

for services. This isn't the same thing as using tax revenue from the general treasury to fund the agency, so I am not sure that the CutGo rules even apply.

Very importantly, there is no impact on the deficit. The manager's amendment is constitutionally sound, improves the base text of the bill, and incorporates a funding agreement approved by the leadership to get this bill to the floor. It's important to pass it and then move on to the other amendments.

I urge my colleagues to vote "aye" on the amendment.

Mr. RYAN of Wisconsin. Madam Chair, I rise today to provide an explanation of my support for a waiver of the Cut-go point of order on the Manager's Amendment to H.R. 1249, the America Invents Act. No matter how well-crafted a budget enforcement tool may be it can never be immune from all unintended consequences.

There are two reasons I support this waiver. First, the violation arises from an anomaly associated with converting this program from discretionary to mandatory. Second, the Manager's Amendment does not cause an increase in direct spending relative to current law.

With respect to the first point, CBO currently records PTO fee collections on an annual basis with the enactment of the relevant appropriations bill. As a result, CBO shows no deficit impact from PTO for fiscal years after FY 2011 if the funding and fee collections remain subject to the appropriations process—what we call "discretionary spending."

The reported bill would have provided permanent authority to the PTO to collect fees and spend the fee collections. We call spending that is provided through permanent law "mandatory spending." CBO estimated this permanent authority for FY 2012–2021 would reduce mandatory spending by \$712 million. The savings, however, are the result of CBO's estimate that the agency will not be able to spend the fees as quickly as they are collected, not from spending reduction.

This should be obvious because the whole rationale of this bill was to ensure the expenditure of all PTO fee collections. If the reported bill was mandating that all PTO collections be spent, how can it produce budgetary savings? It doesn't. The only savings are paper savings, resulting from an accounting change and not an actual reduction in spending.

The Cut-go rule was designed to prevent the total amount of mandatory spending in the Federal Budget from increasing by requiring a corresponding spending reduction for any proposal to increase direct spending, and not offset with an increase in revenue as was common practice under Pay-Go.

Ironically, the Manager's Amendment would prevent a discretionary program from turning into mandatory

spending, but because Cut-go is measured relative to the reported bill and not to the baseline, it triggers a Cut-go violation. Cut-go was not intended to favor mandatory spending over discretionary spending.

With respect to the second point, the Manager's Amendment maintains the same basic fee and spending structure as the underlying legislation but keeps the program discretionary. CBO estimates the bill, with the Manager's Amendment, would decrease the deficit by \$5 million over ten years, unrelated to the PTO classification. The Committee could have avoided a Cut-go point of order if it reported out a separate bill that reflected the Manager's Amendment.

I do not take waiving budget points of order lightly, but in this case it is justified.

Mr. SMITH of Texas. Madam Chair, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Texas (Mr. SMITH).

The question was taken; and the Acting Chair announced that the yeas appeared to have it.

Mr. SMITH of Texas. Madam Chair, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Texas will be postponed.

Mr. SMITH of Texas. Madam Chair, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. GOODLATTE) having assumed the chair, Ms. FOXX, Acting Chair of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 1249) to amend title 35, United States Code, to provide for patent reform, had come to no resolution thereon.

□ 2120

#### AMERICAN INVOLVEMENT IN LIBYA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 5, 2011, the gentleman from Indiana (Mr. BURTON) is recognized for half the time before 10 p.m. as the designee of the majority leader.

Mr. BURTON of Indiana. Mr. Speaker, I am not going to take all of the time that is allocated for my Special Order tonight, but I did want to talk about the problem that we are facing in Libya right now.

The President of the United States has the authority under the Constitution to be the Commander in Chief in the event that we have to go into a military conflict. What the President does not have the right to do is to take us into a military conflict without consulting with the Congress of the United States, unless there is an imminent

threat to the United States or an attack on the United States.

The Constitution is pretty clear on this subject. Unfortunately, during the Nixon administration there was some question about whether or not President Nixon exceeded his authority, so the Congress of the United States passed what was called the War Powers Act. The War Powers Act was designed to clarify very clearly for President Nixon and all future presidents the authority granted them under the Constitution in the event that there was to be a conflict.

The President vetoed that bill because he thought it was an infringement. I am talking about President Nixon now. He vetoed that bill because he thought it was an infringement of the constitutional powers of the President. The Congress overwhelmingly overrode the President's veto, and so the War Powers Act became law.

