for the automatic termination of a national emergency unless, within 90 days prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice to the *Federal Register* for publication continuing the national emergency with respect to the stabilization of Iraq. This notice states that the national emergency with respect to the stabilization of Iraq declared in Executive Order 13303 of May 22, 2003, as modified in scope and relied upon for additional steps taken in Executive Order 13315 of August 28, 2003, Executive Order 13350 of July 29, 2004, Executive Order 13364 of November 29, 2004, and Executive Order 13438 of July 17, 2007, is to continue in effect beyond May 22, 2012.

Obstacles to the orderly reconstruction of Iraq, the restoration and maintenance of peace and security in the country, and the development of political, administrative, and economic institutions in Iraq continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. Accordingly, I have determined that it is necessary to continue the national emergency with respect to this threat and maintain in force the measures taken to deal with that national emergency.

Recognizing positive developments in Iraq, my Administration will continue to evaluate Iraq's progress in resolving outstanding debts and claims arising from actions of the previous regime, so that I may determine whether to further continue the prohibitions contained in Executive Order 13303 of May 22, 2003, as amended by Executive Order 13364 of November 29, 2004, on any attachment, judgment, decree, lien, execution, garnishment, or other judicial process with respect to the Development Fund for Iraq, the accounts, assets, and property held by the Central Bank of Iraq, and Iraqi petroleum-related products, which are in addition to the sovereign immunity accorded Iraq under otherwise applicable law.

BARACK OBAMA.

THE WHITE HOUSE, *May 18, 2012*.

AUTHORIZATION FOR USE OF MILITARY FORCE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 5, 2011, the gentleman from Texas (Mr. GOHMERT) is recognized for 60 minutes as the designee of the majority leader.

Mr. GOHMERT. Mr. Speaker, it's been quite an interesting day. Apparently it's already been misinterpreted by some in the media. I hope that, though so many publications have had to cut their research budgets and cut their staffing budgets, I hope that those that still are blessed to work for journalistic institutions will do their proper homework and have a better understanding about the Gohmert-Landry-Rigell amendment that passed today and the effect that it has on the underlying NDAA and, more particularly, the Authorization for Use of Military Force that was passed after 9/11 by both houses of Congress.

I wasn't here, nor were any of the five cosponsors. Let's see: Mr. DUNCAN, freshman; Mr. BARLETTA, freshman. They weren't here, nor were Mr. LANDRY or Mr. RIGELL. So besides me, we had four freshmen on the Gohmert-Landry-Rigell-Duncan-Barletta amendment.

I felt compelled to make my amendment to deal with an issue that was raised—not in the National Defense Authorization Act that was passed some months back. Some people failed to understand, really, the NDAA that was passed previously did not give the President the power to indefinitely detain American citizens. And as we understand, a judge has ruled recently that any interpretation that it gave the President that power was unconstitutional. I don't know how that will come out.

But I do know that after we were attacked in the worst attack on American soil ever, the country—I recall, I was a judge at the time—the country was in a great deal of chaos. Planes were ordered not to take off all over the country. Those that were coming in couldn't come in. We had American citizens stranded at airports around the world.

But what's worse, we had over 3,000 Americans who were dead, done by people who believed their radical interpretation of Islam dictated that they should go about killing innocent Americans and others who happened to be on American soil at the time. It didn't seem to bother them. Some of them could have even been Muslim. It didn't seem to bother them because they had this sordid belief that they would end up in paradise with dozens of virgins. Thank God most Muslims don't believe that. But the trouble is, there are radical Islamists that do.

So the Congress, on September 18—a week after the worst attack on American soil—passed a joint resolution, Public Law 107–40. And it was to be cited, as it says in section 1, as the ''Authorization for Use of Military Force.''

Mr. Speaker, I'm going to go to the trouble to read section 2(a) because sometimes there are reporters who don't do their homework. They think that reporting means, rather than digging through, reading things for yourself, and getting the clear meaning of legislation for yourself, that that's not nearly as effective as lazily asking somebody, What do you think this does?

So we get polls; we get surveys; we get opinions. But having been a judge and a chief justice, you didn't do that as a judge. You didn't do that as a justice on an appellate court. You had to look at the law and say, What does it say? And what do other laws, in which this may be in context, cause it to mean?

□ 1330

And look at it for yourself. Most of these folks, they're educated, and so I hope they will take a look for themselves. Those that were most concerned months ago that the NDAA gave unbridled power to the President, what really concerned me as a former judge and chief justice was reading section 2(a), authorization for use of the United States Armed Forces.

Again, it's hard to fault folks because it was a week after this horrible attack, and we weren't even sure who attacked us and why they attacked us. We had gotten a pretty good idea early on.

