

disengage from Afghanistan is a step backward from this goal, and thus does not serve the U.S.-India strategic partnership.

For all of these reasons and more, I hope the President will be open to re-evaluating and revising his withdrawal plan in light of conditions on the ground.

Another hurdle on which our partnership could stumble is our resolve to see it through amid domestic political concerns and short-term priorities that threaten to push our nations apart. For most of the last century, the logic of a U.S.-India partnership was compelling, but its achievements eluded us. We have finally begun to explore the real potential of this partnership over the past two decades, but we have barely scratched the surface, and the gains we have made remain fragile and reversible, as our largely stalled progress over the past few years can attest.

If India and the United States are to build a truly strategic partnership, we must each commit to it and defend it in equal measure. We must each build the public support needed to sustain our strategic priorities, and we must resist the domestic forces in each of our countries that would turn our strategic relationship into a transactional one—one defined not by the shared strategic goals we achieved together but by what parochial concessions we extract from one another. If we fail in these challenges, we will fall far short of our potential, as we have before.

It is this simple: If the 21st century is defined more by peace than war, more by prosperity than misery, and more by freedom than tyranny, I believe future historians will look back and point to the fact that a strategic partnership was consummated between the world's two preeminent democratic powers: India and the United States. If we keep this vision of our relationship always uppermost in our minds, there is no dispute we cannot resolve, no investment in each other's success we cannot make, and nothing we cannot accomplish together.

I thank my beloved friend from Michigan for allowing me to speak, and I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, I thank my good friend from Arizona for not only his remarks but also the thoughtfulness of his remarks on the U.S.-India relationship. I listened to them carefully and am glad to join in and look forward to his report. We have had a historic relationship with India as the two preeminent democracies, and we have a great opportunity to build on this relationship. I know my friend from Arizona has contributed vitally to that effort.

IRAQ

Mr. LEVIN. Recent events in Iraq have created great concern. The territorial gains by the ISIL, a violent ex-

tremist group, are not just a threat to Iraq's security but a security challenge to the entire region, and indeed to the United States. By its words and deeds, ISIL has made clear that it is deeply hostile to American interests and to universal values of freedom and human rights. That hostility can easily translate into plans and threats against us.

Faced by these developments, President Obama's decision to send a small number of U.S. military advisers is prudent. They will help assess the situation on the ground, they will support Iraqi efforts to defeat the Islamic militants Iraq faces, and help the Iraqis make best use of the intelligence support we are providing.

The President is right to say that U.S. troops will not return to ground combat in Iraq. The President is also right to say it is not our place to choose Iraq's leaders, because doing so is only likely to feed distrust and suspicion, and there is already too much of that in Iraq and in the Middle East.

What we can do is promote moves toward the political unity that is so essential for Iraq if it is going to weather the crisis and make progress toward a stable, democratic society. The problem in Iraq has not been a lack of direct U.S. military involvement but, rather, a lack of inclusiveness on the part of Iraqi leaders. That is why I believe we should not consider any direct action on our part, such as air strikes, unless three very specific conditions have been met:

First, that our military leaders tell us we have effective options that can help change the momentum on the ground in Iraq. In other words, only if our military leaders believe we can identify high-value targets—that striking them could have a measurable impact on the ability of the Iraqi security forces to stop and reverse the advances of the ISIL on the ground, and that we can strike them with minimal risk of civilian casualties and without dragging us further into the conflict.

Second, any additional military action on our part should come only with the clear public support of our friends and allies in the region—particularly moderate Arab leaders of neighboring countries. The United States has engaged in a comprehensive diplomatic effort to coordinate our response with Iraq's neighbors. If our strategy is to have the effect we want, it is essential that we have broad support in the region.

Finally, and perhaps most importantly, we should not act unless leaders of all elements of Iraqi society—Shia, Sunni, Kurds, and religious minorities—join together in a formal request for more direct support.

There is an obvious need for Iraqi leaders to form an inclusive unity government for their country's long-term success. But that process is likely to take some time, weeks or even months. But a unified formal statement requesting our further military assistance would be an important signal that

Iraq's leaders understand the need to come together.

It could not only be a sign that additional action on our part would be effective but also could be an important step toward creation of a national unity government.

