

Constitutional Lawyer's Call for Obama Impeachment Over War Against Libya

Bruce Fein, a well-known constitutional lawyer and civil libertarian, who served as an associate deputy attorney general under President Ronald Reagan (1981-82), drafted this article of impeachment against President Obama, in April 2011, over his attack on Libya. Here is the text (punctuation, capitalization, and emphasis as in original):

ARTICLE OF IMPEACHMENT OF PRESIDENT BARACK HUSSEIN OBAMA

RESOLVED, That Barack Hussein Obama, President of the United States, is impeached for high crimes and misdemeanors, and that the following article of impeachment to be exhibited to the Senate:

ARTICLE OF IMPEACHMENT EXHIBITED BY THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN THE NAME OF ITSELF AND OF ALL OF THE PEOPLE OF THE UNITED STATES OF AMERICA, AGAINST BARACK HUSSEIN OBAMA, PRESIDENT OF THE UNITED STATES OF AMERICA, IN MAINTENANCE AND SUPPORT OF ITS IMPEACHMENT AGAINST HIM FOR HIGH CRIMES AND MISDEMEANORS IN USURPING THE EXCLUSIVE PREROGATIVE OF CONGRESS TO COMMENCE WAR UNDER ARTICLE 1, SECTION 8, CLAUSE 11 OF THE CONSTITUTION.

ARTICLE I

In his conduct of the office of President of the United States, Barack Hussein Obama, in violation of his constitutional oath faithfully to execute the office of President of the United States and, to the best of his ability, preserve, protect, and defend the Constitution of the United States, and in violation of his constitu-

tional duty to take care that the laws be faithfully executed, has usurped the exclusive power of Congress to initiate war under Article I, section 8, clause 11 of the United States Constitution by unilaterally commencing war against the Republic of Libya on March 19, 2011, declaring that Congress is powerless to constrain his conduct of the war, and claiming authority in the future to commence war unilaterally to advance whatever he ordains is in the national interest. By so doing and declaring, Barack Hussein Obama has mocked the rule of law, endangered the very existence of the Republic and the liberties of the people, and perpetrated an impeachable high crime and misdemeanor as hereinafter elaborated.

I. THE IMPEACHMENT POWER

1. Article II, Section IV of the United States Constitution provides: "The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors."

2. According to James Madison's Records of the Convention, 2:550; *Madison*, 8 Sept., Mr. George Mason objected to an initial proposal to confine impeachable offenses to treason or bribery:

Why is the provision restrained to Treason & bribery only? Treason as defined in the Constitution will not reach many great and dangerous offences. Hastings is not guilty of Treason. Attempts to subvert the Constitution may not be Treason as above defined—As bills of attainder which have saved the British Constitution are forbidden, it is the more necessary to extend: the power of impeachments.

3. Delegates to the Federal Convention voted overwhelmingly to include "high crimes and misdemeanors" in Article II, Section IV of the United States Con-

stitution specifically to ensure that “attempts to subvert the Constitution” would fall within the universe of impeachable offenses. *Id.*

4. Alexander Hamilton, a delegate to the Federal Convention, characterized impeachable offenses in *Federalist 65* as, “offenses which proceed from the misconduct of public men, or in other words, from the violation or abuse of some public trust. They are of a nature which with peculiar propriety may be denominated political, as they relate chiefly to injuries done to society itself.”

5. In 1974, the House Judiciary Committee voted three articles of impeachment against then President Richard M. Nixon for actions “subversive of constitutional government.”

6. Father of the Constitution, James Madison, observed that, “Of all the enemies of public liberty, war is, perhaps, the most to be dreaded, because it comprises and develops the germ of every other. . . . War is the true nurse of executive aggrandizement.”

7. James Madison also instructed that “no nation could preserve its freedom in the midst of continual warfare.”

8. The exclusive congressional power to commence war under Article I, section VIII, clause XI of the Constitution is the pillar of the Republic and the greatest constitutional guarantor of individual liberty, transparency, and government frugality.

II. THE ‘DECLARE WAR’ CLAUSE

9. Article I, Section VIII, Clause XI of the United States Constitution provides: “The Congress shall have the power . . . To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;”

10. Article II, Section II, Clause I of the United States Constitution provides: “The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States.”

11. The authors of the United States Constitution manifestly intended Article I, Section VIII, Clause XI



Creative Commons/Gage Skidmore
Bruce Fein has laid out a meticulously documented case for the impeachment of President Barack Obama.

to fasten exclusive responsibility and authority on the Congress to decide whether to undertake offensive military action.