So one week after September 11, 2001, this joint resolution is passed into law. Section 2(a) says, in general, that the President is authorized to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons in order to prevent any future acts of international terrorism against the United States by such nations, organizations, or persons.

Now as I understand—I haven't read the opinion this week from the district court. The district court is not like it carries the weight of the Supreme Court or even a court of appeals. But Congress really appears to have given the President unbridled, unlimited, indefinite authority to just detain, arrest, do whatever had to be done to protect America from further attacks. And as we know from history, it's after such horrible attacks or incidents in other times in history when there is a temptation to overreact and to give too much power to one body or one person, and later on, when things are calmed down and the people are caught that perpetrated the horrible acts, we realize we lost a lot of our rights, we lost a lot of our powers because we placed them in one person.

And this is what this section 2(a) did. That's the way it struck me when I first saw that after I got to Congress. And that was a matter of concern. And it wasn't until the NDAA—I'm not on Armed Services—it wasn't until the NDAA came up that I really started researching and seeing exactly what this said and did.

I'm sure Speaker BOEHNER would be the first to tell people that he and I often do not see eye to eye; but he gave me the assurance that if the NDAA passed, he would let me come back with an amendment that would fix the AUMF so that a President did not have the power—unlimited power indefinitely—to detain American citizens on American soil.

So that was the impetus for trying to prepare a proper amendment that

would deal with the main problem, the unlimited power of the AUMF, but also dispel concerns that people may have with the National Defense Authorization Act, because that was going to have to be replaced, redone, reauthorized. And I'm glad to say the Speaker kept his word and we were allowed to bring forward a fix.

My friend JUSTIN AMASH and I have many times in his year-and-a-quarter-or-so of being here have consoled each other as being one of only two, three, four, five who voted for or against a bill. And we're kind of out there by ourselves. So I was not surprised to see that JUSTIN AMASH was trying to work on an amendment that would fix this same concern that he and I had. I think his concern—and he can speak more accurately toward this—but I think his concern was more with the NDAA. Mine was more with the AUMF. This grant of power was far too unbridled. It needed restraint.

We are blessed here in Congress to have people who have served in so many walks of life. We've been blessed in a number of different ways. And it's great to have such diversity—not just race, creed, religion, gender—but actually differences of opinions and divergent backgrounds.

We have a prayer breakfast every Thursday morning on Capitol Hill, and it's really a blessing to hear other Members' stories, Democrats and Republicans. We take turns speaking at prayer breakfasts—one from the Democratic Party, one from the Republican Party—each week. And it is just incredible the way God has moved in lives and taken people, whether it's being a school teacher or being a ditch digger, all kinds of things, to propel them in life and ultimately land them here in Congress.

It just happens that I have been blessed not with extraordinary intelligence but with having been around people with extraordinary intelligence, including brilliant people who have tremendous intellect and insight into our Constitution.

I never expected to be in Congress. I just liked history and knew I owed the Army 4 years from a scholarship at Texas A&M, and I had the luxury of majoring in history. So I got to study under some incredible historians who gave a different perspective on our Constitution. Rather than a legal perspective, a historical perspective. And brilliant people on policy throughout the history of man.

But when one reads this and one does not understand the Constitution and the powers that are granted to Congress under the Constitution, one can get the wrong impression. I have heard friends that I think a tremendous amount of here in Congress who have said such things publicly as ''every American citizen.'' Every person. The Bill of Rights talks about persons. Yes, in some places it does. But they have the idea it refers to persons in every place—it doesn't—every person in America is entitled to go through an article III court.

And I appreciate and understand that misinterpretation. But when one reads article III, section 1, what it says is:

> The judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish.

□ 1340

So the Congress has the authority never to even create a Federal district court. The Congress has the power to eliminate every Federal district court if it so chose. I am very grateful that Congress has not chosen to eliminate every Federal district court. But, nonetheless, the power is there to create or not create Federal district courts.

The Supreme Court has even spoken on this issue before and has made clear that the power is entirely in Congress's hands. As my former constitutional law professor, David Guinn at Baylor Law School, used to say, there's only one court in the United States that owes its origin to the Constitution, and that is the Supreme Court. Every other court in the country that is a Federal court or tribunal or commission owes its existence to the Congress.

Now, I have tremendous regard for President George W. Bush. He is a brilliant man, despite what some people think and jokes that were made at his expense. He's a brilliant man, and one of the wittiest people that you can be around privately and just a real joy to be around, but he got some bad advice. He had people who were lawyers who told him, Hey, Mr. President, let's just have the executive branch set up a military tribunal and let the military tribunal try terrorists, whether American citizens or whatever. Let's set up tribunals here in the executive branch.

