

Certainly. As I mentioned, as my colleague was going through the nature of the mission and how it changed, we're now in a position where we're operating in a support role. We're not engaged in any of the activities that typically over the years in war powers analysis is considered to constitute hostilities within the meaning of the statute. We're not engaged in sustained fighting. There's been no exchange of fire with hostile forces. We don't have troops on the ground. We don't risk casualties to those troops. None of the factors, frankly, speaking more broadly, has risked the sort of escalation that Congress was concerned would impinge on its war-making power.

So within the precedents of a war powers analysis, all of which typically are very fact-dependent, we are confident that we're operating consistent with the resolution. That doesn't mean that we don't want the full, ongoing consultation with Congress or authorization as we move forward, but that doesn't go to our legal position under the statute itself, and we're confident of that.

I respect Mr. Bauer, but I respectfully disagree with him. I believe that what we are engaged in in Libya is a matter that should come under the War Powers Resolution. I believe that we should as a Congress consider it under the War Powers Resolution.

I think that is the right course of action. It will give the President clear authority, and it will also establish the clear authority of Congress in this particular situation.

Let me add quickly, I think the President was right in what he did initially. I believe the use of American military technology—which was primarily our initial investment—was certainly warranted. Working with NATO, we created an atmosphere where the NATO forces could not be in harm's way, would be safe in their early efforts to stop Muammar Qadhafi in his efforts to kill the civilians in his country.

I also believe the President was right from a foreign policy viewpoint by not doing this unilaterally but working with the Arab League, the European Union, and the United Nations.

The fact that we have for the first time in history NATO forces working in concert with the Arab League is, I think, a very positive thing, and I salute the President for doing it.

I think his goal and motives were good in this effort, and I would vote, if asked, to continue this effort under the War Powers Act affirmatively based on all the briefings I have received.

Having said that, I believe we should pursue the course that Senator CARDIN and I suggested in our resolution, that we should, in fact, deal with this matter under the War Powers Resolution. We should debate and take action on it here in the Senate.

I am hopeful that soon—perhaps before the end of the day—there will be some effort under way in a bipartisan fashion to do just that.

At the end of the day, we will be asked by future generations if we kept true to our oath under the Constitution, which requires us to face difficult debates and decisions, and there are none more difficult than this.

We are also going to be asked by the people we represent in terms of the cost in human life and the cost to American taxpayers whether we engaged in the debate and determined it was the appropriate thing to do.

I have, like so many Members of the Senate and Congress, had the sad duty to attend the funerals of those who have fallen in combat in service to our country. It is sad to face their families and realize they have paid the ultimate sacrifice to our Nation. I think that requires us, even in circumstances where the facts are debatable, to err on the side of exercising our constitutional authority.

I hope before the end of the day this bipartisan resolution will come to the floor—and certainly before the end of the week—and that we debate it and act on it before the end of this work period.

Again, let me make it clear, I think the President is right in what he is doing. But I think we have a responsibility that goes beyond Mr. Bauer's conclusion—a responsibility to decide that this offensive use of military force, even for a good purpose, a good humanitarian purpose, is one that requires the authorization of the American people through their Members of Congress.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. FRANKEN). The clerk will call the roll. The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that morning business be closed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Morning business is closed.

THE PRESIDENTIAL APPOINTMENT EFFICIENCY AND STREAMLINING ACT OF 2011—MOTION TO PROCEED—Continued

Mr. REID. Mr. President, I ask unanimous consent that the Senate resume consideration of the motion to proceed to Calendar No. 75, S. 679. I send a cloture motion to the desk and ask the clerk to report.

CLOTURE MOTION

The PRESIDING OFFICER. Without objection, it is so ordered.

The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the

Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 75, S. 679, the Presidential Appointment Efficiency and Streamlining Act of 2011:

Harry Reid, Joseph I. Lieberman, Thomas R. Carper, Frank R. Lautenberg, Sherrod Brown, Barbara Boxer, Sheldon Whitehouse, Patty Murray, Robert P. Casey, Jr., Christopher A. Coons, Joe Manchin III, Debbie Stabenow, Jon Tester, Benjamin L. Cardin, Jeanne Shaheen, Kent Conrad, Richard J. Durbin.

Mr. REID. Mr. President, I am disappointed that we had to file cloture again. I would hope, though, that in the ensuing days, the Republicans on the other side will let us get on this bill.

This is a bill Senator McCONNELL and I started working on when we were both whips many years ago. The purpose of the bill is to eliminate the need to have all of these nominations to these relatively minor posts confirmed by the Senate. And the work done by the chairman and ranking member of the Budget Committee, Senators SCHUMER and ALEXANDER, has been exemplary.

We now will have—when this legislation passes, and I really think it will pass, even if we have to invoke cloture on the motion to proceed and on the bill itself—hopefully that will not be necessary, but if we do, that is what we will have to do. This bill would take away the necessity of our having to do some 200 nominations for some of these minor posts I talked about.

I hope we can get on this bill when we come back next week. It will be the right thing to do. There is so much to do. This would set the tone of this work period that has not been so good to this point.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that at 11 a.m. on Tuesday, June 21, 2011, the Senate proceed to executive session to consider Calendar No. 34, the nomination of Michael H. Simon, of Oregon, to be U.S. district judge for the District of Oregon; that there be 1 hour of debate equally divided in the usual form; that upon the use or yielding back of that time, the Senate proceed to vote without intervening action or debate on Calendar No. 34; that following this vote, the Senate recess until 2:15 p.m. for the weekly party conferences; that at 2:15 p.m., the Senate consider Calendar No. 183, Leon E. Panetta to be the Secretary of Defense for our country; that there be 2 hours of debate equally divided between the two leaders or their designees; that upon the use or yielding back of that time, the Senate proceed to vote without intervening action or debate on Calendar No. 183; that the motion to reconsider be considered made and laid upon the table, with no intervening action or debate, no further motions be in order to