12. The authors of the United States Constitution believed that individual liberty and the Republic would be endangered by fighting too many wars, not too few.

13. The authors of the United States Constitution understood that to aggrandize power and to leave a historical legacy, the executive in all countries chronically inflates danger manifold to justify warfare.

14. John Jay, the first Chief Justice of the United States, in *Federalist 4* noted:

[A]bsolute monarchs will often make war when their nations are to get nothing by it, but for the purposes and objects merely personal, such as thirst for military glory, revenge for personal affronts, ambition, or private compacts to aggrandize or support their particular families or partisans. These and a variety of other motives, which affect only the mind of the sovereign, often lead him to engage in wars not sanctified by justice or the voice and interests of his people.

15. Alexander Hamilton explained in *Federalist 69* that the president’s Commander-in-Chief authority

. . . would be nominally the same with that of the King of Great Britain, but in substance much inferior to it. It would amount to nothing more than the supreme command and direction of the military and naval forces, as first general and admiral of the confederacy; while that of the British king extends to the declaring of war, and to the raising and regulating of fleets and armies; all which by the constitution under consideration would appertain to the Legislature.

16. In a written exchange with Alexander Hamilton under the pseudonym *Helvidius*, James Madison wrote:

In no part of the constitution is more wisdom to be found, than in the clause which confides the question of war or peace to the legislature, and not to the executive department. Beside the objection to such a mixture to heterogeneous powers, the trust and the temptation would be too great for any one man; not such as nature

with war powers invites tyranny and the reduction of citizens to vassalage:

In time of actual war, great discretionary powers are constantly given to the Executive Magistrate. Constant apprehension of War, has the same tendency to render the head too large for the body. A standing military force, with an overgrown Executive will not long be safe companions to liberty. The means of defence agst. foreign danger, have been always the instruments of tyranny at home. Among the Romans it was a standing maxim to excite a war, whenever a revolt was apprehended. Throughout all Europe, the armies kept up under the pretext of defending, have enslaved the people.

I do not believe that the President can take military action—including any kind of strategic bombing—against Iran without congressional authorization.

—Sen. Hillary Clinton, Dec. 20, 2007

may offer as the prodigy of many centuries, but such as may be expected in the ordinary successions of magistracy. War is in fact the true nurse of executive aggrandizement. In war, a physical force is to be created; and it is the executive will, which is to direct it. In war, the public treasures are to be unlocked; and it is the executive hand which is to dispense them. In war, the honours and emoluments of office are to be multiplied; and it is the executive patronage under which they are to be enjoyed. It is in war, finally, that laurels are to be gathered, and it is the executive brow they are to encircle. The strongest passions and most dangerous weaknesses of the human breast; ambition, avarice, vanity, the honourable or venial love of fame, are all in conspiracy against the desire and duty of peace.

17. James Madison also wrote as *Helvidius* to Alexander Hamilton:

Those who are to conduct a war cannot in the nature of things, be proper or safe judges, whether a war *ought to be commenced, continued, or concluded*. They are barred from the latter functions by a great principle in free government, analogous to that which separates the sword from the purse, or the power of executing from the power of enacting laws.

18. On June 29, 1787, at the Federal Convention, James Madison explained that an executive crowned

19. In a letter dated April 4, 1798, James Madison wrote to Thomas Jefferson:

The constitution supposes, what the History of all Governments demonstrates, that the Executive is the branch of power most interested in war, & most prone to it. It has accordingly with studied care, vested the question of war in the Legislature. But the Doctrines lately advanced strike at the root of all these provisions, and will deposit the peace of the Country in that Department which the Constitution distrusts as most ready without cause to renounce it. For if the opinion of the President not the facts & proofs themselves are to sway the judgment of Congress, in declaring war, and if the President in the recess of Congress create a foreign mission, appoint the minister, & negotiate a War Treaty, without the possibility of a check even from the Senate, untill the measures present alternatives overruling the freedom of its judgment; if again a Treaty when made obliges the Legislature to declare war contrary to its judgment, and in pursuance of the same doctrine, a law declaring war, imposes a like moral obligation, to grant the requisite supplies until it be formally repealed with the consent of the President & Senate, it is evident that the people are cheated out of the best ingredients in their Government, the safeguards of peace which is the greatest of their blessings.

