

who have been duly elected by the people and stand accountable to the people.

We have, over time, clarified the intent. We have made clear there are certain steps that have to be taken. We have also made clear that although there is, to be sure, a certain unknown continuum, a continuum that can be hard to define in every circumstance, between the President's plenary authority as Commander in Chief, on the one hand, and Congress's power to declare war on the other, there does come a point at which we can recognize that we are at war and that some authorization is required by Congress.

This very body, Congress, has, through the war powers resolution, attempted to distill some of these principles. In section 1541 of the War Powers Act—it is found at 50 United States Code section 1541—we are told there are circumstances, three circumstances to be precise—

The PRESIDING OFFICER. The Senator's time has expired.

Mr. REID. Mr. President, first of all, I wish to express my appreciation to the Senator from Kentucky. He is a gentleman. I know how sincere he feels about this issue. I admire him for feeling sincerely about issues, as he does on a number of them.

It has been good for me to get to know him better during the last 4 or 5 days.

I ask for the clerk to report the pending business.

**SBIR/STTR REAUTHORIZATION ACT OF 2011—Resumed**

The PRESIDING OFFICER. The clerk will report the pending business. The bill clerk read as follows:

A bill (S. 493) to reauthorize and improve the SBIR and STTR programs, and for other purposes.

Pending:

McConnell amendment No. 183, to prohibit the Administrator of the Environmental Protection Agency from promulgating any regulation concerning, taking action relating to or taking into consideration the emission of a greenhouse gas to address climate change.

Vitter amendment No. 178, to require the Federal Government to sell off unused Federal real property.

Inhofe (for Johanns) amendment No. 161, to amend the Internal Revenue Code of 1986 to repeal the expansion of information reporting requirements to payments made to corporations, payments for property and other gross proceeds, and rental property expense payments.

Cornyn amendment No. 186, to establish a bipartisan commission for the purpose of improving oversight and eliminating wasteful government spending.

Paul amendment No. 199, to cut \$200,000,000,000 in spending in fiscal year 2011.

Sanders amendment No. 207, to establish a point of order against any efforts to reduce benefits paid to Social Security recipients, raise the retirement age or create private retirement accounts under title II of the Social Security Act.

Hutchison amendment No. 197, to delay the implementation of the health reform law in

the United States until there is final resolution in pending lawsuits.

Coburn amendment No. 184, to provide a list of programs administered by every Federal department and agency.

Pryor amendment No. 229, to establish the Patriot Express Loan Program under which the Small Business Administration may make loans to members of the military community wanting to start or expand small business concerns.

Landrieu amendment No. 244 (to amendment No. 183), to change the enactment date.

Paul motion to commit the bill to the Committee on Foreign Relations with instructions to report the same back to the Senate forthwith with Paul amendment No. 276 (to the instructions on Paul motion to commit the bill), of a perfecting nature.

Mr. LEVIN. Mr. President, I rise to oppose the Paul amendment on the President's constitutional authority to order the use of military force. This amendment is flawed because it doesn't allow the President to respond militarily to a completed attack and only allows action to stop an actual or imminent threat to the Nation.

The amendment would in effect make it illegal for the President to unilaterally order the use of military force to protect U.S. interests except only in situations that involve preventing an actual threat to the United States or an imminent threat to the United States.

Numerous Presidential decisions to order the use of military force over the last 30 years would not meet the standard of the Paul amendment.

For example, under the Paul amendment President Ronald Reagan would have acted illegally in 1983 when he unilaterally ordered the invasion of Grenada, which did not involve an "actual" or "imminent" threat against the United States from Grenada.

Similarly President George H.W. Bush would have acted illegally under the Paul amendment when he ordered the 1989 invasion of Panama. President Bush justified the Panama invasion based on protecting the lives of U.S. citizens, defending democracy and human rights in Panama, and countering drug trafficking, not on an "actual or imminent threat to the nation."

Also, President Reagan's ordering airstrikes against Libya in 1986, 11 days after Libyan terrorist agents bombed the LaBelle discotheque and killed or wounded over 100 U.S. soldiers, might have been illegal under the Paul amendment. The President's response to Libya's sponsorship of terrorism arguably would not have met the standard of "stopping an actual or imminent threat to the nation" because the tragic act of terrorism had already happened days earlier.

Finally, according to this amendment, President Obama acted beyond his constitutional authority when he authorized the use of deadly force by Navy SEALs to rescue Captain Richard Phillips from Somali pirates on April 10, 2010.

