

# Panetta Testimony Reaffirms Need for Rep. Walter Jones' Impeachment Bill

by Nancy Spannaus

April 23—Intensive questioning of Defense Secretary Leon Panetta during a lengthy hearing on Syria in the House Armed Services Committee April 19, reaffirms the urgent need for the passage of Rep. Walter Jones' (R-N.C.) House Concurrent Resolution 107, a bill which mandates immediate moves for impeachment of *any* President who launches a war without the express approval of Congress. By evading a direct answer to questions on the President's legal authority to go to war, Panetta essentially repeated his earlier admission that the President can act on his own authority, despite the Constitutional mandate to the contrary.

Jones introduced HCR 107 on March 7, in the context of the increasing drumbeat for U.S. military action against Syria and Iran, along the lines of the Obama Administration's blatantly unconstitutional assault on Libya, and the subsequent assassination of its head of state. Jones' resolution simply restates the relevant section of the U.S. Constitution, as follows:

“Resolved by the House of Representatives (the Senate concurring),

“That it is the sense of Congress that, except in response to an actual or imminent attack against the territory of the United States, the use of offensive military force by a President without prior and clear authorization of an Act of Congress violates Congress's exclusive power to declare war under article I, section 8, clause 11 of the Constitution and therefore constitutes an impeachable high crime and misdemeanor under article II, section 4 of the Constitution.”

So far, only four Congressmen, all Republicans (Dan Burton of Indiana, Mike Coffman of Colorado, John J. Duncan, Jr. of Tennessee, and Tom McClintock of California) have added their names to Jones' resolution, although popular support for HCR 107 is running high. In the midst of the hysterical drumbeat for a “Middle East” war, which would turn rapidly into a thermonuclear confrontation with Russia and China, it is incumbent on American patriots to remedy this scandalous situation, post-haste.

## The Hearing

The grilling of Panetta on the issue of whether President Obama would act on his own to go to war was apparently coordinated between Jones and Rep. Randy Forbes (R-Va.). While it was not referenced, both Congressmen clearly had in mind the testimony given by Secretary Panetta in a Senate hearing March 6, where, under questioning by Sen. Jeff Sessions (R-Ala.), Panetta argued that the President could commit to war upon the request of the United Nations, *without* getting approval from the Congress. These remarks, coming almost coincident with the introduction of Jones' resolution, caused an appropriate firestorm among those concerned about maintaining Constitutional law, not to mention, with preventing the drive toward World War III.

As in the earlier exchange with Sessions, Panetta, on behalf of the President, made it clear that the Administration does *not* have any intention to adhere to the Constitution. He danced around, and tried hard, for the most part, not to be specific. While paying lip service to the Constitution and the War Powers Act, Panetta ultimately cited Congress's “power of the purse,” and claimed that approval by the UN Security Council or fulfillment of obligations to NATO allies were mandatory, but that the President would not come to Congress *before* initiating military action.

We reprint below substantial excerpts from the hearing dialogue, taken from the transcript provided by *Congressional Quarterly*. After a question from Jones about whether President Obama would consult with Congress before taking military action in Syria, Panetta said:

“We will—we will clearly work with Congress if it—if it comes to the issue of the use of force. I think this administration wants to work within the War Powers provision to ensure that we work together, not—not separately.”

Jones continued: “And I hope that if there is a decision, including Iran, as well as Syria, if a decision is



DoD/U.S. Navy Petty Officer Chad J. McNeeley

*Defense Secretary Leon Panetta is grilled by members of the House Armed Services Committee April 19, on the Obama Administration's unconstitutional wielding of the power to wage war without Congressional approval.*

made to commit American forces, that the president would feel an obligation to the American people, not to Congress necessarily, but the American people, to explain and justify why we would take that kind of action.

“And again, I’m talking about a situation where we’re not being attacked. We just see things happening in other countries that we don’t approve of. And I would hope, and I think you did give me this answer, but if you would reaffirm that if we have to use military force, and as we’re going to initiate that force, if it’s going to be our initiation that causes that force, that the president—any president—would come to Congress and the American people and justify the need to attack.”

Panetta responded: “Congressman, as—as you understand, this president, as other presidents, will operate pursuant to the Constitution. The Constitution makes clear that the commander-in-chief should act when the vital interests of this country are in jeopardy. And I believe this president believes that if that in fact is the case, he would do that in partnership with the Congress in terms of taking any action.”

(Note that the Constitution takes no note of the President deciding on the “vital interests.”)

Jones noted the efforts of Forbes to nail down Defense Secretary Robert Gates on the same issue, in the early moments of the Libya war, saying that Gates never gave a straight answer. Jones implored Panetta not to follow the Libyan precedent.