20. During the Pennsylvania Convention to ratify

the Constitution, James Wilson, a future Justice of the United States Supreme Court, observed:

This system will not hurry us into war; it is calculated to guard against it. It will not be in the power of a single man, or a single body of men, to involve us in such distress; for the important power of declaring war is vested in the legislature at large: this declaration must be made with the concurrence of the House of Representatives: from this circumstance we may draw a certain conclusion that nothing but our national interest can draw us into a war.

21. In 1793, President George Washington, who presided over the Federal Convention, wrote to South Carolina Governor William Moultrie in regards to a prospective counter-offensive against the American Indian Creek Nation: “The Constitution vests the power of declaring war with Congress, therefore no offensive expedition of importance can be undertaken until after they have deliberated upon the subject, and authorized such a measure.”

22. President Thomas Jefferson, who served as Secretary of State under President Washington, in a statement before Congress regarding Tripoli and the Barbary Pirates, deemed himself “unauthorized by the Constitution, without the sanction of Congress, to go beyond the line of defense.” He amplified: “I communicate [to the Congress] all material information on this subject, that in the exercise of this important function confided by the Constitution to the Legislature exclusively their judgment may form itself on a knowledge and consideration of every circumstance of weight.”

23. In a message to Congress in December, 1805 regarding potential military action to resolve a border dispute with Spain, President Thomas Jefferson acknowledged that “Congress alone is constitutionally invested with the power of changing our condition from peace to war, I have thought it my duty to await their authority for using force.” He requested Congressional authorization for offensive military action, even short of war, elaborating:

Formal war is not necessary—it is not probable it will follow; but the protection of our citizens, the spirit and honor of our country, require that force should be interposed to a certain degree. It

will probably contribute to advance the object of peace.

But the course to be pursued will require the command of means which it belongs to Congress exclusively to yield or deny. To them I communicate every fact material for their information, and the documents necessary to enable them to judge for themselves. To their wisdom, then, I look for the course I am to pursue; and will pursue, with sincere zeal, that which they shall approve.

24. In his War Message to Congress on June 1, 1812, President James Madison reaffirmed that the shift in language from *make* to *declare* in Article I, Section VIII, Clause XI of the United States Constitution authorized at the Constitutional convention did not empower the Executive to involve the United States military in any action aside from defense against an overt attack. Although President Madison was convinced that Great Britain had undertaken acts of war against the United States, he nevertheless maintained that he could not respond with military force without congressional authorization. He proclaimed:

We behold, in fine, on the side of Great Britain, a state of war against the United States, and on the side of the United States a state of peace toward Great Britain.

Whether the United States shall continue passive under these progressive usurpations and these accumulating wrongs, or, opposing force to force in defense of their national rights, shall commit a just cause into the hands of the Almighty Disposer of Events, avoiding all connections which might entangle it in the contest or views of other powers, and preserving a constant readiness to concur in an honorable re-establishment of peace and friendship, is a solemn question which the Constitution wisely confides to the legislative department of the Government. In recommending it to their early deliberations I am happy in the assurance that the decision will be worthy [of] the enlightened and patriotic councils of a virtuous, a free, and a powerful nation.

25. In his Records of the Convention, 2:318; *Madison*, 17 Aug., James Madison wrote that the power “To

declare war” had been vested in the Congress in lieu of the power “To make war” to leave to the Executive “the power to repel sudden attacks.”

26. Mr. Elbridge Gerry “never expected to hear in a republic a motion to empower the Executive alone to declare war,” but still moved with Mr. Madison “to insert *declare*—in place of *make*” in Article I, Section VIII, Clause XI. Id.

It is precisely because the consequences of war—intended or otherwise—can be so profound and complicated that our Founding Fathers vested in Congress, not the President, the power to initiate war, except to repel an imminent attack on the United States or its citizens. . . . That’s why I want to be very clear: if the President takes us to war with Iran without Congressional approval, I will call for his impeachment.

—Sen. Joseph Biden, a speech in Iowa, 2007

27. Mr. George Mason was against “giving the power of war to the Executive, because not safely to be trusted with it; or to the Senate, because not so constructed as to be entitled to it. He was for clogging rather than facilitating war; but for facilitating peace.” Yet Mr. Mason “preferred *declare* to *make*.” Id.

28. Mr. Roger Sherman “thought [the proposal] stood very well. The Executive shd. be able to repel and not to commence war.” Id.

29. Delegates to the Federal Convention overwhelmingly approved the motion to insert “*declare*—in place of *make*,” to deny the Executive power to initiate military action, but to permit the Executive to repel sudden attacks unilaterally. Id.