There are numerous other examples over the past decades when Presidents

have ordered the use of military force to protect U.S. interests, but where such actions would not have met the standards of the Paul amendment.

I urge my colleagues to vote to table this amendment.

Mr. REID. Mr. President, it is my understanding that the Paul amendment is the pending business; is that right?

The PRESIDING OFFICER (Mr. FRANKEN). The motion to commit by Senator PAUL is pending.

Mr. REID. I move to table that and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays are ordered.

The question is on agreeing to the motion.

The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 90, nays 10, as follows:

[Rollcall Vote No. 50 Leg.]

**YEAS—90**

|            |              |             |
|------------|--------------|-------------|
| Akaka      | Feinstein    | Menendez    |
| Alexander  | Franken      | Merkley     |
| Ayotte     | Gillibrand   | Mikulski    |
| Barrasso   | Graham       | Murkowski   |
| Baucus     | Grassley     | Murray      |
| Begich     | Hagan        | Nelson (NE) |
| Bennet     | Harkin       | Nelson (FL) |
| Bingaman   | Hatch        | Portman     |
| Blumenthal | Hoeben       | Pryor       |
| Blunt      | Hutchison    | Reed        |
| Boozman    | Inhofe       | Reid        |
| Boxer      | Inouye       | Risch       |
| Brown (MA) | Isakson      | Roberts     |
| Brown (OH) | Johanns      | Rockefeller |
| Burr       | Johnson (SD) | Rubio       |
| Cantwell   | Kerry        | Sanders     |
| Cardin     | Kirk         | Schumer     |
| Carper     | Klobuchar    | Shaheen     |
| Casey      | Kohl         | Shelby      |
| Chambliss  | Kyl          | Stabenow    |
| Coats      | Landrieu     | Tester      |
| Coburn     | Lautenberg   | Thune       |
| Cochran    | Leahy        | Udall (CO)  |
| Conrad     | Levin        | Udall (NM)  |
| Coons      | Lieberman    | Vitter      |
| Corker     | Lugar        | Warner      |
| Cornyn     | Manchin      | Webb        |
| Crapo      | McCain       | Whitehouse  |
| Durbin     | McCaskill    | Wicker      |
| Enzi       | McConnell    | Wyden       |

**NAYS—10**

|              |          |        |
|--------------|----------|--------|
| Collins      | Lee      | Snowe  |
| DeMint       | Moran    | Toomey |
| Ensign       | Paul     |        |
| Johnson (WI) | Sessions |        |

The motion was agreed to.

Mr. MCCONNELL. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Louisiana.

**MORNING BUSINESS**

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

Ms. LANDRIEU. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### LIBYA

Mr. McCONNELL. Mr. President, just a brief observation about the vote we just had. I would say to our colleague from Kentucky, Senator PAUL, the issue of the American effort in Libya is a legitimate discussion for debate, I think a legitimate issue for debate. That is a debate we need to have, and I will be talking to the majority leader about the appropriate time to do that.

A number of Senators are talking among themselves on a bipartisan basis about what kind of resolution would be appropriate, and certainly the Senate speaking on this issue is something we need to do in the very near future.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### BUDGET DIFFERENCES

Mr. HARKIN. Mr. President, the responsible leaders in Washington are working hard to find a compromise to fund the government through the end of the year. Regrettably, however, many Republicans in the House—spurred on by tea party radicals—are still threatening to throw a temper tantrum and shut down the government if they don't get all of their demands. This morning, the Washington Post reports that Speaker JOHN BOEHNER received an ovation from the Republican caucus when he told them he had directed the House Administration Committee to prepare for a shutdown, as Congressman MIKE PENCE, former head of the Republican Policy Committee, shouted at a tea party rally last week, "Shut it down!"

So it seems what we are confronting is kind of a monolithic House driven by the tea party vigilantes, as I refer to them, to brook no compromise. They want it all their way or they are going to shut down the government.

Republicans are seizing on the budget crisis as a pretext for ramming through their longstanding ideological wishes. In Iowa, Wisconsin, Ohio, and elsewhere Republicans are using the budget crisis as the pretext for an assault on public sector unions and their hard-working teachers, firefighters, prison guards, and others. On Capitol Hill Republicans are using this crisis to try to defund health care reform, to gut Medicare and Medicaid and Social Security, and, yes, to cut tax rates even more deeply for the wealthiest in our soci-

ety. This tea party budget is an unprecedented assault on the middle-class and working Americans. It would drive down our American standard of living, shred the economic safety net, reduce access to health care and higher education, and do grave damage to our public schools and our ability to prepare the next generation for the jobs of the future.