Well, they had failed to notice that in article I, section 8 of our Constitution, it says that Congress shall have power to lay and collect taxes, and it says, ''to constitute tribunals inferior to the Supreme Court.'' So really, you could arguably have a Federal district court that is set up inferior to the Supreme Court under article I, section 8 just as you could under article III. I know there are some that say, no, those are article III courts. Well, article I, section 8 really seems to indicate you could call them Federal district tribunals. You could establish those inferior courts under the Supreme Court under article I, section 8.

Congress is also immediately given the power, shall have the power, it says, ''to define and punish piracies and felonies committed on the high seas, and offenses against the law of nations; to declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water.''

We've got the power to make those rules of anybody who's captured on land or water, the power to create the court. We've got the power, we shall have it, to establish uniform rules of naturalization. We have the power to dictate policy here in Congress by our legislation with regard to immigration. We have the power, under this Constitution, it's been determined over and over again, that we can say to immigrants, legally and illegally in this country, You don't get a hearing in front of a Federal district court. You must go to the court we have set up over here that's inferior to the Supreme Court, but we're calling it an immigration court.

In other cases, somebody's broke, we're given the power to set up bankruptcy courts. And it's a sad testimonial for our country that a man that's sometimes referred to as the Revolution's financier—there are actually a few different sources. One was France. One was a Jewish gentleman without whom many say we could not have afforded the Revolution, and another one was a man from Philadelphia named Morris.

Morris, if one goes down the hall to the Rotunda and looks up, one of the drawings, one of the paintings that's painted into the plaster, 189 feet up there at the top of the dome, is supposed to be a depiction of Morris with a money bag, depicting him loaning money to the Revolution to keep things going.

Mr. Morris ended up, after the Revolution, doing well, worked out great for him. But because things were going so well in the country, it looked like they were going to—he had bought a lot of land and a lot of land in Virginia and up around this area, around where the District of Columbia would ultimately be, and he had gotten overextended and he was broke and he couldn't pay his bills. And so he ended up in a debtors' prison in Philadelphia, a man to whom we owe so much for having a successful Revolution so people, as our Founders said, for truly the first time would actually be able to govern themselves. And a principal financier ends up in debtors' prison in Philadelphia.

And yet the Constitution, itself, it said Congress would have the power to create uniform laws on the subject of bankruptcies throughout the United States. But it wasn't until after Morris got thrown in debtors' prison and he had been in there for long enough that it destroyed his health, it ruined him as a man, that he ended up believing all was lost, dejected, when someone in Congress realized, wait a minute, our Constitution gives us the power to create bankruptcy courts. Maybe we ought to do that. They created the bankruptcy system, and Mr. Morris was released from jail, but he was in such poor health he never really enjoyed the freedoms that he had financed.

There are so many powers in this given to the Congress—creating courts, not creating courts; creating tribunals, not creating tribunals—and that's why, and I know there were friends of mine that were in the Bush administration that disagree with me, but I believe the

Supreme Court got it totally right when they told the Bush administration, You don't have the right to create tribunals, to try terrorists; you don't.

The Constitution, article I, section 8 says that the Congress shall have the power to constitute tribunals inferior to the Supreme Court, not the President. That's not in article II under the executive powers. It's not in article III under judiciary power. The power to do that is in article I, section 8—You don't have it. So until Congress comes with military commissions or tribunals, they're not constitutional.

And so in 2006, not long after I got here, people prepared, through our Judiciary Committee, prepared the Military Commission Act that was constitutional because Congress did this.

My dear friend, and I mean that very sincerely, JOHN CULBERSON from Houston, Texas, is here on the floor with me. Mr. Speaker, I would yield to Mr. CULBERSON.

Mr. CULBERSON. Thank you, very much, Mr. GOHMERT, my good friend from Texas. We share great passion for the 10th Amendment, for the restoration of individual liberty and putting our government back in their box; and I appreciate so much the time that you've spent on the floor, Congressman GOHMERT, focusing the attention of the Congress and the country on the fact that this is a government of limited powers, and most powers are reserved to individuals or to State and local government, and we, as a constitutional conservative majority, are working every day to do all we can to do much more than just control spending. It's much more than balancing the budget. We are determined to restore the 10th Amendment and individual liberty and put the Federal Government back in its box, let Texans run Texas and get the government out of our lives, out of our pockets, out of our way, and off our backs. I support you in that effort, and I appreciate very much you yielding to me for a minute.

I had a very brief housekeeping matter to take care of, as well as to be here to support your work in the restoration of the 10th Amendment, Mr. GOHMERT.

