Mr. President, as has the Presiding Officer, I have

served both in the House of Representatives and in the U.S. Senate, and

during the course of my career, I have been called on to make many

votes. Most of them fade into obscurity after they are cast and are

never recalled, but there are a few we will remember for our lifetimes.

I would say the highest level in that category are the times when we

are called upon as Members of Congress to consider a declaration of

war. Many of us have lost sleep over those decisions. We have thought

about those votes long and hard. No matter how just the war may be or

how important it may be, we cannot help but reflect on the fact that at

the end of the day, people will die as a result of our decisions if we

go forward in terms of a declaration of war. I have lost sleep over

those decisions.

I have tried during the course of making those decisions to be guided

by several principles.

First, as Members of the Congress, both in the House and the Senate,

we swear to uphold and defend the Constitution. I feel as though that

Constitution is my starting point for my responsibility and my rights

as a Member of the U.S. Senate when it comes to this issue.

The Constitution is very clear in article I, section 8, clause 11,

that only the Congress can declare war. The decision was made by our

Founding Fathers that the people of the United States literally would

have a voice in this decision. It wouldn't be a decision made only by

the Chief Executive because ultimately the people and their families

and their children would pay the price of a war in human terms--the

loss of life--and, of course, in the cost of war borne by our Nation.

I am also guided by my responsibility to the people who were kind

enough to give me this opportunity to serve. I think about my State of

Illinois and the families, the mothers, fathers, and children all

across that State who could be affected by a decision if our Nation

goes to war.

I also like to think about whether the war is absolutely necessary in

terms of the defense of the United States of America.

Some cases are easier calls. When we were attacked on 9/11, many of

us knew that 3,000 innocent Americans had died at the hands of

terrorists. I didn't hesitate to vote for a declaration of war against

those forces in Afghanistan responsible for that attack on the United

States.

We went through a parallel debate at the same time about the invasion

of Iraq. I did not believe the previous President made a compelling

case for the invasion of Iraq. If my colleagues will recall, at that

time the debate was about weapons of mass destruction that could

threaten the Middle East or even the United States. I voted against

that declaration of war on Iraq. Twenty-three of us did in the Senate--

22 Democrats and 1 Republican. We came to learn that there were no

weapons of mass destruction. Many of the threats which gave rise to the

President's request turned out to not be factual at all. Well, we are

finally--finally--more than 10 years later, starting to bring those

troops home from Iraq, and we have paid a heavy price in Americans

killed and maimed and in the cost to our Nation.

Each time we have been challenged as a Senate and as a House to

consider a declaration of war, I have thought long and hard about it:

my constitutional responsibilities, my responsibilities to the people

of my State, and whether such a war was absolutely necessary.

Now we are engaged in three wars--wars in Iraq, Afghanistan, and in

Libya. Shortly, we will be considering the authority of the President

of the United States to continue our involvement in Libya. I am going

to apply the same constitutional standard and standards of judgment to

that decision that I have to every other declaration of war or every

other approval of engagement in hostilities by the United States as I

have in the past.

This President is my friend. He was my colleague in the Senate. We

are of the same political party. But when it comes to an issue of this

gravity, we have to move beyond any personal considerations when it

comes to the President and think about our Nation, our Constitution,

and our responsibility to the people we represent.

We have learned during the course of our history that Presidents

don't always come to Congress when they initiate a war. President

Franklin Roosevelt did. He came to Congress shortly after--in fact, the

day after--the attack on Pearl Harbor in December of 1941 and asked for

the authority and permission to go forward with a war that would be

waged against those who would attack us. Then came the Korean conflict,

which was not characterized in official terms as war because President

Truman didn't come to Congress asking for that authority.

I had two brothers, incidentally, who served in the U.S. Navy during

the Korean conflict. They always used to jokingly say it was a police

action with real bullets, and I know, because many innocent Americans

died in the course of that Korean conflict. Yet there was no formal

declaration of war.

Vietnam was a war I paid much closer attention to because it came at

a time when I was in college and law school, and my friends were being

asked to serve. Again, there was no official declaration of war.

After Vietnam and after the tremendous loss of life and all the

controversy associated with it, there was a debate in the Halls of

Congress about whether we needed to be more specific in terms of the

authority of a President to go to war. So Congress enacted the War

Powers Resolution in the 1970s, which spelled out in specific terms the

responsibility of the President when he would ask this Nation to go to

war.

