

Constitutional duty to provide for the common defense and we should not be reducing spending by placing half of the cuts on the back of the Department of Defense when defense spending only represents 15.1 percent of the budget.

Following the Vietnam War, former Chief of Staff of the Army, General Creighton Abrams devised the Total Force Policy. This policy vested much of the Army's reserve combat power in the hands of the Army National Guard. The Army National Guard was meant to be a "mirror image," of the active force to the extent possible and to provide strategic depth in times of conflict. Mirror imaging meant that the National Guard would be trained and fielded with the same equipment as the active Army and this proposed aviation restructuring veers away from the total force policy.

There are those that say that Army National Guard aviation currently is not a mirror image of the active force because the structure of units is different. Providing a mirror image of brigade structure is not the point, the National Guard is not resourced or intended to follow the active duty Combat Aviation Brigade (CAB) structure. The mirror imaging is in smaller units such as battalions that permit the Army to have strategic depth in its forces so that in wartime, the active units do not have to bear the full brunt of the fight. Without the National Guard and strategic depth, these past 12 years of conflict in Afghanistan and Iraq would have broken our Army.

Divesting the Army National Guard of the Apache helicopter is a mistake. The active Army will have all of its attack and scout aviation power in the active force with no strategic depth and no reserve relief available if we find ourselves engaged in another major conflict. Enormous amounts of training dollars will be wasted. Years of aviation and combat experience will have been squandered.

Our National Guard Apache pilots are amongst the finest in the world. In my home state of South Carolina, the 1st of the 151st (1-151) attack reconnaissance battalion is one of the best attack battalions in the Army. There operational tempo is not as high as the active Army and it gives them a chance to train on critical skills that active duty simply does not have time for with the fight ongoing in Afghanistan. The 1-151st recently began to train its pilots on how to land an Apache on a Navy ship. Prior to these pilots becoming qualified, the Army did not have one single Apache pilot currently qualified to perform deck landings. Now however, the pilots of the 1-151 are helping to train the rest of the Army on this difficult and important task.

In closing, the battle we have is with sequestration. The active and reserve components should not be fighting one another; we in Congress should be providing them the necessary resources they require. We need to resource the Army at a level that protects our national security and keeps our personnel levels at the necessary levels, and keeps our equipment in the reserve and active components modernized and ready.

□ 1315

FIRST CONSTITUTIONAL DUTY: PROVIDE FOR OUR COMMON DEFENSE

The SPEAKER pro tempore. Under the Speaker's announced policy of Jan-

uary 3, 2013, the Chair recognizes the gentleman from Texas (Mr. GOHMERT) for 30 minutes.

Mr. GOHMERT. I appreciate so much my dear friend, Mr. PERRY's, last hour, almost, talking about such an important issue. I know there are those who say the number one job of Congress is to create jobs; but I think a more appropriate reading of our constitutional duties is, number one, we are supposed to provide for the common defense. Every American should do as George Washington prayed that we would, to never forget those who have served in the field—that is our military men and women—some of whom have given all, but all gave something.

That was Washington's prayer at the end of his resignation as he resigned as the commander of the Revolutionary forces—something that had never been done before. And my understanding is it has not happened since. As a leader in the Maldives Islands said a few years ago, unsolicited, he said:

We have never had a George Washington to set the proper example, so we are always worried about a military coup.

And, unfortunately, they have had one.

What a blessed Nation we are because people like Washington were raised up for such a time as they were in. Abraham Lincoln spoke more than once so eloquently about the need to help those who have served and their widows and orphans. So it is particularly dismaying when Congress passes anything that does not properly honor and address the issues of those who have served in the field, and as we have talked about before, to follow up and fulfill our obligation to keep our promises. This government promises individuals if you come into the military and you serve until retirement, here is what you will get in return. We should not break our promises to those who have served and risked life and limb to protect us.

Just as my friend, Marcus Latrel, said recently on CNN, basically that they didn't go to the mission in Afghanistan senselessly, that it is not senseless when someone hears the call, sees the order of his country, and acts in accordance with their order, win, lose or draw. And that is the mentality. Of my 4 years in the Army, probably 2½ were under Commander Jimmy Carter and a year and a half under Commander in Chief Ronald Reagan. The last year and a half was far better because we had a Commander in Chief that truly appreciated more the opinion of those who were serving in the field and restored honor for the military. President Carter, obviously, from his background had respect, but you sure couldn't tell it from the actions when we were in the military. As a result, our reputation suffered around the world and we had an act of war on our embassy in Tehran. And other than a scaled-back rescue attempt—scaled back by the White House itself—we were embarrassed.

And it is still used for recruiting today among radical extremists. Muslim Brotherhood members abroad say that these guys don't have the backbone to do what is necessary to win.

