

Obama's Impeachable Offenses: Defies War Powers Law in Libya

by Edward Spannaus

May 30—"It kind of reminds you of the monarchy that we attempted to rid ourselves of when we became an independent nation years ago," was what Sen. Jim Webb, (D-Va.), a former Secretary of the Navy, had to say recently about President Obama's unilateral deployment of military forces into Libya and his freezing Congress out of any role—although under the United States Constitution it is Congress, not the President, which has the exclusive power to declare war.

In a video interview with *Politico* on May 24, Webb, a decorated Vietnam War hero, was asked about Obama's handling of national security; he responded: "Obama needs to narrow his focus a bit when it comes to judgments about using military force.... We have become—over the past 10 or 11 years—very blasé about the use of military force around the world. I never thought we would be so blasé as a nation in terms of where we're going in and dropping bombs and doing these sorts of things."

Webb's comments were provoked by the fact that Barack Obama has outdone even George W. Bush in defying Congress and violating the 1973 War Powers Resolution (WPR). On May 20, which marked the 60-day deadline for obtaining Congressional approval for the deployment of U.S. Armed Forces to Libya, Obama sent an insulting letter to Congress, late in the day, which, while never mentioning the War Powers Resolution, implicitly claimed that it did not apply, because the United States has transferred leading responsibility for military operations in Libya to a NATO coalition, and therefore, "U.S. involvement has assumed a supporting role in the coalitions's efforts," and "we are no longer in the lead."

This is pure sophistry. The 1973 War Powers Resolution applies to any introduction of U.S. forces into foreign territory—and as long as any U.S. forces are in a combat situation in Libya, the WPR is in force. While

no U.S. President since Nixon has accepted the constitutionality of the WPR, all have complied with it to some extent, since it remains the law of the land. And none have been as flagrant in defying it, as Obama has been since the coming and going of the 60-day deadline for obtaining Congressional approval of the deployment of U.S. troops.

This is all the more blatant, since Obama has not even challenged the constitutionality of the WPR; indeed, on March 21, he sent a formal notification to Congress, "consistent with the War Powers Resolution," that U.S. military forces had begun air strikes in Libya, which he promised "will be limited in their nature, duration, and scope." In fact, the air strikes have since expanded in their scope, targeting Qaddafi and his family.

'The President Is Not a King...'

Obama's defiance of Congress's constitutional power to declare war, which the War Powers Resolution attempted to codify, has provoked bipartisan opposition in Congress, in addition to that of Senator Webb, noted above.

On May 25, the House Foreign Affairs Committee held a hearing on "War Powers, United States Operations in Libya, and Related Legislation," at which Democrat Brad Sherman of California, charged explicitly that the Obama Administration is "violating the law" by deploying U.S. military forces to Libya without Congressional authorization. "Rome declined and fell under an imperial executive," Sherman warned, accusing Obama of taking the "extremist view" that he can deploy forces anywhere, anytime, for any purpose, with only the most cursory discussions with a few members of Congress.

"It's time to stop shredding the U.S. Constitution in a presumed effort to bring democracy and constitutional rule of law to Libya," said Sherman.

Sherman was the only Democrat of the very few who spoke at the hearing, to explicitly accuse Obama of violating the WPR, although many Republicans made the same point—none in more colorful terms than Rep. Dan Burton (Ind.), who cited Obama’s joint press conference with British Prime Minister David Cameron earlier that day. Burton noted that Obama kept saying “*we* are all together . . . *we* are involved, etc.”—but, Burton said, there is no authorization whatsoever from the U.S. Congress. “It’s a violation of the War Powers Act and the Constitution,” Burton stated. “The President is not a king, and shouldn’t act like a king.” Burton insisted that the Legislative branch of the U.S. government should be informed and involved in any decision that involves military force. “We were ignored. We ought to pull in the purse strings.”

Rep. Ron Paul (R-Tex.) pointed to a statement by Obama’s Office of Legal Counsel which said that the United States was going to war in Libya to defend the credibility of the UN Security Council. “We’re supposed to defend the U.S. Constitution,” Paul said, not the Security Council. “It should be up to us [Congress] when we go to war, not the President.”

Over the Memorial Day weekend, the widely syndicated columnist George Will also accused Obama of violating the WPR. “Enacted in 1973 over President Nixon’s veto, the WPR may or may not be wise,” Will wrote. “It is, however, unquestionably a law, and Barack Obama certainly is violating it.” Will noted that Obama’s actions were enough to arouse the ire of Sen. Richard Lugar (Ind.), the senior Republican on the Senate Foreign Relations Committee, who, Will said, is “normally as placid as an Indiana meadow.” Lugar told Obama that the WPR requirements have not been fulfilled, and pointed out that the Administration had “cancelled without explanation” a briefing to the Foreign Relations Committee by the vice chairman of the Joint Chiefs of Staff, and had declined the Committee’s request to have a Defense Department official testify at another briefing.

Obama’s ‘Secret’ Patriot Act

Another instance in which Obama is following in the footsteps of Bush-Cheney, is in his Administration’s illegal and unconstitutional surveillance of U.S. citizens.

The latest, explosive revelation of this, came in

a speech on the Senate floor on May 26, in which Ron Wyden (D-Ore.) warned his colleagues that there are *two* Patriot Acts: one which Congress has approved, and a second, secret program based on the Obama Administration’s secret interpretation of the law.

“I want to deliver a warning this afternoon,” said Wyden, a member of the Senate Select Committee on Intelligence. “When the American people find out how their government has secretly interpreted the Patriot Act, they will be stunned and they will be angry.”

“Government officials must not be allowed to fall into the trap of secretly reinterpreting the law in a way that creates a gap between what the public thinks the law says and what the government secretly claims that it says,” Wyden declared.

Another member of the Senate Intelligence Committee, Mark Udall (D-Colo.), echoed Wyden’s account: “Americans would be alarmed if they knew how this law is being carried out.”

In 2009, Intelligence Committee member Sen. Russ Feingold (D-Wisc.), also hinted that Section 215 of the Patriot Act, which governs FBI access to business records, etc., was being used in a secret way that “Congress and the American people deserve to know.”

EIR has often reported on the existence of a secret surveillance program. An article in our last issue, “The Imperial Presidency: Obama Is Worse than Bush and Cheney,” included the following, in the context of reporting on the Obama Administration’s unprecedented prosecution of a National Security Agency whistleblower: “As *EIR* and others have exposed, the NSA’s massive electronic-surveillance program, launched by Bush and Cheney, involved the sweeping-up of all domestic telecommunications data—phone calls, e-mails, and Internet traffic, and was far more extensive than ever admitted. By all accounts, the program has continued unaltered in the Obama Administration.”

Wyden and Udall did exact from Senate Intelligence Committee chairman Dianne Feinstein (D-Calif.) a promise to hold a hearing in June on how the Patriot Act is being carried out. What remains to be seen, is whether the Obama Administration will continue the same pattern of stonewalling and obfuscation as did the Bush-Cheney team, after which Obama is modelling so much of his practice.