Panetta replied, still evasively, “Congressman, what I can assure you of, is that as long as I am secretary we won’t take any action without proper legal authority.”

A little later, Forbes himself continued the questioning on this issue, relentlessly. After his introductory remarks, the following ensued:

**Forbes:** And when we talk about vital national interest, probably there’s no greater vital national interest that we have than the rule of law. And so sometimes we have to just ferret that out and see what that is. And as I understand what you have indicated to this committee, Mr. Secretary, and correct me if I’m wrong, you believe that before we would take military action against Syria, that it would be a requirement to have a consensus of permission with the international

community before that would happen. Is that a fair statement? And if not, would you tell me what the proper...

**Panetta:** I think that’s—I think that’s a fair statement.

**Forbes:** If that’s fair, then I’d like to come back to the question Mr. Jones asked, just so we know. I know you would never do anything that you didn’t think was legally proper, and you said that the administration would have proper legal authority before they would take any military action.

So my question is, what is proper legal authority? And I come back to, as Mr. Jones pointed out, in the War Powers Act, it’s unlikely we’d have a declaration of war, but that would be one of the things. Certainly, we know if there’s a national attack that would be one of them.

And then the second thing, of course, in the joint—I mean the War Powers Act—would be specific statutory authorization. Do you feel that it would be a requirement to have proper legal authority, that if you did not have a declaration of war or an attack on the United States that you would have to have specific statutory authority—in other words, the permission of Congress—before you’d take military action against Syria?

**Panetta:** We—we would—we would not take action without proper legal authority. That’s...

**Forbes:** And I understand. And in all due respect, I don’t want to put you in interrogation, but we’re trying

to find out what exactly proper legal authority is, because that's what we have to act under. And we don't have the president here to chat with him or have a cup of coffee with him and ask him. You're the closest we get. And so we're asking, from your understanding and as Secretary of Defense, what is proper legal authority? Would that require specific statutory authorization from the United States Congress if we had not had a declaration of war or an attack upon the United States?

**Panetta:** Well, again, let me put it on this basis. This administration intends to operate pursuant to the War Powers Act. And whatever the War Powers Act would require in order for us to engage, we would abide by.

**Forbes:** ...I just come back to if there's no declaration of war, no attack upon the United States, and if we're going to comply with the War Powers Act, would that require specific statutory authority by Congress before we took military action on Syria?

**Panetta:** Again—again, under the Constitution, as I indicated, the commander-in-chief has the authority to take action that involves the vital interests of this country, but then, pursuant to the War Powers Act, we would have to take steps to get congressional approval. And

that's—that's the process that we would follow.

**Forbes:** You'd have to take steps to get that approval, but would the approval be required before you would take military action against Syria?

**Panetta:** As I understand the Constitution and the power of the president, the president could in fact deploy forces if he had to under—if our vital interests were at stake, but that ultimately, then, under the War Powers Act, we would have to come here for your support.

**Forbes:** So you'd get the support of Congress *after* you began military operations [emphasis added]?

[This is precisely what President Obama never did in the unconstitutional Libya operation.]

**Panetta:** In that—in that particular situation, yes.

**Forbes:** And then, just one last thing, and make sure I'm stating this correctly, it's your position that the administration's position would be that we'd have to get a consensus of permission from the international community before we'd act, but that we wouldn't have to get specific statutory authority from Congress before we would act?

**Panetta:** Well, I think in that situation, if the international action is taken pursuant to a Security Council resolution or under our treaty obligations with regards to NATO, that obviously we would participate with the international community. But then ultimately, the Congress of the United States, pursuant to its powers of the purse, would be able to determine whether or not that action is appropriate or not.

### The Bottom Line

Contrary to what Panetta said, nowhere in the Constitution is there any provision giving the President the authority to override Congress's exclusive power to declare war, if some "vital interest" is at stake. Furthermore, Congress's so-called "power of the purse" is completely separate from the issue of Congress having the sole authority to declare war.

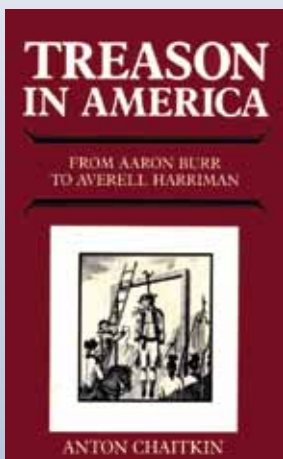
In effect, Panetta repeated his statement to Sessions, that if the President decided to go to war, as he did against Libya, on his own authority, he would do so. This makes him a clear and present danger to the maintenance of the U.S. Constitution, and he must be removed from office, Constitutionally, as soon as possible.

Passage of HCR 107 would put him immediately upon notice—while the impeachment proceedings begin.

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