□ 1350

The gentleman from Texas (Mr. GOHMERT) has been a leader in the effort to restore the 10th Amendment, and he has focused the attention of the country and the Congress on the uncontrolled spending that we have seen in recent years. The level of debt and deficit has reached a level unseen in our history. I deeply appreciate your commitment, Congressman GOHMERT, to work to do all that we can from our perspective in the House, even though we're outnumbered—we've got a liberal Senate, a liberal President. We control only one-third of the government, but we have put the brakes on the spending by this President. We've put the brakes on the uncontrolled spending that we've seen since he took office, and we're going to continue to do that.

But it is bigger than that. It's bigger than spending. It's bigger than a balanced budget, because the fundamental root of the problem is that the Federal Government has gone so far beyond its limited bounds that they have now intruded themselves into every aspect of our lives.

We, as a constitutional conservative majority, are committed to restoring the checks and balances in the Constitution, the separation of powers, and to remind people every day until we are back in control of the Senate and we've got a Republican President. Once we've got a Republican House, Mr. GOHMERT, I know we'll be working arm in arm to pass legislation to return power to the States, to restore individual liberty. As Thomas Jefferson said, if you apply the core principles of the Constitution to any problem, the knot will always untie itself.

So I deeply appreciate your commitment, Congressman GOHMERT, to focusing on the core principles of the Constitution, and know that we are, all of us, every day that we're here, working hard to restore the 10th Amendment and individual liberty. I thank you for your leadership in that effort, sir.

Mr. GOHMERT. Thank you.

And reclaiming my time, let me just say I'm awfully glad we have a conservative person who believes in the 10th Amendment as strongly as I do and States' rights as strongly as I do, and have you on the Appropriations Committee. I mean, what better place for a conservative, limited-Federal-power person to be than on the Appropriations Committee? Thank you. I'm grateful for the work of JOHN CULBERSON there on our behalf.

It is supposed to be a government limited. As I note, the President said previously—talking about that people interpret this Constitution as a bunch of negative powers, things the Congress can't do or the government can't do. We ought to focus on all they can do. Well, I like the fact that all that Congress, all that the Presidency, all that judiciary is supposed to be able to do is specified. Everything else, as my friend Mr. CULBERSON pointed out, is resolved to the States and the people.

Congress has this power to create the courts, Federal courts. States take care of their own State system. It's one of the reasons, though, that I voted against a couple of bills recently, because medical malpractice reform was being dictated from here in Congress for every State in the country.

I love what Texas did with medical malpractice reform in its State court system, but it's a State court system. I also know that if the Congress decides we need to start dictating to every State what their State court system can or can't do, then when a far more liberal Congress comes in they will be able to say, Look, you so-called ''conservative'' Republicans dictated to the States what their State tort law should be, so now we're going to dictate to the States what we think it should be, and it ends up being a Federal takeover of something that is entirely a State system.

When it comes to the States' tort system, the State court system, it's none of our business unless there is an adequate Federal nexus. That's guided a couple of votes that may have surprised people that I made, but I simply could not support Federal takeover of State tort law.

Here is a Supreme Court decision from 1922, never been overruled. In that, the Court said—it's at 260 U.S. 226, Klein v. Burke Construction Company. It says:

> Only the jurisdiction of the Supreme Court is derived directly from the Constitution. Every other court created by the general government derives its jurisdiction wholly from the authority of Congress. That body may give, withhold, or restrict such jurisdiction at its discretion, provided it be not extended beyond the boundaries fixed by the Constitution.

That's exactly what the Constitution intended. Congress can create Federal district courts, Federal commissions—whatever, drug court, immigration court, whatever we feel appropriate as an inferior court to the U.S. Supreme Court. We can do it under article I, section 8, or article III.

In my amendment, to give people adequate feeling of protection, we wanted to ensure that people's rights would be adequately protected, and no President—whether it would be the prior Republican President, this Democratic President, or the next President—would have the power that should not be his were it not for an overyielding United States Congress.

The amendment, the Gohmert-Landry original amendment—originally, the Landry original amendment—just said: Nothing in the authorization for use of military force or in the National Defense Authorization Act shall be construed to deny the availability of the writ of habeas corpus. That was what came from the committee.

I was very grateful to JEFF LANDRY and SCOTT RIGELL for allowing me to discuss and negotiate and work with them, but that's what went to committee. I wasn't comfortable that that protected Americans' rights because we still had the provision in the authorized use of military force from September 18, 2001, that said the President still had all this power and he could detain people indefinitely. That is a reasonable interpretation of this AUMF—not the NDAA but the AUMF. That was a reasonable interpretation of the 2001 AUMF.

