



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 112th CONGRESS, FIRST SESSION

Vol. 157

WASHINGTON, THURSDAY, MARCH 31, 2011

No. 45

House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Ms. FOXX).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 31, 2011.

I hereby appoint the Honorable VIRGINIA FOXX to act as Speaker pro tempore on this day.

JOHN A. BOEHNER,
Speaker of the House of Representatives.

MORNING-HOUR DEBATE

The SPEAKER pro tempore. Pursuant to the order of the House of January 5, 2011, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning-hour debate.

The Chair will alternate recognition between the parties, with each party limited to 1 hour and each Member other than the majority and minority leaders and the minority whip limited to 5 minutes each, but in no event shall debate continue beyond 11:50 a.m.

THE ATTACK ON LIBYA

The SPEAKER pro tempore. The Chair recognizes the gentleman from California (Mr. MCCLINTOCK) for 5 minutes.

Mr. MCCLINTOCK. Madam Speaker, when the President ordered the attack on Libya without congressional authorization, he crossed a very bright constitutional line that he, himself, recognized in 2007 when he told the Boston Globe, "The President does not have power under the Constitution to unilaterally authorize a military attack in a situation that does not involve stopping an actual or imminent threat to the Nation."

The reason the American Founders reserved the question of war to the Congress was that they wanted to assure that so momentous a decision could not be made by a single individual. They had watched European kings plunge their nations into bloody and debilitating wars over centuries, and they wanted to avoid that terrible fate for the American Republic.

The most fatal and consequential decision a Nation can make is to go to war, and the American Founders wanted that decision made by all the representatives of the people after careful deliberation. Only when Congress has made that fateful decision does it fall to the President as Commander in Chief to command our Armed Forces in that war.

The authors of the Constitution were explicit on this point. In Federalist 69, Alexander Hamilton drew a sharp distinction between the American President's authority as Commander in Chief, which he said "would amount to nothing more than the supreme command and direction of the military and naval forces" and that of the British king who could actually declare war.

To contend that the President has the legal authority to commit an act of war without congressional approval requires ignoring every word the Constitution's authors said on this subject—and they said quite a lot.

There seems to be a widespread misconception that under the War Powers Act the President may order any attack on any country he wants for 60 days without congressional approval. That is completely false.

The War Powers Act is clear and unambiguous: The President may only order our Armed Forces into hostilities under three very specific conditions. Quoting directly from the act: "One, a declaration of war; two, specific statutory authorization; or, three, a national emergency created by attack upon the United States, its territories or possessions, or its Armed Forces."

Only if one of these conditions is present can the President then invoke the War Powers Act. None are present, none are alleged to have been present, and, thus, the President is in direct violation of that act.

The United Nations Participation Act requires specific congressional authorization before American forces are ordered into hostilities in United Nations actions. The North Atlantic Treaty clearly requires troops under NATO command to be deployed in accordance with their own country's constitutional provisions. The War Powers Act specifically forbids inferring from any treaty the power to order American forces into hostilities without specific congressional authorization.

The only conclusion we can make is that this was an illegal and unconstitutional act of the highest significance.

The President has implied that he didn't have the time for congressional authorization to avert a humanitarian disaster in Libya. Well, he had plenty of time to get a resolution from the United Nations, and I would remind him that just a day after the unprovoked bombing of Pearl Harbor, Franklin Roosevelt appeared in this very Chamber to request and receive congressional authorization.

Some have said that the President can do whatever he wishes and that Congress' authority is limited to cutting off funds. The war is not a one-sided act that can be turned on and off with congressional funding. Once any Nation commits an act of war against another, from that moment on it is at war. It is inextricably embroiled and entangled with an aggrieved and belligerent party that has casus belli to prosecute hostilities regardless of what Congress then decides.

Finally, I've heard it said, well, we did the same thing in Kosovo. If that is the case, then shame on the Congress that tolerated it, and shame on us if we allow this act to stand unchallenged any longer.

This symbol represents the time of day during the House proceedings, e.g., 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



Printed on recycled paper.

H2111

This matter strikes at the heart of our Constitution. If this act is allowed to stand, it will fundamentally change the entire character of the legislative and executive functions on the most momentous decision that any Nation can make. It will take us down a dark and bloody road that the American Founders fought so hard to avoid.

THE BUDGET CRISIS

The SPEAKER pro tempore. The Chair recognizes the gentleman from Vermont (Mr. WELCH) for 5 minutes.

Mr. WELCH. Madam Speaker, today, I intend to use my 5 minutes to talk about the budget crisis that is before Congress. We have to make a decision whether to continue the operations of government. That's the debate that is now under way with the continuing resolution, and we soon face the question of whether or not Congress will extend the debt limit.

Now, let me start by acknowledging the obvious. America has to get its fiscal house in order. How we got here is debated, but certain things are indisputable. We have two wars that have been paid for on the credit card. We had tax cuts that went to the high-income Americans that are on the credit card. We recently extended them at the cost of \$700 billion to the deficit. We had irresponsible behavior on the part of Wall Street that required rescuing the financial system in America so that Main Street could fight and survive another day. And then that led to a collapse in the economy and 10 percent unemployment that required governmental action in order to try the stabilize the economy. We have a long way to go in restoring the economy, but that has to be our first mission.