Now, there has been a lot of question from some of my colleagues about the constitutionality of the War Powers Act. I have heard some of my friends in the other body say it is not constitutional. I have heard friends of mine within the House of Representatives say that the War Powers Act is not constitutional. The fact of the matter is it has never been tested in court. It has never gone to the U.S. Supreme Court and, as a result, the War Powers Act is the law of the land. It is the law of the United States of America, and it is intended, as I said before, to clarify the constitutional powers of the President of the United States where war is concerned.

Now, the President of the United States, Mr. Obama, decided that we ought to go into Libya for humanitarian purposes. There is nothing in the Constitution or the War Powers Act that gives him the authority to do that unless he has the express approval and support of the Congress of the United States.

When President Bush was the President and he went into Iraq, he first consulted with the Congress. When he went into Afghanistan, he first consulted with Congress. But President Obama said because of the time elements and the time concerns about the humanitarian problems in Libya, that he had to act expeditiously, and he did not have the time to consult with Congress.

Well, for 2 weeks or thereabouts he had time to consult with the French, the English, the United Nations, NATO, and the Arab league, but he did not have the time to come and talk to the Congress of the United States. So I think that was a red herring. I think the President did have the time, but he chose to move of his own volition into Libya and to put the United States in effect at war again. They say it is not a war, but it is a war. They said it was a NATO operation, but if you look at the facts, you find that the United States is carrying the vast amount of the burden of this war.

Let me give you some figures. These figures are a couple of weeks old, so they could be a little outdated.

First of all, of the number of personnel that has been involved in the Libyan conflict, there are about almost 13,000 military personnel that have been involved. Of that 13,000, 8,500 of them are American military. That is over two-thirds.

When you talk about the number of aircraft involved, there is a total of 309, but 153 of those aircraft are United States aircraft.

When you talk about the number of sorties being flown, that is, military actions taken by aircraft, there have been 5,857 sorties, and over 2,000 of those are with American pilots and American planes. That is almost 35 percent.

Then when you talk about the number of cruise missiles that have been fired, the total is about 246, and of the 246, over 90 percent are America's, 228.

So the President has taken us into war in Libya for humanitarian purposes, he said, without consulting with the Congress of the United States, which in my opinion is a direct violation of the Constitution of the United States and the War Powers Act, and we have spent well over \$1 billion conducting this war. They say it is NATO's war. We heard the other day that our NATO allies are running short on ammunition and other military equipment, and they are asking the United States to shoulder more of the burden.

One of my colleagues from Virginia, who sits in the Chair tonight, brought up today that many of the countries in Europe, many of the countries in NATO haven't been paying their fair share of the NATO burden, and it has been falling upon the United States to carry out these NATO operations. That just isn't right.

So this isn't a NATO war, in my opinion. This is an American war, and the President has taken us into this conflict without any consultation with the Congress of the United States.

We have talked about this in our conference, and I won't go into all the details of our conference because I think some of that, if not classified, is something that shouldn't be talked about in the public domain. But what I would say tonight is that we need to send a very strong message to the President that we don't want him to do this again.

Many, myself included, believe we ought to give him a timeline within which to withdraw forces from Libya. I am talking about the people flying the military aircraft, the people on the ships offshore, the classified security people that are inside Libya. They say there are no boots on the ground. I guarantee you there are intelligence officers on the ground directing some of the fire from the air and some of the missile targets.

The cruise missiles that are costing over \$1 million per copy, we shouldn't be paying for those with taxpayer

money to the tune of, I don't know how many million, but over \$1 billion total for the military expenditures, at a time when this country is \$1.5 trillion short this fiscal year in money to pay for the country's expenses and over \$14 trillion in debt.

This is not the time during the history of the United States that we ought to be looking for a war. There is no question probably that there are humanitarian problems in Libya, but there are also humanitarian problems in the Ivory Coast and Syria and many other countries, and if you are looking for a war of opportunity, I am sure the President can find a lot of places to send our troops.

But the Congress of the United States I do not believe would have given him the authority to go into Libya unless it was a direct threat to the United States. So what did he do? He did it without consulting with Congress; not the Senate, not the House, not with any of us.

Now that we are in there, many people in the Congress feel like we can't summarily withdraw because we will be leaving our allies, the French and the English and others in NATO there, to carry the ball. But as one of my colleagues said today, when we take the oath of allegiance to the Constitution, we don't take the oath of allegiance to NATO. We don't take the oath of allegiance to any other country. It is to the Constitution of the United States, and the Constitution says the President does not have the authority to declare war and go into a combat situation without consulting with Congress.

I am very confident that all of the people in this country, if consulted, would overwhelmingly say the President should not have done that, and he didn't have the authority to do that. Now, I know tomorrow or Friday we are going to have some legislation on the floor that will say very clearly to the President that not only he shouldn't have done that, that it wasn't constitutional, but that he shouldn't do it again.