And so to simply say someone would have the right to a writ of habeas corpus in a hearing on that habeas corpus proceeding was not adequate for me to gather back to the American people the rights that should be theirs if it were not for the AUMF. So the proceeding, without further amendment to that language, could have gone like this:

An American citizen is ordered detained by the President of the United

States. He is taken to military detention; he is placed therein. He would get a writ of habeas corpus hearing—habeas corpus meaning to surrender the body. You've got to bring the body forward. I've had writ of habeas corpus hearings as a judge many times. You have to determine: Is there sufficient evidence more likely than not that this person committed acts that justify the detention and the retaining of his body in that detention?

If the courts give proper credence to the 2001 AUMF, then the court would have that hearing and say, okay, there is evidence that makes it more likely than not that this person, the writ applicant, committed acts that authorize the President, under the 2001 act, to place him in indefinite detention in a military facility. So there he would have had his writ hearing, but he's still in indefinite detention in a military facility. In my 4 years in the Army, I became very familiar with those military facilities.

So I began checking with constitutional scholars I respected. I even got back with my old con law professor.

□ 1400

I started running different language by. How about if we say this? How about if we say that? And others would make suggestions, and we would tweak the language. This has been going on for weeks. Well, let's change this word. Well, what if we add this phrase and that phrase. Well, that doesn't really do it because you've still got this problem. And so it was great talking with people who are really thinking and trying hard to come up with a solution.

And the goal that I had, and in talking with Mr. LANDRY, Mr. RIGELL, Mr. DUNCAN, and Mr. BARLETTA, the goal is very simple. The authorization for the use of military force from September 18, 2001, gave the President unbridled discretion in confining, detaining American citizens and others. We wanted to put American citizens—we wanted to put people who were lawfully in the United States in the same situation they were in before the unlimited gift of power from the legislative branch to the executive branch.

I wasn't here, but I'm sure a week after 9/11, while we were still reeling, and those of us in other places had just been out on our courthouse square, holding hands, singing hymns, praying together, hoping, praying that our country would not be attacked again and so many people's lives lost, destroyed, so many losing hope, crushed to know they'd never see their family member, never even be able to have a legitimate funeral with their loved ones' remains.

I'm sure, I know that people meant to do the best they could to protect the country. But 10 years later, 11 years later, almost, we can look back and we could restrain that power once again.

So that was the goal. Let's get people back to the position they were in the day before this incredible extension of power to the President was given.

So the language that, with the help of others smarter than I, we were able to put together to get us to that day before this incredible grant of power to the President, was that nothing in the Authorized Use of Military Force Act from 2001, nothing in the NDAA from months ago, nothing from the NDAA that we're taking up now, nothing was going to be construed to deny the availability of writ of habeas corpus, which were the Landry/Rigell words. And then here's the additional language: or to deny any constitutional rights in a court ordained or established by or under Article III of the Constitution for any person who is lawfully in the United States when detained pursuant to the Authorized Use of Military Force Act.

And actually, and we looked at this a number of different ways, a lot of scholars. Just by referencing the Authorized Use of Military Force Act from 2001, it actually includes the subsequent amendment to that AUMF by the NDAA some months back, or the amendment that we voted on today. The NDAA is actually an amendment to the AUMF.

Some had asked, LOUIE, why did you say, deny any constitutional rights in a court ordained or established under Article III constitute for any person—why didn't you just say American citizens? That's who we're most concerned about.

And again, I come back to this: I wanted to get back to where we were before this incredible extension of power to the President occurred for people who were lawfully in the United States.

I don't have any sympathy for people who may be sneaking across the board as we speak, through tunnels or over fences or through openings in fences or across rivers. I've got no sympathy for people coming in who want to destroy our way of life and are sneaking in illegally to destroy this life we have and the freedoms and liberties we have. So those who are not lawfully in the United States, who are trying to do us harm, killing Americans, destroying people, this is not for them.

But for anyone who is lawfully in the United States, we want to return them to the same position of liberty they had before the unbridled extension of power to the President September 18, 2001. To do that, though—there are people who were lawfully here in the United States, not U.S. citizens, but people who were lawfully here, who committed acts, whether of violence or other things, who, before this extension of power to the President in 2001, had no right to go into a Federal district court. They had the right to go to an immigration court, and that's it. No right to go before an Article III court.

And so we wanted to make sure that for those people who did not have a right to get a full jury trial—immigrants do not have that right. They're subject to the immigration courts. If they're going to be deported, they go to the immigration court. They don't have a right to go have a Federal trial in a United States district court over whether or not they get to stay in the United States. That's been ruled on many times. They don't get that kind of court.

So we've added the language at the end of subparagraph A, ''who is otherwise entitled to the availability of such writ or such rights.'' So, we reestablished in the Gohmert/Landry/Rigell amendment, and Duncan and Barletta as well, in that amendment we reestablish that for any—not just any American citizen, but anybody lawfully in the United States that is entitled to these rights before September 18 of 2001, you're entitled to them again. And nothing in the AUMF, nothing in the NDAA from months ago, nothing in the NDAA today, all amending the AUMF, nothing in this shall be construed to deny those rights to an individual.