Let's be clear. This is not about reducing budget deficits. Republican Governors and Republicans in Congress are demanding budget cuts for the middle class. At the same time, they continue to push for tax cuts for large corporations and the wealthy. So call it what it is. Republicans are waging a class warfare in America. Republican Governors have the gall to attack teachers and firefighters, police officers, and other public employees.

In the words of Indiana Governor Daniels, he called them "the privileged elite." Think about that. Our teachers, our firefighters, prison guards, and others who are public union members are the privileged elite in our society according to Governor Daniels.

Why are they the privileged elite? Well, I guess because they actually have pensions. They actually have access to decent health care, and they are making decent wages with decent working conditions. That is the privileged elite. I guess now the middle class are people who are working for minimum wage at McDonald's, with no health care, no pensions, no retirement, and not enough to support their families. I guess that is the new middle class in America, but the privileged elite are those who have pensions, access to health care, and decent wages.

This is the worst kind of demagoguery against loyal and hard-working public servants, our friends, and our neighbors. We shouldn't be dragging people down because they have a middle-class life. We should be working every day to give every American that opportunity.

Meanwhile, as the Republicans at the State and national level go after the health care, retirement, and security of middle-class Americans, they are going all out to pass more tax cuts for the wealthy. The Republican Governor in Michigan called for a \$1.8 billion cut in corporate taxes. Wisconsin Governor Walker has called for \$200 million in cuts. In Congress, just a few months ago, in December, Republicans demanded and got hundreds of billions of dollars in new tax cuts largely, again, for the wealthy.

Now, House Republicans—the tea party-driven House Republicans—are demanding we reduce the top tax rate for high earners. Get this, reduce the top tax rate for high earners from 35 percent down to 25 percent, preserving every penny of the tax breaks given to the wealthy back in 2001. All of these tax cut proposals will make deficits far worse. So, again, this whole battle we are talking about is not about deficits. Indeed, the tax cuts congressional Re-

publicans secured in December will add, according to CBO, \$354 billion to the deficit just this year and even more next year.

Early this year House Republicans voted to repeal the health reform law which would add \$210 billion to the deficit over the next decade and over \$1 trillion in the decade to follow. Now, again, that is the savings CBO said would come about because of the health reform bill we passed. Yet these same Republican politicians in the House and around the country are claiming to be worried about the deficit.

Well, I think this demagoguery is not fooling anyone any longer. It is not about deficit reduction; it is about ideology. Republicans are taking a meat ax to programs for the middle class—everything from cancer research to Pell grants to health care. They are gutting the safety net started and built up over generations, starting with President Franklin Roosevelt. It is the same old Republican game plan: give huge, unaffordable tax cuts to the wealthy and give budget cuts to the middle class and the most vulnerable in our society, including seniors and people with disabilities.

This new tea party Republican budget proposal gives new meaning to the word "extreme."

Look at what they have proposed. The new budget that has just come out on the House side would basically eliminate Medicare as we know it. It would create a new voucher program with seniors in the future paying out of pocket for many lifesaving health care costs. Estimates are that this would raise premiums and cut benefits of over 25 million seniors.

It is a massive giveaway to private insurers, a system that CBO—the Congressional Budget Office—tells us is much more expensive and, we know, less efficient than Medicare. By design these vouchers would not keep up with rising health care costs, so they would lose value every year with seniors paying the difference or ending up uninsured. Again, the assault on Medicare is a transfer of wealth from the middle class to insurance companies and their shareholders, their stockholders.

The House budget would reopen the prescription drug doughnut hole requiring seniors to pay \$3,600 a year more for prescription drugs. They propose to block grant Medicaid and cut \$1 trillion in health care services which would end vital services that seniors and disabled Americans depend on such as coverage for nursing homes or home health agencies by shifting the cost to the States. This would worsen State budget deficits and lead to higher property taxes. Seventeen Governors sent a letter to congressional leaders opposing this, saying it would shift costs and risks to States. States would be forced to bear all costs after hitting the annual cap just as the baby boom generation is entering the retirement years with likely steep increases in their