That is the thing that I am concerned about. The legislation that we are going to have on the floor will confront the President on his ability or his authority to go ahead and do what he did in Libya, but it doesn't say anything about any future expeditions that he may want to undertake.

□ 2130

I really hope that during the debate that takes place tomorrow or on Friday that we make it very clear to the White House and to the President and to anybody at the White House that may be listening to this Special Order tonight that we do not want the President—and if I were talking to him, I would say, Mr. President, we do not want you to take us into a military conflict without consulting with the Congress and without consulting with the American people because the American people and Congress have a

right to be involved in the decision-making process. Once a war is started, you're the Commander in Chief and you must do whatever has to be done to win that conflict. But you do not have the authority, Mr. President, if I were talking to him, under the Constitution or the War Powers Act. And Friday or tomorrow we need to make that very clear to him so that he doesn't do it again.

There are problems right now in Syria, and a lot of people say there's humanitarian tragedies that are taking place. But that is not a direct threat to the United States. It's not an attack on the United States. And the Congress of the United States should be involved in the decisionmaking process if we were to do something like go into Syria.

And so I hope the President and the White House is getting this message tonight. They may say, Well, that's just DAN BURTON talking on the floor in a Special Order. But I have talked to my colleagues on both sides of the aisle, and I think overwhelmingly they do not agree with what the President has done; and overwhelmingly in the Senate I don't believe they support what the President has done in Libya. And I think very clearly they don't want this to happen again.

I believe that most of the Members of both the House and the Senate would like to see us extricate ourselves from Libya as quickly as possible.

With that, Madam Speaker, I would like to say that I have a letter to the editor that I wrote that was in The Wall Street Journal that I will put in the RECORD, as well as the statistical data that I just mentioned.

[From the Wall Street Journal, June 11, 2011]

THE GOP IS RIGHT TO CHALLENGE OBAMA ON WAR IN LIBYA

I am disappointed by your editorial "The Kucinich Republicans" (June 6) questioning the House of Representatives' rebuke of President Obama's actions in Libya. I cannot speak for my colleagues, but my opposition to President Obama's actions is motivated by the Constitution.

President Obama has the authority to manage a war but not the power to start a war. Article 1, Section 8 of the Constitution gives Congress the power to declare war, and the War Powers Resolution was enacted to fulfill that intent, unless there is: "(1) a declaration of war, (2) specific authorization, or (3) a national emergency created by attack upon the United States, its territories or possessions, or its armed forces." None of these conditions existed with Libya.

Instead, the president argues he couldn't consult with Congress because immediate action was needed to protect civilians from massacre. If true, a surgical engagement in Libya might be justified. But the president's claim is false. He spent one month consulting with NATO, the Arab League and the U.N. Security Council. This fact is inescapable. The president sought permission from foreign leaders but not the U.S. Congress. Yet Congress is expected to pay for his folly even as we strive to cut spending to avoid defaulting on debts.

On September 11, 2001, our nation was attacked. President George W. Bush still sought authorization from Congress before going into Afghanistan. Similarly, President Bush sought congressional authorization before invading Iraq. President Bush respected

the authority of Congress and the limitations of the Constitution. President Obama does not.

The Constitution is not a list of suggestions; it is the law of the land. If members of Congress do not stand up for Congress's right to declare war, as enumerated in the Constitution, who will?

REP. DAN BURTON (R., Ind.),  
*Indianapolis.*

You miss the point of the Kucinich and Boehner resolutions and misstate the Founders' intentions.

Our Founders did not expect Congress would "run a war," but they did expect Congress (e.g., the people) would determine if we would go to war. Implicit in the constitutional provision that "Congress shall have power to . . . declare war" is that the people would become informed on why the war was necessary and in the national interest, and thereby come to support the decision.

The War Powers Resolution and its reasonable attempt to allow our commander and

chief to respond to emergencies is moot in this case because, after almost three patient months, we the people are still waiting for an explanation of why we are in Libya. Is it an emergency? If we are in Libya, why not Yemen or Syria? As our representatives, the people's house is asking for an answer. Not to demand an answer would continue the bad precedents of allowing our commander in chief to assume unilateral non-constitutional powers. If an answer is not appropriately vetted by Congress, then the logical conclusion is to withdraw.

CONWAY G. IVY,  
*Beaufort, S.C.*

In case people haven't noticed, the U.S. government is broke, and Libya did not attack us. As long as Republicans remain the party of perpetual war, they will likely continue to lose elections. There appears to be a dawning awareness among some in Congress that the American people are fed up with these unending wars that have nothing to do with defending America. That is the reason

some House Republicans supported the Kucinich resolution, and I applaud them. Congress should never have gone along with President Bush's war on Iraq, and Congress should not go along with President Obama's war on Libya. You cannot have limited government and unlimited war. The two are mutually exclusive.