That bill, having passed both the House and the Senate, was sent to

President Nixon, who vetoed it. He viewed it, as most Presidents have

then and since, as an intrusion on his authority as Commander in Chief.

But the Congress decided to pass the War Powers Resolution over the

veto of President Nixon, reaffirming the constitutional authority and

right of Congress when it came to a declaration of war.

Now we find ourselves in a situation where Congress has voted on

going forward with the war in Iraq--and, as I mentioned earlier, I was

one of those who voted against it--going forward with the war in

Afghanistan--I was one who voted for it; all Senators did, I might add,

from both political parties--and now a question of Libya.

Several months ago, the situation in Libya became so grave that the

President of the United States met with our leaders in the military and

leaders of other nations to ask what should be done. Muammar Qadhafi,

the rogue leader of Libya, was literally attacking and killing his own

people in the streets of his country, and there was a widespread public

reaction against it from the Arab League, of which Libya was a member,

as well as the European Union, the United Nations, and others.

President Obama made the decision then to consult with Members of

Congress about what we should do. I was fortunate enough, being a

member of leadership, to be part of the conference call when the

President was on the line with leaders--Democrats and Republicans--in

the House and Senate and spelled out what he believed was the grave

threat to the innocent people of Libya.

At that point, this was a question as to whether Benghazi was going

to fall and whether Muammar Qadhafi would consolidate power and take

retribution against those who had been in opposition to his government.

He said he was going to take to the streets with his military and kill

them like rats, and we took him at his word, and the President felt the

civilized nations of the world had to act.

Acting in consultation and in concert with the Arab League and the

United Nations and NATO, the President spelled out a course of action.

He told us in these early consultations that the United States

involvement would be very limited, perhaps more intense at the outset

than as any conflict progressed, and that we would not commit land

troops to Libya, and that basically the leadership of this effort would

be under the auspices of NATO, and we would be in a supportive role--a

role which would diminish over time. That was the President's promise,

and that was what was executed.

Now, more than 2 months later, the question has arisen: Well, what is

this President's responsibility under the Constitution? What is the

Congress's responsibility under the Constitution? Are we engaged in a

war?

I might say that I sat down before coming to the floor and carefully

reread the War Powers Resolution. Although we characterize it in many

different ways, the language of this War Powers Resolution is, in some

areas, difficult to apply to every situation. It makes reference

throughout ``to the introduction of United States Armed Forces into

hostilities, or into situations where imminent involvement in

hostilities is clearly indicated by the circumstances, and to the

continued use of such forces in hostilities or in such situations.''

We translate that in our debates, and I have been party to many over

the course of the time I have served in the House and the Senate, as to

whether we are talking about a defensive military action or an

offensive military action.

I do not think there is any question--not in my mind--that a

President as Commander in Chief has the authority, without seeking

congressional approval, to defend the people of the United States and

its territory. Certainly, we would not expect the President to wait for

Congress to convene, debate, and vote if the United States and its

citizens are under attack.

But what of those other circumstances where we are initiating

military action that is not strictly in defense of the United States?

Are those so-called offensive military actions hostilities? Do they

require a President to come forward and to ask of Congress authority to

go forward with the U.S. involvement in those military hostilities?

That is where we find ourselves today.

More than 60 days after the initiation of our involvement in Libya,

the debate is still on in the Senate as to whether we need to authorize

the President to continue our efforts in Libya and whether that

authorization should be under the War Powers Resolution.

I think it should. That is why I have come to the floor today. I

joined with Senator Ben Cardin in introducing a proposal, a Senate

joint resolution, which we have circulated, which would give the

President the authority, if passed, to continue the hostilities in

Libya under the War Powers Resolution, expressly stating that it would

not involve land forces, ground troops, and that it would have a time

certain to end--in our case, by the end of this calendar year--subject

to another decision by Congress as to whether it should go forward.

I believe that is still the right course of action. I am hopeful that

before the end of the day there will be action taken by some of my

colleagues here in Congress to come forward with a bipartisan

resolution which parallels what I just described.

I might add there is some controversy, and it is worthy of at least

debate, as to our current situation in Libya and whether it fits

squarely within the War Powers Resolution.

Bob Bauer, who is general counsel to the President of the United

States, argues it does not. Yesterday, in a conference call, Mr. Bauer

was asked specifically whether he thought the War Powers Resolution was

applicable to the current situation in Libya. Here is what he said.

When he was asked: Could you explain? he said:

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.