Now, my good friend, JUSTIN AMASH, he wanted to fix things. But actually his fix extended new rights that did not exist prior to September 18 of 2001. And I understand his intentions.

And although I did not appreciate my friend Mr. SMITH alluding to a smokescreen, you don't spend hours and hours and hours trying to perfect language to create a smokescreen. You do that to fix legislation. And that's what I believe we did. That's what I believe we've done today here on the House floor.

But, having been in the military, and having continued, as a Member of Congress, to go to each funeral of people who, as Lincoln said, gave the last full measure of devotion for their country, having attended all of those in my district over the last 7 years, I know the price our military pays. I know the rights that you give up when you go into the military.

And so people, without realizing the full scope of the different types of rights to different types of people in the Constitution, who say everybody's entitled to constitutional rights under the Bill of Rights, under the Constitution, yeah, but they're different rights and you're in the military. You don't have a right to freedom of speech.

So we had a young man, a devoted member of the United States military, who said some very bad things about our President, unflattering things. Whether or not they're truthful is not the issue for a member of the military.

□ 1410

It is under a matter of the Uniform Code of Military Justice that was created by Congress because Congress has that power under article I, section 8 to create that court system and to not give members of the military all of the rights that everybody else in America has. There were some mornings at 5 a.m. that I would love to have had the freedom of assembly and that I would have loved to have had the freedom of speech to tell my commander where he

could go with his assembly at 5 a.m. and with the 25-mile march that was going to follow that.

That was a time when we were not at war. Nonetheless, you have to have discipline in the military.

Even though I may have totally agreed with the comments—I don't know what all of them were, but this individual is in the military—when you're in the military, you do not have the right to criticize anyone in the chain of command. And it has to be that way.

In my heart, I was so deeply offended by the way in which President Carter was failing to do anything about our hostages and about the act of war that was perpetrated against our Embassy. Under everybody's interpretation of international law, an attack on a country's embassy is an act of war against that country. It should have provoked a response from this country that made so clear to all of those radical Islamists that attacked our Embassy in 1979 that when you attack the United States of America—in our Embassy or on our home soil, either one—they're both acts of war, and we will respond. You will not get away with an act of war like that against us.

Because we failed to respond in any measurable manner, other than for so long just basically begging them to give us our people back, we appeared to be a paper tiger. We appeared to be a country that didn't have the guts to step up and protect itself. That fact is still being used to recruit people around the world to these radicalized groups of Islamists.

Though I felt strongly about the impropriety of the way the President was handling those things in 1979 and 1980, it was not appropriate for a member of the military to publicly ever criticize a commander in his chain of command. That's what the Commander in Chief is. So whether or not any of us agrees with the soldier who criticized President Obama, you have to have discipline in the military, and that's not appropriate.

So why shouldn't he have had the right to come before an article III court and say, Hey, I'm a member of the military. What happened to my freedom of speech rights?

Under the Constitution, Congress has the power to set up the rules and the rights for the military, and you don't have that right because we've got to have a disciplined military.

For immigrants, many have said, Why don't I have the right to go get a jury trial and prove my case? Why, your country should be forced to allow me to stay here.

It's because you don't have that right under our Constitution. The right you have under our Constitution is to go to an immigration court. There are exceptions, of course, but that's the main right.

We have the authorization and the power under the Constitution to create those systems; and as my friend Mr. CULBERSON pointed out, they're limited to what is prescribed in the Constitution.

So that subparagraph (a) was the extent of the Gohmert-Landry-Rigell amendment originally, but there were others who were concerned—but look, look. What if the President does detain somebody? Even though he doesn't have the power to detain, if this subparagraph (a) passes and becomes part of the law, then the President won't have the power to detain an American citizen or an American lawfully in this court who he didn't have the power to detain before September 18 of 2001. But what if he does that anyway?

And it has happened. People abuse their power. We know that. So what if it happens that a President abuses the power that he does not have?

Let's get that right to a writ of habeas corpus hearing so that you can come forward and establish and bring out the Gohmert-Landry-Rigell amendment and say, Look, that authorized use of military force in 2001 that gave the President the power to just detain people indefinitely, including in a military confinement, got changed today in the House in 2012; therefore, at the writ hearing, that would be granted under subparagraph (c). The judge would have to say, You're right. I see that Gohmert-Landry-Rigell amendment. The President doesn't have the right to do that anymore, so we're going to have to let you go.