In such an important time in this world where so much is at risk to have an administration and some in the House or Senate that think it is okay to break our word to our military. We have got to turn this around. To those who think it is okay, we need to make clear, Mr. Speaker, it is not okay. We have the moral obligation to keep our promises and to do everything we can to protect those who are protecting us and to never send them into harm's way unless they have been given authority to win.

That should have been the lesson learned from Vietnam that wasn't learned. The lesson was not that we couldn't win—we could. And as SAM JOHNSON says in his book and points out in person after his 7 years in the Hanoi Hilton—much of it in complete isolation, brutally treated—after carpet bombing North Vietnam for 2 weeks, which could have happened many years before and ended the war early, a vindictive commander at the Hanoi Hilton laughed, saying, in effect, you stupid Americans, if you had just bombed us for 1 more week, we would have had to surrender unconditionally.

So it should be. We should not get involved anywhere where we do not give full authority to those in our military to go kick rear-ends, win, and then come home.

In an article today by Kristina Wong from "The Hill" publication, headline "Pentagon's hands tied on hunting down Benghazi attackers," this article says:

The U.S. military cannot hunt down and kill people responsible for the deadly 2012 attack on an American compound in Benghazi, Libya, as long as the terrorists are not officially deemed members or affiliates of al Qaeda, newly declassified transcripts from congressional hearings show.

This article goes on to say:

"In other words, they don't fall under the AUMF, that stands for authorized use of military force, authorized by the Congress of the United States. So we would not have the capacity to simply find them and kill them either with a remotely piloted aircraft or with an assault on the ground," Dempsey said.

They are talking about General Dempsey in his testimony before the House Armed Services Committee, and those were the transcripts that were released.

But he is the chairman of the Joint Chiefs of Staff, and here is where I have become amazed how this administration could think that the AUMF somehow gives this President authority without consulting Congress to go over and bomb and have our military play an active role in taking out Qadhafi, provide weapons to Libyans who very well may have been used to help attack our consulate, by the way, in Benghazi. We don't know enough to know for sure, but there is a good chance we

were giving them the weapons. But how this President, this administration, thinks you can go over and go to war against Qadhafi, who had become an ally after he got scared enough after the invasion of Iraq that he just opened up all of his weapons systems, became an ally and, as some moderate Muslim leaders in the Middle East have said to me, he wasn't a good guy, but he was one of your good friends after he got scared of you in 2003. And some have said he was doing more to help fight terrorism in that part of the world than anybody besides Israel, and yet you bomb him and you give weapons to go against him. We don't understand you.

But this administration felt as if under the AUMF it had full authority to go in and attack a place where even the Secretary of Defense said we have no national security interest in Libya. Oh, sure, the Organization of Islamic Council, the 57 states that make up that organization—sometimes confused with the 50 States we have here in America—but that 57 states that make up the OIC, they wanted us to go in and take out Qadhafi because they didn't like him because he was fighting terrorism, radical Islam, and the Muslim Brotherhood.

How would an administration, how would a Commander in Chief have authority to go into Libya, and then when we find out there are people that still want to destroy America, kill Americans and destroy our way of life, all of a sudden you say, but we don't really have authority to go after people who have declared war on us, have committed an act of war in attacking our embassy, but we are just not sure we can go after them.

That did not seem to stop this administration and the President from issuing an order to murder, to kill a guy I wasn't a fan of, Anwar al-Awlaki, a U.S. citizen because his parents came over on a visa and he was born here, and then he went back and was taught to hate America. Even though earlier, even during the Bush administration, he came to Capitol Hill and led congressional Muslim staffers here in prayer here on Capitol Hill; even though he had contacts within this administration, he visited with people in this administration's government, for some reason, we didn't see the need to arrest him and put him on trial here in America, but they thought it would be better just to hit him with a drone attack in Yemen and kill him over there.

And I'm not finding fault necessarily. That is a different debate over whether a President should order a drone attack on an American citizen without a trial. My point is if this administration felt as if the AUMF, the authorization for use of military force, allowed him to take out an American citizen in Yemen, then how is it that this administration all of a sudden gets scared and says, gee, we might violate the AUMF if we go after the people that killed our Ambassador in an act of war

against U.S. property, which was our consulate in Benghazi?

I think it is helpful to read directly from the language. It is something I was extremely concerned about and a number of my friends here have been extremely concerned about. It is why we have pushed amendments to rein in the Presidential authority to go after American citizens, and we have worked on language and passed language to effect this to prevent any U.S. President, whether it was former President Bush while he was still President or this President or a future President, it would prevent them from being able to just arrest an American citizen and hold them indefinitely. We put restraints on the President.

