resolution demonstrated that Congress has the capacity to fulfill its constitutionally mandated responsibility, and in so doing Congress can help unify the nation in a time of national crisis.

Under the careful structure of S.J. Res. 23, the President now has statu-

tory authority to prevent future terrorist attacks by responding with force against any nations, organizations or persons responsible for planning, authorizing, aiding or harboring the terrorists who were responsible for the September 11 attack. Now, given the unprecedented nature of the threat, this provides a pretty broad mandate to the President to respond militarily.

But this Congressional action, while admittedly broad, is not a blank check. The Resolution limits the President's authority in two essential respects.

To begin, the authorization is limited to situations where there is a connection to the events of September 11. The hearing in the Constitution Subcommittee considered the scope of such a limitation. As I will discuss at greater length, there was widespread agreement in the hearing that absent a clear finding that a state such as Iraq participated in, aided, or otherwise provided support for those who attacked the United States on Sept 11, the President would not be authorized, under the terms of S.J. Res. 23, to take new military action against Iraq. Senate Joint Resolution 23 does not provide unlimited authority to the President to take military action against all bad actors. At the same time, the authorization does foresee broad actions against those responsible for the September attack on the United States.

It is also important to recognize that S.J. Res. 23 states in no uncertain terms that the 1973 War Powers Resolution will continue to apply to our military operations against terrorism. This conforming language is identical to Public Law 102-1, which provided the authorization to use military force to oust Iraq from Kuwait in 1991. In all cases, the War Powers Resolution requires the President to consult with Congress on an ongoing basis on the status, scope, and duration of the hostilities. These consultations need not and should not provide Congress with what would be somehow a meddlesome and unacceptably dangerous role in determining tactical aspects of an active military campaign. But the required consultations must nonetheless assist Congress in its continuing responsibility to evaluate and make ongoing decisions about the broad objectives of an unfolding military operation.

The war powers consultations to date, in my view, have been inadequate. While the administration has taken significant steps to increase the frequency of briefings for Members of Congress, and we do appreciate that those consultations have been conducted as informational briefings, with little opportunity for substantive policy discussions or meaningful give-and-take. As such they do not in most cases reach the threshold level of consultations under the terms of the War Powers Resolution.

The House Report on the 1973 War Powers Resolution notes that "a considerable amount of attention was given to the definition of consultation.