

MR. PRESIDENT, YOU ALONE CAN SAVE US FROM DEFAULT July 30, 2011

Our Republican-led Congress and our Democratic-led Senate are now in the final round of a wrestling match that threatens to leave all of us gasping on the mat.

As I write these words at 9:00 P.M. on Friday night, the Senate has just voted to table and thereby kill a House bill that would have staved off default for only a few months and would also have required a balanced budget amendment to the Constitution. In adding that provision to win the votes of the ultra-conservative members of his own party, Speaker John Boehner showed once again that he is not a leader who can forge compromises or (in his own colorful words) shove reluctant asses into line, but is rather the servant of the Tea Party, forced to meet their uncompromising and wholly impracticable demands. With their votes, then, he barely managed to pass a bill that proved even deadlier on arrival in the Senate than the one he originally hoped to send up.

Having buried the House bill, the Senate will now try to pass one of its own. Whatever deal is struck between Majority Leader Harry Reid and Minority Leader Mitch McConnell, the Senate bill will surely contain no balanced budget amendment and will just as surely require that the debt ceiling be raised high enough to stave off default through the elections of 2012. It will then go back to the House--with what chance of passage? Even if Boehner could swallow such a bill, he will never persuade more than about a hundred other House Republicans to swallow it, and to win the hundred-plus votes he would need from Democratic members, he would have to accept tax increases, meaning his own political suicide. So it is now blindingly clear that no matter how much time they had to solve our present problem, this Congress and this Senate could never agree on a bill that would raise the debt ceiling high enough to stave off default through 2012.

Mr. President, the ball is in your court. And by Tuesday night, you've got to play it.

But can he? Does the president have the authority to raise the debt ceiling without the approval of the House and Senate? Behind the front lines of the political battles raging in Congress, this question has been urgently debated for weeks. But the time for debating is over.

Like every one of his predecessors, President Obama has sworn to "preserve, protect and defend the Constitution of the United States." The fourteenth amendment to the Constitution plainly states that "the validity of the public debt of the United States, authorized by law . . . shall not be questioned." So far as I know, every one of the debts that our government is now bound to pay has been "authorized by law," which is to say directly or indirectly approved by the House and Senate. Raising the debt ceiling doesn't mean borrowing more to pay for things we might want to buy in the future; it means borrowing more to pay the debts that we as a nation have already incurred. We simply cannot default on those debts. If the House and the Senate cannot agree on what conditions must be met before the debt ceiling can be raised, the president has not only the right but the duty to act. Under present circumstances, he alone has the power to ensure that the validity of our public debt "shall not be questioned." If his oath to "preserve, protect and defend the Constitution" does not bind him to enforce that provision, what does the oath mean?

Raising the debt ceiling by presidential order would of course be unprecedented. But default itself would be unprecedented, and for that very reason its consequences are incalculable. In my view, the worst consequence of a presidential order--apoplexy on the right--would be far less damaging to the nation than the consequences of default. A presidential failure to act in this crisis would create its own perilous precedent. It would show, once and for all, that the validity of the public debt of the United States can be not just questioned but hammerlocked: held hostage by any group of legislators who refuse to compromise, who are ready to jeopardize the fiscal stability of the whole nation and even the whole world just to make a political point. Unless the president acts, we are certain to face a crisis like this one again and again. Is that really

preferable to what has been called the "nuclear option" but would really be nothing more than the bold, judicious, and absolutely essential exercise of executive power?

So don't call your congressman, congresswoman, or Senator. Call the president. He's our only way out of this mess.