So far, the signs that Iraqi leaders are prepared to take the steps they need to take are mixed at best. Prime Minister Maliki, who has too often governed in a sectarian and authoritarian manner, delivered a speech recently in which he said national unity is essential to confront ISIL—which is true—but then he signaled little willingness to reach out to other groups. A number of prominent Shia leaders portrayed the conflict in starkly sectarian terms, and Shia militias, including those under the control of Moktada al-Sadr, have marched through the streets of Baghdad. There is little doubt also that Iran is pursuing its own sectarian agenda in the region. Some Iraqi Sunni leaders too have made statements that promote sectarian interests over the common good, and there are also fears that the Kurdish minority may exploit the situation. But on the other hand there have also been some signs that the Iraqi leaders recognize the need to confront the ISIL threat not as Sunnis or Shia or Kurds but together as Iraqis.

Iraq's most influential Shia clerk, Ali Sistani, has called on all Iraqis “to exercise the highest degree of restraint and work on strengthening the bonds of love between each other, and to avoid any kind of sectarian behavior that may affect the unity of the Iraqi nation,” spreading the message that “this army [the Iraqi Army] does not belong to the Shia. It belongs to all of Iraq. It is for the Shia, the Sunni, the Kurds and the Christians.” That is the message from Ali Sistani—a very powerful message and a unifying message in contrast to the messages that should come, for instance, from Mr. Sadr.

The United States has national security interests in Iraq, but further military involvement there will not serve those interests unless Iraq begins to move toward the inclusiveness and unity that is necessary if our involvement is to have a positive impact. Put another way, we cannot save Iraqis from themselves. Only if Iraq's leaders begin to unify their nation can help from us really matter.

The ISIL is a vicious enemy. It is also the common enemy of all Iraqis—of all Iraqis and of Iraq's neighbors. If this vicious common enemy cannot unite Iraqis in a common cause, than our assistance, including airstrikes, won't matter. Only a unified Iraq governed by elected leaders who seek to rule in the interest of all their people can stand up to this threat.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

REMEMBERING HOWARD BAKER

Mr. HATCH. Madam President, before I begin, I want to pay tribute to

my friend and former colleague Howard Baker. I was honored to work with him in the Senate and later worked closely with him when he was President Reagan's White House Chief of Staff. He loved the Senate, and he built an impressive leadership role as majority leader. He was a skilled negotiator, an honest broker, an effective legislator, and a great steward of this institution.

I offer my deepest condolences to his wife Senator Nancy Landon Kassebaum Baker, an incredible woman, a dear friend, and a respected colleague as well. It was truly a privilege to learn from and serve alongside Howard, and I know I am far from alone among his many friends and colleagues in missing him deeply. We miss Nancy too. It was wonderful to see the two of them together. They cared a great deal for each other. He was a wonderful man, she is a wonderful woman, and I personally love both of them. We will miss him.

ADVICE AND CONSENT

Mr. HATCH. Madam President, I rise to commend the holding of the Supreme Court's decision this morning in *NLRB vs. Noel Canning*. The Court's decision is a critical victory for the principle that we are a nation of laws, not of men. It is a vindication of the fundamental notion that the Constitution binds us all, including even the President, and it is a triumph for the rightful prerogatives of this institution, the U.S. Senate, the authority of which has been under siege throughout the Obama years.

One of the most important powers endowed in this body by the Constitution is the requirement that nominations of principal officers receive the advice and consent of the Senate. The confirmation process provides Members of the Senate with a wide range of tools—up to and including outright refusal to confirm a nominee—in order to influence the proper execution of the laws we pass. When aggregated, these tools amount to a critical check on the workings of the executive branch.

The Senate's advice and consent rule did not rise from accident—far from it. As the Supreme Court has explained, quoting the famed historian Gordon Wood, “The manipulation of official appointments had long been one of the American revolutionary generation's greatest grievances against executive power, because the power of appointment to offices was deemed the most insidious and powerful weapon of 18th century despotism.”