30. Then Congressman Abraham Lincoln sermonized:

Allow the President to invade a neighboring nation, whenever he shall deem it necessary to repel an invasion, and you allow him to do so, *whenever he may choose to say* he deems it necessary for such purpose—and you allow him to make war at pleasure. . . . Study to see if you can fix *any limit* to his power in this respect, after

you have given him so much as you propose. If, to-day, he should choose to say he thinks it necessary to invade Canada, to prevent the British from invading us, how could you stop him? You may say to him, “I see no probability of the British invading us” but he will say to you “be silent; I see it, if you don’t.”

The provision of the Constitution giving the war-making power to Congress, was dictated, as I understand it, by the following reasons. Kings had always been involving and impoverishing their people in wars, pretending generally, if not always, that the good of the people was the object. This, our Convention understood to be the most oppressive of all Kingly oppressions; and they resolved to so frame the Constitution that no one man should hold the power of bringing this oppression upon us. But your view destroys the whole matter, and places our President where kings have always stood.

31. Crowning the President with unilateral authority to commence war under the banner of anticipatory self-defense, prevention of civilian slaughters, gender discrimination, subjugation of ethnic or religious minorities, or otherwise would empower the President to initiate war without limit, threatening the very existence of the Republic. Although a benevolent Chief Executive might resist abuse of an unlimited war power, the principle, if ever accepted by Congress, would lie around like a loaded weapon ready for use by any successor craving absolute power.

32. Thomas Paine justly and rightly declared in *Common Sense* that “in America, *the law is king*. For as in absolute governments the King is law, so in free countries the law *ought* to be king; and there ought to be no other.”

33. Article 43 Paragraph 3 of the Charter of the United Nations provides that all resolutions or agreements of the United Nations Security Council “shall be subject to ratification by the signatory states in accordance with their respective constitutional processes.”

34. Article 43 Paragraph 3 of Charter of the United Nations was included specifically to allay concerns that prevented the United States of America from ratifying the League of Nations Treaty in 1919.

35. That treaty risked crowning the President with the counter-constitutional authority to initiate warfare. On November 19, 1919, in Section II of his Res-

ervations with Regard to Ratification of the Versailles Treaty, to preserve the balance of power established by the United States Constitution from executive usurpation, Senator Henry Cabot Lodge resolved as follows:

The United States assumes no obligation to preserve the territorial integrity or political independence of any other country or to interfere in controversies between nations—whether members of the League or not—under the provisions of Article 10, or to employ the military or naval forces of the United States under any article of the treaty for any purpose, unless in any particular case the Congress, which, under the Constitution, has the sole power to declare war or authorize the employment of the military or naval forces of the United States, shall by act or joint resolution so provide.

The rejection of Lodge's reservations by President Woodrow Wilson and his Senate allies insured defeat of the treaty.

36. Section 2(c) of the War Powers Resolution of 1973 clarifies Presidential authority to undertake military action as follows:

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.

37. In *United States v. Smith*, 27 F. Cas. 1192 (1806), Supreme Court Justice William Paterson, a delegate to the Federal Convention from New Jersey, wrote on behalf of a federal circuit court:

There is a manifest distinction between our going to war with a nation at peace, and a war being made against us by an actual invasion, or a formal declaration. In the former case it is the exclusive province of Congress to change a state of peace into a state of war.

38. In *Geofroy v. Riggs*, 133 U.S. 258, 267 (1890), the Supreme Court of the United States held:

The treaty power, as expressed in the Constitution, is in terms unlimited except by those restraints which are found in that instrument against the action of the government or of its departments, and those arising from the nature of the government itself and of that of the States. It would not be contended that it extends so far as to authorize what the Constitution forbids, or a change in the character of the government, or in that of one of the States, or a cession of any portion of the territory of the latter, without its consent.

39. In his concurrence in *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 642-643 (1952), which rebuked President Harry Truman's claim of unilateral war powers in the Korean War, Justice Robert Jackson elaborated:

Nothing in our Constitution is plainer than that declaration of a war is entrusted only to Congress. Of course, a state of war may in fact exist without a formal declaration. But no doctrine that the Court could promulgate would seem to me more sinister and alarming than that a President whose conduct of foreign affairs is so largely uncontrolled, and often even is unknown, can vastly enlarge his mastery over the internal affairs of the country by his own commitment of the Nation's armed forces to some foreign venture.