SUSAN R. BERGE,  
*Johnston, R.I.*

Your editorial fails to mention that each president since Richard Nixon could have taken the War Powers Resolution of 1973 to the Supreme Court, where the Founders set up a mechanism to decide matters like this.

We may not like some of the heads of other countries, and there are awful individuals ruling many countries, but that shouldn't cause us to ignore our own laws and Constitution to pound on them just because we can.

LARRY STEWART,  
*Vienna, Va.*

#### NATO OPERATIONS IN LIBYA BY COUNTRY

Country	No. of personnel	No. of aircraft	Est No. of sorties flown, from beg of war until 5 May 2011	No. of cruise missiles fired	Main air base
Belgium .....	170	6	60		Araxos base in south-western Greece.
Bulgaria .....	160	0	0		
Canada .....	560	11	358		Trapani-Birgi and Signonella.
Denmark .....	120	4	161	0	Signonella, Sicily.
France .....	800	29	1,200		currently operating from French Air Bases of Avord, Nancy, St. Dizier, Dijon and Istres, as well as Evreux and Orleans for planes engaged in logistics.
Greece .....		0	0	0	Aktion and Andravida military air fields in Crete.
Italy .....		12	600		Gioia del Colle, Trapani, Signonella, Decimomannu, Amendola, Aviano, Pantelleria.
Jordan .....	30	12			Cerenecia, Libya.
Netherlands .....	200	7			sardinian base, decimomannu.
Norway .....	140	6	100		Souda Bay, Crete.
Qatar .....	60	8			Souda Bay, Crete.
Romania .....	205				
Spain .....	500	7			
Sweden .....	122	8	78	0	Signonella.
Turkey .....		6			Signonella Air Base in Italy.
UAE .....	35	12			Decimomannu, Sardinia.
UK .....	1300	28	1,300	18	Gioia del Colle, Italy and RAF Akrotiri, Cyprus.
US .....	8507	153	2,000	228	
TOTALS .....	12,909	309	5,857	246	

With that, Madam Speaker, I yield back the balance of my time.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. GINGREY of Georgia (at the request of Mr. CANTOR) for today from 3:30 p.m. and for the balance of the week on account of a death in the family.

#### SENATE ENROLLED BILLS SIGNED

The Speaker announced his signature to enrolled bills of the Senate of the following titles:

S. 349. An act to designate the facility of the United States Postal Service located at 4865 Tallmadge Road in Rootstown, Ohio, as the "Marine Sgt. Jeremy E. Murray Post Office".

S. 655. An act to designate the facility of the United States Postal Service located at 95 Dogwood Street in Cary, Mississippi, as the "Spencer Byrd Powers, Jr. Post Office".

#### ADJOURNMENT

Mr. BURTON of Indiana. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 32 minutes

p.m.), under its previous order, the House adjourned until tomorrow, Thursday, June 23, 2011, at 10 a.m. for morning-hour debate.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

2126. A letter from the Under Secretary, Department of Defense, transmitting a report presenting the specific amount of staff-years of technical effort to be allocated for each defense Federally Funded Research and Development Center (FFRDC) during FY 2012, pursuant to Public Law 112-10, section 8026(e); to the Committee on Armed Services.

2127. A letter from the Secretary, Department of Health and Human Services, transmitting Report to Congress: 2006 National Estimates of the Number of Boarder Babies, Abandoned Infants, Discarded Infants and Infant Homicides; to the Committee on Education and the Workforce.

2128. A letter from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule — Medical Devices; Reclassification of the Topical Oxygen Chamber for Extremities; Correction [Docket No.: FDA-2006-N-0045; Formerly Docket No. 2006N-0109] received June 7, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2129. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Determination of Attainment for the 1997 8-Hour Ozone Standard: States of Missouri and Illinois [EPA-R07-OAR-2010-0416; FRL-9317-4] received June 6, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2130. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Idaho [EPA-R10-OAR-2007-0406; FRL-9316-7] received June 6, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2131. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Oregon; Interstate Transport of Pollution; Significant Contribution to Nonattainment and Interference with Maintenance Requirements [EPA-R10-OAR-2011-0003; FRL-9316-9] received June 6, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2132. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Revisions and Additions to Motor Vehicle Fuel Economy Label [EPA-HQ-OAR-2009-0865; FRL-9315-1; NHTSA-2010-0087] (RIN: 2060-AQ09; RIN: 2127-AK73) received June 6, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.