Syrian Crisis : 'Texas Ted' Cruz Criticism Of Obama For Not Calling An Emergency Session Of Congress Is Hypocrisy On Stilts

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Michael Matthew Bloomer, September 1, 2013

"The true hypocrite is the one who ceases to perceive his deception, the one who lies with sincerity"

Andre Gide (1869-1951)

WAR POWERS RESOLUTION (excerpt)

50 USC § 1541 - Purpose and policy

(c) **Presidential executive power as Commander-in-Chief; limitation**
The constitutional powers of the President as Commander-in-Chief to introduce United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, are exercised only pursuant to
(1) a declaration of war,
(2) specific statutory authorization, or
(3) a national emergency created by attack upon the United States, its territories or possessions, or its armed forces.
[See complete resolution]

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Texas Ted Cruz, the freshman Senator with an attitude, has much to say about much. He's a frightful contender (though technically unannounced) for the 2016 GOP Presidential nomination, so it behooves him to man up on every topic that appeals to his rude base of right-wing supporters. He's notoriously seeking to defund Obamacare, which he knows plays well among the basest of his base despite having no chance of success. Cruz's roughed up his colleagues on occasion. Most memorable, his hyperbolic and dishonest treatment of Chuck Hagel during his Secretary of Defense confirmation hearings earned him a round of condemnation from Senators left and right, including John McCain. It's not good to have others compare you to Joseph McCarthy within the early portion of your first term - Joe McCarthy himself didn't become "Joe McCarthy" until his second term.

Ted Cruz is nasty business, his treatment of President Obama among the nastiest. Yet, supposedly, every dog has his day, and Cruz's suspicions of an American-led military attack on Syria merit quick and serious Congressional consideration, regardless of president's typical reliance on their constitutional Article II, section 2, commander-in-chief powers, and/or the War Powers Resolution.

An excerpt from Texas Senator Ted Cruz's August 29th letter to President Obama:

> "According to the Constitution, only Congress has the authority to declare war. ***While the Commander in Chief must have the flexibility to act in the event of an imminent threat, the President's comments suggest this does not currently exist in Syria.*** There is time for debate, and no more important subject for Congress to consider. Deploying our armed forces is a serious commitment of the highest order, and we should only consider it in cases where our vital national security interests are at stake. Our allies have demonstrated a willingness to do proper due diligence on this issue. We owe it to the men and women in

> our armed forces, who would execute this mission, to do no less. ***When and if President Obama makes a decision on Syria, he must immediately call a special session of Congress and persuade the American people that what he proposes is critical to the defense of our nation. I am confident all members of Congress would willingly return to Washington to work with him on this issue.*** [Emphasis added] [See Cruz's entire letter]

Then, last night, he released a letter responding to President Obama's intention to seek Congressional approval for military intervention in Syria. Here's the most interesting excerpt, reiterating his words above:

> ***"Given that the President did not request an emergency session of Congress, that must mean that he agrees there is no imminent threat requiring the Commander in Chief to act without consulting the representatives of the American people."***

But Cruz misrepresents Congress's culpability *vis-à-vis* not re-convening in Washington, D.C., before the end of its adjournment on September 9, 2013. He does so for inexcusable political reasons given the national security context. Here's why:

Firstly, Congress is in a *conditional* adjournment. Under the routine adjournment resolution passed on August 2, 2013 by both houses within 24 hours of each other and by unanimous consent, a simple mechanism exists for Congress to, in effect, call itself back into session. Section two of the conditional adjournment resolution provides:

> ***The Majority Leader of the Senate and the Speaker of the House, or their respective designees, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble at such place and time as they may designate if, in their opinion, the public interest shall warrant it.*** [emphasis added][See S.Con.Res. 222]

Plainly, two individuals - Speaker of the House, John Boehner and the Majority Leader, Harry Reid - could have recalled Congress at any time during the recess up until and including today. They may, of course, do so at any time from today until the official dated of reassembly, September 9, 2013. Cruz knows this - conditional adjournments are nothing new - and chooses to deceive and thereby misguide the American public on a matter he believes of utmost importance. Although President Obama has constitutional authority under Article II, Section 2 to reconvene one or both Houses of Congress "on extraordinary occasions," his is not the *sole* authority to bring legislators back to Capitol Hill. Cruz, a self-acknowledged expert on the Constitutional knows better, he surely knows much about the impeachment clause.

Secondly, and this is true of both parties, legislators have a long-standing chicken-heartedness to put a vote on record in highly controversial areas, like the problem Syria presents now. Cruz, by misleadingly causing, along with poorly researched media coverage, the American public to believe the President has failed to recall Congress, Cruz and others, artlessly shift the lion's share of responsibility to the President for the response to the Syrian crisis. Yet, they whine about being left out of the process even though they could have easily reconvened when the crisis became palpable around August 23, ten days ago. They chose to seek campaign contributions and photo ops during what they characterize as a misguided and dangerous foreign policy decision.

Thirdly, Cruz wrote the President, "*Given that the President did not request an emergency session of Congress, that must* *mean that he agrees there is* ***no imminent threat*** *requiring the Commander in Chief to act without consulting the representatives of the American people*."

Note the wording of a President's constitutional power to convene Congress, Article II, Section 2, Clause 3:

> **[the President] may, on extraordinary Occasions, convene both Houses, or either of them**

Note the specific nature of the clause: "on extraordinary circumstances," and note Cruz's use of the phrase "no imminent threat." Yes, my own reading of the administration's stance convinces me that, like Cruz, they believe "no imminent threat" confronts us. In like manner, the administration, rightly or wrongly, does not regard considering an attack on Syria as an "extraordinary circumstance" enabling the President to recall Congress under clause three. During his speech yesterday calling for formal Congressional approval for his decision to strike Syria, the President admitted as much,

> "the Chairman [of the Joint Chiefs] has indicated to me that our capacity to execute this mission *is not time-sensitive*; it will be effective tomorrow, or next week, or one month from now." [Emphasis added][See entire speech]

Since Cruz does not himself believe an imminent threat faces us, then where is the clause 3 "extraordinary circumstance"? Moreover, if indeed an imminent threat existed, the President, under the war powers resolution, would have, if not a slam dunk, then an eminently arguable power to deploy into battle the armed forces without consulting Congress first. So, what exactly is Cruz upset about?

Finally, if the President were to have called for an extraordinary session, who here does not believe that Texas Ted would maintain, employing the "strict construction" principles that right-

wingers use when it suits them, that no definitive "extraordinary circumstances" exist, and therefore the President does not meet the Article II conditions to reconvene Congress? Historically, few in either party desire a vote on this question. Republicans and some Democrats want simply to plunk this in the President's lap - things could go very wrong in Syria, after all - all the while arguing and, more often, caterwauling about the President's overreach. During the Obama presidency, radical GOP right-wing legislators like Cruz have wished for, and pushed for, Obama's failure in his every effort without much thought for the long-term effects.

Well, trite phrase that it is, one cannot eat a cake and have it too. President Obama touched on this, "the issues are too big for business as usual. . ."

> "We all know there are no easy options. But I wasn't elected to avoid hard decisions.
> And neither were the members of the House and the Senate."

Congress can go on vacation, but it cannot hide.

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- Military Intervention In Syria? View Declassified 1985 CIA Intelligence Assessment Of Iraqi Chemical Weapons Program
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