The Founders' worry about the dangers of the Executive appointment power should ring true today given many of the Obama administration's actions, including a radical set of National Labor Relations Board nominees who promised to tip the balance of the Board toward an extreme and divisive agenda, hurting both employers and employees, and a Consumer Financial Protection Bureau Director nominee

poised to exercise unprecedented and unchecked power thanks to the dangerous provisions of Dodd-Frank—no checks on his removal, no congressional control over his budget, and no effective judicial review. These are exactly the sorts of circumstances that motivated the Founders' concerns about an unchecked appointment power in the Executive. They are the very reasons the Presidential nominees must obtain the Senate's consent before taking office.

The only exception to this body's power to decline its consent to a nomination is the President's power “to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.” But the President's power to make recess appointments is wholly contingent on what the Constitution terms “the Recess of the Senate” actually occurring, and the power to decide when that happens rests squarely with the legislative branch.

This is the obvious consequence of the Senate's constitutional power—conferred in article I, section 5—to determine the rules of its proceedings. And it is well supported by longstanding practice and precedent, acknowledged by the executive branch going as far back as 1790. Consider what would happen if the President could unilaterally determine when the recess of the Senate occurs. With no check on the President's discretion to declare the Senate in recess, he could employ the recess appointment power whenever the Senate refused to give immediate and unencumbered consent to his or her nominees. The advice-and-consent process would become a dead letter. The exception would swallow the rule, and the Senate would be deprived of a central tool our Nation's Founders specifically conferred to prevent Executive mischief.

The Founders realized the severity of this threat. They had fought royal abuses of the appointment power, asserting in the Declaration of Independence how the King's government had “erected a multitude of new offices, and sent hither swarms of officers to harass our people, and eat out their substance.” As Hamilton explained in Federalist 69, “They deliberately chose not to give the President the King's often-abused power to discontinue a session of the legislature.”

So concerned were the Framers with the legislature's power to control its own sittings that the Constitution gave each House the power to prevent the other from adjourning for more than 3 days. In essence, the Senate and the House of Representatives both have the power to prevent the recess of the Senate and thereby avoid the activation of the President's recess appointment power.

So when the Senate was confronted by the prospect of an out-of-control National Labor Relations Board and an unchecked Consumer Financial Protec-

tion Bureau led by President Obama's appointees, we were facing threats that our Founders had themselves faced and for which they had specifically provided us with the tools to resist. When we refused to act as quickly as the administration wanted and merely rubberstamp these nominees, we acted exactly as the Constitution's Framers had intended. And the House of Representatives wisely refused to consent to a recess of the annual session of the Senate, thereby refusing to grant the President authority to make lawful recess appointments.

I don't relish rejecting nominees—quite the contrary. Over the past 38 years, I have voted for the vast majority of nominees from each of the six Presidents under whom I have served and with whom I have served alongside, including President Obama. But scrutinizing the President's nominees and occasionally withholding consent when circumstances warrant represents Congress fulfilling, not abdicating, its constitutional responsibilities.

So when faced with our legitimate and lawful use of the powers endowed in the legislative branch by the Constitution, what did the Obama administration do? Did it seek to accommodate our concerns about the unconstitutional structure and unprecedented powers of the CFPB? Did the President seek to help develop a compromise package of the NLRB nominees, as Ted Kennedy and I always did? Sadly, no. Instead, President Obama simply proclaimed that he “wouldn't take no for an answer” despite what the Constitution may say. He chose instead to use—or rather abuse—the recess appointment power to install these four nominees, including two who had been nominated only 2 weeks before—hardly long enough for the Senate to vet them thoroughly. But, of course, we were not in “the Recess of the Senate” that the Constitution requires to activate the recess appointment power. Even the Solicitor General admitted that a 3-day adjournment was too short to allow the President to bypass the Senate lawfully.

Instead, President Obama audaciously claimed the power to decide for himself when the Senate was in recess and determined that in his personal opinion, our so-called pro forma sessions during this period did not really count as sessions of the Senate, at least for the purposes of the Constitution's requirements.

But during these sessions the Senate was fully capable of engaging in its business. Indeed, during a similar session the previous fall, the Senate twice passed legislation that President Obama himself signed. We have also used these sessions to appoint conferees, to read calendar bills, and to engage in other such activity characteristic of the Senate operating in session. While the Senate planned to conduct no subsequent business under a unanimous consent agreement, even the Obama administration admitted