40. All treaties are subservient to the exclusive congressional power to commence war. In *Reid v. Covert*, 354 U.S. 1, 18 (1957), the United States Supreme Court held:

There is nothing in [the Constitution's text] which intimates that treaties and laws enacted pursuant to them do not have to comply with the provisions of the Constitution. Nor is there anything in the debates which accompanied the drafting and ratification of the Constitution which even suggests such a result.

41. Unconstitutional usurpations by one branch of government of powers entrusted to a coequal branch are not rendered constitutional by repetition. The

United States Supreme Court held unconstitutional hundreds of laws enacted by Congress over the course of five decades that included a legislative veto of executive actions in *INS v. Chada*, 462 U.S. 919 (1982).

42. In their dissent in *Hamdi v. Rumsfeld*, 542 U.S. 507 (2004), Justices John Paul Stevens and Antonin Scalia recognized the “Founders’ general distrust of military power lodged with the President, including the authority to commence war”:

No fewer than 10 issues of the *Federalist* were devoted in whole or part to allaying fears of oppression from the proposed Constitution’s authorization of standing armies in peacetime. Many safeguards in the Constitution reflect these concerns. Congress’s authority “[t]o raise and support Armies” was hedged with the proviso that “no Appropriation of Money to that Use shall be for a longer Term than two Years.” U.S. Const., Art. 1, §8, cl. 12. Except for the actual command of military forces, all authorization for their maintenance and all explicit authorization for their use is placed in the control of Congress under Article I, rather than the President under Article II. As Hamilton explained, the President’s military authority would be “much inferior” to that of the British King... (Citing *Federalist* 69, *Supra*.)

43. On December 20, 2007, then Senator Hillary Clinton proclaimed: “The President has the solemn duty to defend our Nation. If the country is under truly imminent threat of attack, of course the President must take appropriate action to defend us. At the same time, the Constitution requires Congress to authorize war. I do not believe that the President can take military action—including any kind of strategic bombing—against Iran without congressional authorization.”

44. Then Senator Joseph Biden stated in a speech at the Iowa City Public Library in 2007 regarding potential military action in Iran that unilateral action by the President would be an *impeachable offense under the Constitution*:

It is precisely because the consequences of war—intended or otherwise—can be so profound and complicated that our Founding Fathers vested in Congress, not the President, the

power to initiate war, except to repel an imminent attack on the United States or its citizens.

They reasoned that requiring the President to come to Congress first would slow things down ... allow for more careful decision making before sending Americans to fight and die ... and ensure broader public support.

The Founding Fathers were, as in most things, profoundly right.

That’s why I want to be very clear: if the President takes us to war with Iran without Congressional approval, I will call for his impeachment.

I do not say this lightly or to be provocative. I am dead serious. I have chaired the Senate Judiciary Committee. I still teach constitutional law. I’ve consulted with some of our leading constitutional scholars. The Constitution is clear. And so am I.

I’m saying this now to put the administration on notice and hopefully to deter the President from taking unilateral action in the last year of his administration.

If war is warranted with a nation of 70 million people, it warrants coming to Congress and the American people first.

45. In a speech on the Senate Floor in 1998, then Senator Joseph Biden maintained: “... the only logical conclusion is that the framers [of the United States Constitution] intended to grant to Congress the power to initiate all hostilities, even limited wars.”

46. On December 20, 2007, then Senator Barack Obama informed the *Boston Globe*, based upon his extensive knowledge of the United States Constitution: “The President does not have power under the Constitution to unilaterally authorize a military attack in a situation that does not involve stopping an actual or imminent threat to the nation.”

III. USURPATION OF THE WAR POWER OVER LIBYA

47. President Barack Obama’s military attacks against Libya constitute acts of war.

48. Congressman J. Randy Forbes (VA-4) had the following exchange with Secretary of Defense Robert Gates during a March 31, 2011 House Armed Services Committee Hearing on the legality of the present military operation in Libya:

Congressman Forbes: Mr. Secretary, if tomorrow a foreign nation intentionally, for whatever reason, launched a Tomahawk missile into New York City, would that be considered an act of war against the United States?

Secretary Gates: Probably so.

Congressman Forbes: Then I would assume the same laws would apply if we launched a Tomahawk missile at another nation—is that also true?

Secretary Gates: You're getting into constitutional law here and I am no expert on it.

Congressman Forbes: Mr. Secretary, you're the Secretary of Defense. You ought to be an expert on what's an act of war or not. If it's an act of war to launch a Tomahawk missile on New York City would it not also be an act of war to launch a Tomahawk missile by us at another nation?

