

## Sen. Webb Challenges Obama War Policy

May 10—Virginia Democrat Sen. Jim Webb today moved to erect a U.S. Senate barricade against the British-Obama global war policy carried out under the guise of “humanitarian intervention” or “right to protect” (R2P); Lyndon LaRouche commented that Webb’s move has to be viewed as of a piece with Rep. Walter Jones’s actions in the House of Representatives (See Jones’s interview on The LaRouche Show, above.) A rapid build-up of support for both actions, together with the strong resistance of military leaders to the British war policy, could stop the threat of thermonuclear war.

Webb announced that he will introduce legislation to require Congressional approval before President Obama (or any President) could take military action for so-called “humanitarian interventions.” Webb’s release says, “The legislation would require the President to obtain formal approval by the Congress before using military force; would require that debate begin within days of such a request; and that a vote must proceed in a timely manner.”

A Washington source told *EIR* that a bipartisan group of Senators has been working with Webb on the bill for two weeks, as a potential war confrontation with Russia looms over the placement of a U.S. ballistic missile defense system in Eastern Europe, and over potential Mideast “triggers.” The Webb initiative has the potential to pass the Senate, the source said.

In the House, Representative Jones is organizing hard for his HCR 107, introduced March 7, which declares any new Presidential war action without Congressional authorization “an impeachable high crime and misdemeanor.”

### ‘A Bridge Too Far’

Webb insisted he was closing a dangerous “loop-hole in the interpretation of our Constitution. It will serve as a necessary safety net to protect the integrity and the intent of the Constitution itself. It will ensure that the Congress lives up not only to its prerogatives, which were so carefully laid out by our founding fathers, but also to its responsibilities.” Webb further explained in a floor speech, “One of our strongest adjustments from the British system was to ensure that no one person would have the power to commit the nation to military schemes that could not be justified by the interests and the security of the citizen.”

While Webb did not name President Obama, he attacked the British/Obama war on Libya as “potential harm to our Constitutional system itself.” “This administration conducted month after month of combat operations in Libya, with no American interests directly threatened and no clear treaty provisions in play. . . . The unprecedented—and quite frankly contorted—Constitutional logic used by this Administration to intervene in Libya on the basis of what can most kindly be called a United Nations standard of humanitarian intervention, was not even subject to full debate or a vote on the Senate floor.”

In his floor speech, Webb said, “This Administration’s argument that it has the authority to decide when



Jack Looney

*Sen. James Webb (D-Va.) has announced his intention to introduce legislation requiring that the President seek Congressional approval—as required by the Constitution—before he orders U.S. forces into war.*

and where to use military force without the consent of Congress, using the fragile logic of ‘humanitarian intervention,’ . . . is gravely dangerous. It is a bridge too far. It does not fit our history. To give one individual such discretion ridicules our Constitution.”

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## Documentation

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# Webb: Congress Must Approve Use of Force

*Here is Sen. James Webb’s speech on the floor of the U.S. Senate May 9, announcing his intention to introduce legislation requiring Congressional approval before the President could take military action for so-called “humanitarian interventions.”<sup>1</sup> Subheads have been added.*

I rise today to address perhaps the most important constitutional challenge facing the balance of power between the Presidency and the Congress in modern times, and also to offer a legislative solution that might finally address this paralysis.

It is an issue that has, for far too long, remained unresolved. And for the past ten years, the failure of this body to address it has diminished the respect, the stature, and the seriousness with which the American people have viewed the Congress—to the detriment of our country and our national security.

The question is simple: When should the President have the unilateral authority to decide to use military force, and what is the place of the Congress in that process? What has happened to reduce the role of the Congress from the body which once clearly decided whether or not the nation would go to war, to the point that we are viewed as little more than a rather mindless conduit that collects taxpayer dollars and dispenses them to the President for whatever military functions he decides to undertake?

We know what the Constitution says. Many of us also know the difficulties that have attended this situation in the years that followed World War II.

We are aware of the debates that resulted in the War Powers Resolution of nearly forty years ago, in the wake of the Vietnam War, where the Congress attempted to define a proper balance between the President and this legislative body. I have strong memories of the policy conflicts of that era, first as a Marine infantry officer who fought on the unforgiving battlefields of Vietnam on which more than 100,000 United States Marines were killed or wounded, and later as an ardent student of constitutional law during my time at the Georgetown University Law Center.