The Republican proposal on how to address this budget in these continuing resolutions will fail. The reason it will fail is because it fails to do what must obviously be done if we're going to have long-term fiscal stability, and that is put everything on the table. The cuts that are proposed by the Republican majority, unwise as they are, cannot do the job.

The total focus of the Republican effort in its budget plan to restore fiscal balance is to attack 12½ percent of the budget, the non-defense discretionary portion of the budget. It happens to be programs that are benefiting Americans in many cases, but leaving aside the debate about whether we should cut low-income heating assistance for the most vulnerable Americans or cut Pell scholarships that allow aspiring young people to enter the middle class, we could cut the entire non-defense discretionary portion of the budget and we could continue to have an annual deficit of \$1 trillion.

So, if we're going to get to budget balance and fiscal stability, which we can do, we have to put everything on the table, and that means tax expenditures. The tax breaks that have been written into the Tax Code over the

years by Republicans and Democrats alike actually cost taxpayers more than the entire appropriations budget, and many of us are asking the question: Why is it that we are going to be continuing \$5 billion in tax breaks to very profitable oil companies when oil is now selling at \$106 a barrel? Why are we allowing that but at the same time cutting low-income heating assistance and turning down the thermostat of cold Vermonters and cold Americans?

□ 1010

Why is it that hedge fund millionaires and billionaires literally pay a lower tax rate than their chauffeurs, their drivers, their cooks, their secretaries?

We have got to put tax expenditures on the table. We have to put the defense budget on the table. How is it that America is spending over \$700 billion a year? How is it that we are putting two wars on the credit card and not facing the fiscal responsibility to tell Americans how we are going to pay for that but are simply putting that burden on generations of Americans that will come after us?

We have to reform health care. The first act of this Congress was to repeal the health care bill. And debate as we might about what's the best way forward on health care, no one can dispute that our first goal has to be to bring down the cost of health care; because whatever kind of system we have, if the cost is increasing two and three and four times the rate of inflation, job growth, and profits, it's not sustainable. And the health care bill that has been repealed by this Congress, this House of Representatives, that is going to add over \$200 billion to the deficit over 10 years.

So we have to put everything on the table. That's defense. That's tax expenditures. That's entitlements and how we can reform them so we can maintain benefits, not slash benefits. And Democrats have to be willing to come to the table on the traditional line items in the appropriations bill where we have to kick the tires and find ways to be responsible. If we do that by putting everything on the table, we have a chance to be successful and be on a path to fiscal stability and solvency. Refusing to put everything on the table guarantees failure.

TRIBUTE TO GENERAL GEORGE W. CASEY, JR., 36TH CHIEF OF STAFF OF THE UNITED STATES ARMY

The SPEAKER pro tempore. The Chair recognizes the gentleman from Texas (Mr. CARTER) for 5 minutes.

Mr. CARTER. Madam Speaker, Congressman SILVESTRE REYES and I would like to take this opportunity to honor General George W. Casey, Jr., the 36th Chief of Staff of the United States Army, for his extraordinary dedication to duty and service to our Nation.

As cochairs of the House Army Caucus, Congressman REYES and I have

had the privilege of working with General Casey as he led our Army through a difficult period of transformation, simultaneously rebalancing and modernizing the Army while our Nation was engaged in two wars. After 40 years of distinguished service, General Casey will retire from active military duty in June of 2011.

General Casey is the epitome of the consummate professional, exemplifying the special qualities exhibited by all transformational military leaders: a strong sense of duty, honor, courage, and love of country.

General Casey continued the tradition of military service to his country that was started by his father, Major General George W. Casey, Sr., commander of the First Cavalry Division, who died in a helicopter crash on July 7, 1970, in Vietnam. That same year, General Casey was commissioned as a second lieutenant in the Infantry from Georgetown University's Army Reserve Officers Training Corps.

He went on to excel in a variety of command and staff assignments, including notable participation in Operation Joint Endeavor in Bosnia and Operation Iraqi Freedom in Iraq. He commanded the First Armored Division in 1999 to 2001, served as the director of Strategic Plans and Policy (J-5) of the Joint Staff in 2001, and director of the Joint Staff in 2003.

Following these Joint Staff assignments, General Casey served as the 30th Vice Chief of Staff for the Army until June 2004. From 2004 until 2007, General Casey commanded the Multinational Force Iraq, a coalition of 32 countries, where he oversaw the transition of three separate Iraqi Governments. He set the conditions for transition to Iraqi-led security, which, in turn, enabled the successful drawdown of U.S. forces from Iraq. He was a powerful influence for democratic change in Iraq, steadily improving the security and political environment in the country so that, in 2005, Iraq was able to conduct open and transparent national elections.

On April 10, 2007, General Casey became the Chief of Staff of the United States Army. Since assuming this position, General Casey's leadership and commitment have contributed immeasurably to ensuring America's Army remains the preeminent military force in the world. As the Army's Chief of Staff, General Casey has provided the strategic leadership and vision to complete the most comprehensive transformation of the Army since World War II, building versatile and modular units and improving the capabilities of soldiers to conduct full-spectrum operations.

General Casey has proven himself a tremendous wartime leader, demonstrating unselfish devotion to our Nation and to the soldiers he leads. Responsible for the organization, training, readiness, mobilization, and deployment of Army forces, he has worked tirelessly to successfully restore balance to a force stretched and