But the key would be to get a writ hearing in order to advocate the proper position of the law as changed in subparagraph (a), because if you can't come before a judge, then nobody is going to have the power to order you released. So, I could understand that. Since I know extremely well that I sure don't have a corner on the market of best language, I realize—and our friend BOB GOODLATTE was pushing this issue, and I know BOB to be a brilliant lawyer, just a great American patriot. I know, whether we agree or not on every issue, when BOB GOODLATTE talks about an issue, I ought to listen because he's a smart, caring man. I realize he has got a point, which is that (a) does fix the problem, according to the people that I worked with and checked with, and we worked the language together to get it to work.

But he's right, what if the President does detain somebody against what the law says in (a)? How do you get that heard?

Okay. We added subparagraph (b) that says:

> Not later than 48 hours after the date on which a person who is lawfully in the United States is detained pursuant to the Authorization for Use of Military Force, the President shall notify Congress of the detention of such person.

So the President, if he does detain somebody against the law in section 103, subparagraph (a), has got to notify us. Then I'm sure there would be a lot of people on both sides of the aisle who would come forward and say, Hey, we've changed the law. The President can't do that. Under subparagraph (a), you don't have that power anymore. We took that away from you the way you had it since September 18 of 2001. That has changed. Now that you've notified us, we are going to help that person file for a writ of habeas corpus hearing in court as specified in subparagraph (a). It will be an article III U.S. Federal district court, and we know we will have a proper hearing.

That's why subparagraph (c) says:

> A person who is lawfully in the United States when detained pursuant to the Authorization for Use of Military Force shall be allowed to file an application for habeas corpus relief in an appropriate district court—not in an immigration court, not in a military tribunal, but in a Federal district court—not later than 30 days after the date on which the person is placed in military custody.

Now, there are some who've tried to say in the last couple of days that, actually, this Gohmert-Landry-Rigell amendment restricted the right of writs of habeas corpus. Hopefully, they meant well; but the truth is we're aware of writs of habeas corpus that happen long after 30 days. There is no requirement that if there is ever going to be a writ of habeas corpus hearing that it has to be within 30 days.

So what we were doing was not restricting the right of writs of habeas corpus. We were actually making them stronger so that the President, unless he is going to break the law and act illegally by not notifying Congress within 48 hours—well, guess what? Things have a way of working the truth out.

□ 1420

And if the President were to violate this kind of law, it might be the basis for an impeachment proceeding. To go around and to intentionally violate the law? This is serious stuff. We knew by putting it in the law, it would give that kind of ability to Congress, to enforce what we've done.

With regard to my friend JUSTIN AMASH and ADAM SMITH's amendment, it appeared to be a choice. With their amendment, it was going to give new rights to terrorists that would be greater than any member of our United States military has; or under the Gohmert-Landry-Rigell amendment, it would return the power to people that they had before September 18, 2001, this unlimited ability of the President to detain people indefinitely in potentially a military detention facility.

I appreciated the bipartisan support for our amendment today. We had Democrats that voted with us on this issue, people that care very deeply about this issue. We had Republicans that did not vote with us. I think 19 Republicans didn't vote with us, but I believe 243 people from both sides of the aisle voted for this amendment to fix this power. We needed to rein in the power of the Presidency, and we did that.

I'm very grateful to Heritage for embracing the concept that was pursued

here rather than a concept that would extend greater rights to terrorists on American soil than our own American soldiers would have.

I think it's a good day. I think it's a good day. People have heard me, Mr. Speaker, talk about how we have messed up what's going on in Afghanistan. The Taliban was defeated; they were routed. We had less than 1,500 Americans in Afghanistan when the Taliban was defeated. And so many Americans have forgotten, but for so much of the Iraq war people were saying—now, the way the Taliban was defeated in Afghanistan, that's the way to fight a war on foreign soil. You empower the enemy of our enemy, give them support. We gave them aerial support, we gave them embedded Special Ops and intelligence people that were a tremendous help. I've heard that personally.

The biggest hero of those battles, General Dostum, I met with again just last month. That was over in Afghanistan. They're our allies. For those that say you Republicans are a bunch of xenophobes or Islamaphobes, these are Muslim friends. They buried family and friends while Americans were burying family and friends because they had fought together. They initially defeated the Taliban, and they did it very effectively. Then we began to add troops by the tens of thousands, and we became occupiers in Afghanistan. We began to pour billions and billions and billions of dollars into Afghanistan. Then Pakistan began supporting the Taliban, and they continue to support the Taliban and we're continuing to support Pakistan.

Another good thing today was amendments that said, Hey, Pakistan, if you're going to keep funding our enemies and helping our enemies, we're not going to keep giving you any funds. That was another good measure that got bipartisan support today. That was a good measure.