Secretary Gates: Presumably.

49. Since the passage of United Nations Security Council resolution 1973 on March 19, 2011, the United States has detonated over 200 tomahawk land attack cruise missiles and 455 precision-guided bombs on Libyan soil.

50. Libya posed no actual or imminent threat to the United States when President Obama unleashed Operation Odyssey Dawn.

51. On March 27, 2011, Secretary of Defense Robert Gates stated that Libya never posed an "actual or imminent threat to the United States." He further stated that Libya has never constituted a "vital interest" to the United States.

52. United Nations Security Council resolution 1973 directs an indefinite United States military quagmire in Libya, authorizing "all necessary measures" to protect Libyan civilians, which clearly contemplates removal by force of the murderous regime of Col. Muammar Qadhafi.

53. In a Letter From the President to the Speaker of the House of Representatives and the President Pro Tempore of the Senate sent March 21, 2011, President Barack Obama informed Members of Congress that "U.S. forces have targeted the Qadhafi regime's air defense systems, command and control structures, and other capabilities of Qadhafi's armed forces used to

attack civilians and civilian populated areas. We will seek a rapid, but responsible, transition of operations to coalition, regional, or international organizations that are postured to continue activities as may be necessary to realize the objectives of U.N. Security Council Resolutions 1970 and 1973."

54. In his March 21, 2011 letter, President Barack Obama further informed Members of Congress that he opted to take unilateral military action "... in support of international efforts to protect civilians and prevent a humanitarian disaster."

55. President Barack Obama has usurped congressional authority to decide on war or peace with Libya,

The President does not have power under the Constitution to unilaterally authorize a military attack in a situation that does not involve stopping an actual or imminent threat to the nation.

—Sen. Barack Obama to the
Boston Globe, Dec. 20, 2007

and has declared he will persist in additional usurpations of the congressional power to commence war whenever he decrees it would advance his idea of the national interest. On March 28, 2011, he declared to Congress and the American people: "I have made it clear that I will never hesitate to use our military swiftly, decisively, and unilaterally when necessary to defend our people, our homeland, our allies, *and our core interests*" (emphasis added).

56. President Obama's humanitarian justification for war in Libya establishes a threshold that would justify his initiation of warfare in scores of nations around the globe, including Iran, North Korea, Syria, Sudan, Myanmar, China, Belarus, Zimbabwe, Cuba, and Russia.

57. In *Olmstead v. United States*, 277 U.S. 438 (1928), Justice Louis D. Brandeis wrote on behalf of a majority of the United States Supreme Court:

Experience should teach us to be most on our guard to protect liberty when the Government's purposes are beneficent. Men born to freedom are naturally alert to repel invasion of their liberty by evil-minded rulers. The greatest dangers

to liberty lurk in insidious encroachment by men of zeal, well meaning but without understanding.

58. President Barack Obama has signed an order, euphemistically named a “Presidential Finding,” authorizing covert U.S. government support for rebel forces seeking to oust Libyan leader Muammar Gaddafi, further entangling the United States in the Libyan conflict, despite earlier promises of restraint. Truth is invariably the first casualty of war.

59. In response to questions by Members of Congress during a classified briefing on March 30, 2011, Secretary of State Hillary Clinton indicated that the President needs no Congressional authorization for his attack on the Libyan nation, and will ignore any Congressional attempt by resolution or otherwise to constrain or halt United States participation in the Libyan war.

60. On March 30, 2011, by persistent silence or otherwise, Secretary Clinton rebuffed congressional inquiries into President Obama’s view of the constitutionality of the War Powers Resolution of 1973. She

failed to cite a single judicial decision in support of President Obama’s recent actions, relying instead on the undisclosed legal opinions of White House attorneys.

61. President Barack Obama, in flagrant violation of his constitutional oath to execute his office as President of the United States and preserve and protect the United States Constitution, has usurped the exclusive authority of Congress to authorize the initiation of war, in that on March 19, 2011 President Obama initiated an offensive military attack against the Republic of Libya without congressional authorization. In so doing, President Obama has arrested the rule of law, and saluted a vandalizing of the Constitution that will occasion ruination of the Republic, the crippling of individual liberty, and a Leviathan government unless the President is impeached by the House of Representatives and removed from office by the Senate.

In all of this, President Barack Obama has acted in a manner contrary to his trust as President and subversive of constitutional government, to the great prejudice of the cause of law and justice and to the manifest injury of the people of the United States.

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