But it was in the decades following Vietnam that our constitutional process seems to have broken apart. Year by year, skirmish by skirmish, the role of the Congress in determining where the U.S. military would operate, and when the awesome power of our weapon systems would be unleashed, has diminished.

In the aftermath of the 9/11 attacks, especially with the advent of special operations forces and remote bombing capabilities, the Congress seems to have faded into operational irrelevance. Congressional consent is rarely discussed. The strongest debates surround the rather irrelevant issue of whether Congress has even been consulted. We have now reached the point that the unprecedented—and quite frankly contorted—constitutional logic used by this Administration to intervene in Libya on the basis of what can most kindly be called a United Nations standard of “humanitarian intervention,” was not even subject to full debate or a vote on the Senate floor. Such an omission, and the precedent it has set, now requires us to accept one of two uncomfortable alternatives. Either we as a legislative body must reject this passivity and live up to the standards and the expectations regarding Presidential power that were laid down so carefully by our Founding Fathers, or we must accept a redefinition of the very precepts upon which this government was founded.

This is not a political issue. We would be facing the exact same constitutional challenges no matter the party of the President. In fact, unless we resolve this matter, there is no doubt that we someday will.

### What the Constitution Says

The conflict in the balance of power between the President and the Congress has always been an intrinsic part of our constitutional makeup. Article I, Section 8 of the Constitution provides that the Congress alone has the power to declare war. Article II,

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1. A video of the speech is posted at <http://webb.senate.gov/>

Section 2 of the Constitution provides that the President shall serve as Commander in Chief. In the early days of our Republic these distinctions were clear, particularly since we retained no large standing army during peacetime, and since Article I, Section 8 also provides that the Congress has the power to “raise and support armies,” a phrase that expressed the clear intent of the framers that large ground forces were not to be kept during peacetime, but instead were to be raised at the direction of Congress during a time of war.

Our history confirms this, as our armies demobilized again and again once wars were completed. Only after World War II did this change, when our rather reluctant position as the world’s greatest guarantor of international stability required that we maintain a large standing military force, much of it in Europe and in Asia, ready to respond to crises whose immediacy could not otherwise allow us to go through the lengthy process of mobilization in order to raise an army, and because of that reality made the time-honored process of asking the Congress for a declaration of war in most cases obsolescent.

But any logical proposition can be carried to a ridiculous extreme. The fact that some military situations have required our Presidents to act immediately, before then reporting to the Congress, does not in and of itself give the President a blanket authority to use military force whenever and wherever he decides to, even where Americans are not personally at risk, and even where the vital interests of our country have not been debated and clearly defined. This is the ridiculous extreme that we have now reached.

The world is filled with tyrants. Democratic systems are far and few between. I don’t know exactly what objective standard should be used before the United States government decides to conduct a “humanitarian intervention” by using our military power to address domestic tensions inside another country, and I don’t believe anyone else knows, either. But I will say this: No President should have the unilateral authority to make that decision, either.

I make this point from the perspective of someone who grew up in the military, and whose family has participated as citizen-soldiers in most of our country’s wars, beginning with the American Revolution. I was proud to serve as a Marine in Vietnam. I am equally proud of my son’s service as a Marine infantryman in

Iraq. I am also deeply grateful for having had the opportunity to serve five years in the Pentagon, one as a Marine, and four as Assistant Secretary of Defense and as Secretary of the Navy.

And I have benefited over the years from having served in many places around the world as a journalist, including in Beirut during our military engagement there in 1983, and in Afghanistan as an embedded journalist in 2004. As most people in this body know, I am one of the strongest proponents of the refocusing of our national involvement in East Asia, and was the original sponsor of the Senate resolution condemning China’s use of force with respect to sovereignty issues in the South China Sea.