But as long as we've got troops—I don't think President Obama has handled this very well in Afghanistan. I think he's gotten some bad advice. I think President Bush got some bad advice. But as long as we have troops on foreign soil, we should never again do what was done to our military in Vietnam, yank their feet out from under them and leave our allies to be killed.

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

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3308

Mr. CULBERSON (during the Special Order of Mr. GOHMERT). Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 3308. My name was inadvertently added.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

UNDERSTANDING THE PLACE OF THE DISTRICT OF COLUMBIA IN OUR STRUCTURE

The SPEAKER pro tempore (Mr. BROOKS). Under the Speaker's announced policy of January 5, 2011, the Chair recognizes the gentlewoman from the District of Columbia (Ms. NORTON) for 30 minutes.

Ms. NORTON. Mr. Speaker, I come to the floor this afternoon as part of my series of talks designed to help Members of the House and Senate understand the place of the District of Columbia in our structure. It is an anomalous place. And when Members come to the House of Representatives, they must find it very peculiar that anything having to do with a local jurisdiction comes here at all.

The most important thing to remember as I speak this afternoon is that that anomaly got to be too much for the Congress, and 39 years ago the Congress sent back to the District the power to legislate for the District of Columbia. So if you hear Members say Congress can legislate for the District of Columbia, you must point them to the Home Rule Act of 1973.

It is true that on some matters the District cannot legislate for itself. Those matters involve things like imposing a commuter tax or changing the limits on how high buildings can be in the District, because we don't want to obscure the great monuments. But I assure you that the enumerated congressional powers over the District are quite small, and that none of what I have to say this afternoon is among those areas where Congress has said, only Congress itself should be able to legislate.

Yet my good friends on the other side insist upon imposing their own views on the District of Columbia quite undemocratically against our will. Even if you assumed that Congress could enact laws for the District of Columbia, no one would assume that Congress could—without any democratic accountability—enact laws that went counter to the laws the District had enacted.

Where are the small-government Tea Party members, the ones who are trying to teach the House of Representatives a lesson about pulling back even from Federal matters? You cross the line very seriously when you involve yourself in local matters where you yourself cannot be held accountable. Do you believe in democracy or not? It seems to me that the entire notion of passing a law and imposing it on people who have no say about it is a kind of authoritarianism that we ourselves criticize on this floor every single day in one fashion or another.

Twice this week, Republican Members disregarded their own basic principles and sought to interfere with the local government of the District of Columbia and its citizens against their will in the most undemocratic fashion. There was no respect for democracy, no respect for federalism, no respect for their own principles. They moved forward to say that this was the way we would like it, no matter what you would like.

As you might expect, we took exception. I am very pleased with the outpouring of support we have received from all over the country regarding the way the District was treated in the attempt by Representative TRENT FRANKS to impose his views on reproductive choice for the women and physicians of the District of Columbia. And I appreciate the support I have received when many were shocked that I was not granted the courtesy of testifying at his hearing on his bill, which affects only my district.

□ 1430

Let me say a word about that bill. Representative TRENT FRANKS is from Arizona. The sponsor of this same bill in the Senate—a bill to impose a 20-week limit on abortions for women in the District of Columbia—is from at least as far away, Senator MIKE LEE of Utah.

Senator LEE had hardly hit the ground—I think had filed all of nine bills when he filed a bill that would impose a 20-week limit on abortions in the District of Columbia. Not on Utah, but on the District of Columbia. Representative FRANKS' bill wouldn't impose this on Arizona. It's only on the District of Columbia.

There is nobody in this House that would not have taken umbrage at such undemocratic audacity, and so we did.

As for Senator MIKE LEE, he realized what he was doing wasn't exactly kosher because he introduced the bill, and though he is a new Member—and every new Member puts out a press release about what he's done—he didn't put out a release on this bill. So we outed him. We put out a release on his bill. And then his newspapers began to talk, and so then he put out a release.

I think what I am talking about will be understood when you see how this occurred. One thing that most Americans have learned to do is respect the differences on very controversial issues. And one of the most controversial is abortion, an issue that really turns off Independents in this country but captures the verve of the right wing to this day, even though the right of women to reproductive choice was declared decades ago in Roe v. Wade. And, of course, when they come at women, Democrats respond.

Under Roe v. Wade, a woman is entitled to seek an abortion at 20 weeks of pregnancy. In fact, the Supreme Court was at pains to say that it would not put a time limit on the number of weeks, that that's a matter of viability and a matter between the woman and her physician. Yet Senator MIKE LEE and Representative TRENT FRANKS sought to set the number of weeks on their own—in violation, of course, of the constitutional mandate in Roe v. Wade.

What are we supposed to do, sit down and take it?