Here is the language that now-General Dempsey and this administration say we just don't really have the authority under the AUMF to go after the guys that assassinated our Ambassador and killed three others including two former Navy SEALs and took much of the leg of a former Army Ranger that was on the rooftop with Ty Woods and Glen Doherty.

Here is the language. It says:

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.

So we have had people that took that and said, gee, you know, al-Awlaki didn't help plan 2001's 9/11 attack. In fact, we had him around Washington, leading prayers here on Capitol Hill and having contacts with this administration. But, gee, they didn't have a problem using this language to kill an American citizen in Yemen—not because he participated or helped plan 9/11/2001, but simply because they were using language here in the last part that:

Or harbored such organizations or persons, in order to prevent future acts of international terrorism against the United States by such nations.

So that has been interpreted by this administration for a long time now, gee, you didn't have to participate or help plan 9/11/2001; but if you did anything to aid, abet, assist, encourage in any way any of these organizations that may have participated in some way in 9/11/2001, then the President can do whatever he needs to with military force to, as it says:

Prevent any future acts of international terrorism against the United States by such nations, organizations or persons.

□ 1330

Well, if al-Awlaki could have this language used to take him out with a drone attack, then certainly under this administration's definition and usage of that language, it sure ought to authorize them to go after people that declared war on us and committed an act

of war against our enemy, or harbored such persons or organizations. And we already know, everybody but The New York Times, everybody knows that the organizations, some of the organizations that participated in the 9/11/12 attack, the act of war on our consulate in Benghazi, were affiliated with al Qaeda, organizations that did participate in 9/11.

So these organizations didn't necessarily part in 9/11 on 2001, but they certainly were working with them. So anyway, it just seems to be contradictory for the administration to use the AUMF to possibly accede their authority to kill people abroad and then turn around and hide behind it.

And perhaps if Dr. Gates had not written the book he did and given us insight into things that are said or not said in this administration, then maybe we wouldn't know as much. But since we now know that even the Secretary of Defense and our top generals can feel the President is doing the wrong thing but not have the guts to tell him to his face, then I don't know, perhaps possibly General Dempsey is in that category now. Maybe he is one of those who fits in the category of maybe knowing something is appropriate but, instead, popping those heels together, saluting, yes, sir, and never fulfilling their duty not just to follow orders, but to give helpful information to a commander above you, in this case the Commander in Chief.

This article says:

The U.S. could seek to capture the Benghazi attackers under the existing AUMF, but it would need to allow forces in Libya, or any other countries in which the attackers are hiding, to do so.

Well, isn't that interesting, because that is not what this President did to kill al-Awlaki, Anwar al-Awlaki. They just killed him. They didn't allow any Yemen force, or anybody else. They just took him out with one of our drones bombs. And now all of a sudden they want to hide behind this language and say, Oh, well, actually, we can't do that. So is that our excuse now for why, after a year and a half—and I feel sorry for the President because basically he wasn't going to rest until we got these guys. So, man, a year and a half is a long time not to rest.

This article says Dempsey's classified comments highlight the limits of the existing authority which was approved by Congress after the September 11, 2001, attacks and the difficulty of fighting a constantly evolving enemy that in al Qaeda has inspired independent terrorist groups to try to murder American forces and civilians. The AUMF gives the military authority to hunt and kill those responsible for the 2001 attacks, wherever they are, and has allowed President Obama to authorize hundreds of drone strikes in Pakistan, Yemen, Somalia, and Libya. It has also been used to authorize several Special Operations raids, such as the one that took out Osama bin Laden.

But, see, the article just accepts what the administration says. General Dempsey said apparently in his testimony, Oh, well, gee, apparently you can go after all these other people. Well, if you can go after them, you can use the same language to go after the perpetrators of 9/11. So what is the administration afraid of?

I keep wanting these questions asked, and I think we need a select committee to ask these questions. Why don't you just come forward, all those in the administration that have information, why do you keep polygraphing our intelligence agents who knew what went on in Libya and what was going on in Libya? Why do you keep polygraphing them to make sure that they are not talking to Congress or anybody else? Why don't you just let them tell Members of Congress so we have better information from which we can authorize other actions and appropriate money to help with those actions? Why don't you just come forward and tell us what was going on? Why don't you try for a change being the most transparent administration in history? It is a long way to go, but maybe it is time to start.

We are in a war; and as others have so appropriately said, apparently we have been in a war since 1979 when radical Islamists committed the act of war against American property. An embassy belongs to the country and the soil is considered to be the country that occupies that embassy. You commit an act against that, military act, hostile act, it is an act of war. So we have been at war since 1979. The trouble is until 9/11/01, most Americans didn't know we were in a war. Only one side knew we were in a war. That was borne out in 1983 when our marines, over 200 marines, were killed in Beirut by a bombing, a truck bombing that came in there.