The point is that I’m not advocating a retreat from anywhere. But this Administration’s argument that it has the authority to decide when and where to use military force without the consent of the Congress, using the fragile logic of “humanitarian intervention” to ostensibly redress domestic tensions inside countries where American interests are not being directly threatened, is gravely dangerous. It is a bridge too far. It does not fit our history. To give one individual such discretion ridicules our Constitution. It belittles the role of the Congress. And for anyone in this body to accept this rationale is also to accept that the Congress no longer has any direct role in the development, and particularly in the execution, of foreign policy.

### **Clear Boundaries**

There are clear and important boundaries that have always existed when considering a President’s authority to order our military into action without the immediate consent of the Congress. To exceed these boundaries—as the President has already done with the precedent set in Libya—is to deliberately destroy the balance of powers that were built so carefully into the Constitution itself.

*These historically acceptable conditions under which a President can unilaterally order the military into action are clear. If our country or our military forces are attacked; if an attack, including one by international terrorists, is imminent and must be pre-empted; if treaty commitments specifically compel us to respond to attacks on our allies; if American citizens are detained or threatened; if our sea lanes are interrupted, then—and only then—*

*should the President order the use of military force without first gaining the approval of the Congress [emphasis added].*

At least until recent months, the Congress has never accepted that the President owns the unilateral discretion to initiate combat activities without direct provocation, without Americans at risk, without the obligations of treaty commitments, and without the consent of the Congress. The recent actions by this Administration, beginning with the months-long intervention in Libya, should give us all grounds for concern and alarm about the potential harm to our constitutional system itself. We are in no sense compelled—or justified—in taking action based on a vote in the United Nations, or as the result of a decision made by a collective security agreement such as NATO when none of its members have been attacked. It is not the prerogative of the President to decide to commit our military and our prestige into situations that cannot clearly be determined to flow from vital national interests.

Who should decide that? I can't personally and conclusively define the boundaries of what is being called a "humanitarian intervention." Most importantly, neither can anybody else. Where should it apply? Where should it not? Rwanda? Libya? Syria? Venezuela? Bangladesh? In the absence of a clear determination by our time-honored constitutional process, who should decide where our young men and women, and our national treasure, should be risked? Some of these endeavors may be justified, some may not. But the most important point to be made is that in our system, no one person should have the power to inject the United States military, and the prestige of our nation, into such circumstances.

Our Constitution was founded upon this hesitation. We inherited our system from Great Britain, but we adapted and changed it for a reason. *One of our strongest adjustments from the British system was to ensure that no one person would have the power to commit the nation to military schemes that could not be justified by the interests and the security of the average citizen [emphasis added].* President after President, beginning with George Washington, has emphasized the importance of this fundamental principle to the stability of our political system, and to the integrity of our country in the international community. The fact that the leadership of our Congress has failed to raise

this historic standard in the past few years, and most specifically in Libya, is a warning sign to this body that it must reaffirm one of its most solemn responsibilities.

## **A Legislative Solution**

I have been working for several months to construct a legislative solution to this paralysis. This legislation would recognize that modern circumstances require an adroit approach to the manner in which our foreign policy is now being implemented. But it would also put necessary and proper boundaries around a President's discretion when it comes to so-called humanitarian interventions, where we and our people are not being directly threatened. My legislation requires that in any situation where American interests are not directly threatened, the President must obtain formal approval by the Congress before introducing American military force. This legislation will also provide that debate on such a request must begin within days of the request, and that a vote must proceed in a timely manner.

I would remind the leadership on both sides of this body that despite repeated calls from myself and other Senators, when this Administration conducted month after month of combat operations in Libya, with no American interests directly threatened and no clear treaty provisions in play, the Congress of the United States, both Democrat and Republican, could not even bring itself to have a formal debate on whether the use of military force was appropriate, and this use of military force went on for months and was never approved. The Administration, which spent well over a billion dollars of taxpayer funds, dropped thousands of bombs on the country, and operated our military offshore for months, claimed that "combat" was not occurring, and rejected the notion that the War Powers Act applied to the situation.

I am not here to debate the War Powers Act. I am suggesting that other statutory language that covers these kinds of situations must be enacted. The legislation that I will be introducing will address this loophole in the interpretation of our Constitution. It will serve as a necessary safety net to protect the integrity and the intent of the Constitution itself. It will ensure that Congress lives up not only to its prerogatives, which were so carefully laid out by our Founding Fathers, but also to its responsibilities.