So many acts of war, of violence, including the 1993 World Trade Center bombing, including the two embassies that were bombed under the Clinton administration, although perhaps some in the administration might be tempted to ask, as Secretary Clinton asked not that long ago, What difference at this point does it make how or why they were killed basically in those embassies. Well, it makes a difference because we can prevent them in the future if we know why they were killed and what went wrong in the present. But it is a mystery.

Why hide behind the same AUMF as an excuse not to have brought the assassins of our Ambassador to justice? And something I heard, I heard a former JAG officer talking on Fox News one night this week, obviously a smart man, but an ignorant man. You can be smart, but be ignorant. He was ignorant of the Constitution because he seemed to think that the Constitution requires you capture someone who has declared war on you, you have to give them all kinds of access and let them send manifestos around, you have

to give them all kinds of freedom; and that is simply not the case. Some people who mean well but are ignorant of the Constitution say everybody has to be treated exactly the same under the Constitution. Their constitutional rights mean this or that, not understanding that actually under the Constitution everybody is not entitled to the same court. They are entitled to due process, but constitutionally that means different things.

So in the Army, in the military—I say the Army because that is what I was in—but in the military, constitutional rights are different. So you don't have the right to freedom of assembly. I wanted to claim that many times. We were ordered to be out for a 5 a.m. forced 25-mile march. I wanted to claim, Sir, I have a right to freedom of assembly wherever and whenever I want, and I would just rather not assemble for this 25-mile forced march. Or the—and I can't remember now—two 5-mile runs, whatever we used to do, early in the morning before you even started the day. It would have been nice to say, No.

It would be nice to have freedom of speech so as a member of the military we could have said what we really thought about some of President Carter's orders, but he was Commander in Chief. And as it should be, you are not allowed when you are Active Duty military to publicly criticize your command chain. In order to have good order and discipline, that is the way it needs to be. But once you are not on Active Duty, you can say whatever you want. You should be able to say without worrying about a drone taking you out.

So constitutional rights are different when you are in the military. The Constitution also makes clear that Congress has the authority to set up the disciplinary procedures, the court systems, tribunals for the military. It makes clear that Congress has the authority to set up different courts for immigration purposes, entirely constitutional.

So I get amused when some people that are smart, but ignorant about the Constitution, start saying everybody in America has a constitutional right to be tried before a United States district court. Well, that is ridiculous. There is not a U.S. district court that is even established in the Constitution. That is completely up to Congress. This Congress has the authority to get rid of every district court in America, get rid of every Federal court of appeals in America and just set up a whole new system. We have the authority to do that.

As Professor David Guinn used to say, there is only one court established in the Constitution, all others owe their existence, their jurisdiction, their very being to Congress. As Bill Cosby used to say, his daddy told him and his little brother, I brought you into this world and I can take you out.

Well, Congress brought these courts into this world, and Congress can re-

move them. We have that authority. So nobody has a constitutional right to a U.S. district court. There is no constitutional creation of a U.S. district court. It is up to Congress.

So to have some former JAG officer go on TV and say, Oh, yeah, you have to give all of these rights. No, you don't. Under our Constitution, if you declare war against the United States, we have every right if we capture you to hold you until the cessation, the stopping, of the hostility, the war that you declared against us. And then once the war is over, we don't have to try you. Convince your buddy, we will let you send a letter to your buddy telling them stop the war so I can be released as a POW. We don't have to release them if they are part of a group that is at war with us. And then when the end of the hostilities comes and the war is over, then you don't even have to release everybody that was a POW. If somebody you believe has probable cause, that is a good standard, you believe that they have committed a war crime, then instead of just releasing them and sending them home, you can try them for a war crime.

But I understand that there are a lot of people in this administration that don't really understand that part of the Constitution. Perhaps they got a bad professor at the University of Chicago Law School or somewhere, and they don't really understand what the Constitution actually says or doesn't say. But you can hold people indefinitely, and the Supreme Court verified that. You may have to give them a writ of habeas corpus hearing, but you don't have to let them go or send manifestos. We owe an obligation to protect this country. We have authority to do it here in Congress; and, Mr. Speaker, that is what we should do.

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

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. SLAUGHTER (at the request of Ms. PELOSI) for today on account of family illness.

BILL AND A JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Karen L. Haas, Clerk of the House, reported that on January 15, 2014, she presented to the President of the United States, for his approval, the following bill and joint resolution.

H.J. Res. 106. Making further continuing appropriations for fiscal year 2014, and for other purposes.

H.R. 3527. To amend the Public Health Service Act to reauthorize the poison center national toll-free number, national media campaign, and grant program, and for other purposes.

ADJOURNMENT

Mr. GOHMERT. Mr. Speaker, I move that the House do now adjourn.