



Written by [Jack Kenny](#) on May 31, 2011

Congress Lets Obama Ignore War Powers Act in Libya

By all means let us continue to remember and honor our war dead, as many (though too few) did yesterday in observance of Memorial Day. Let us be grateful for our living veterans as well. Go ahead, thank a "vet" for his or her service. Let no one think that those of us who rail against unconstitutional wars and the pretenses for them do not appreciate those who stand ready to fight in the defense of our country.

Our men and women in the armed forces are citizens as well, and have at least as much right as the rest of us to their own opinions and beliefs as to the right or wrong of any of our far-flung military commitments. But as soldiers, sailors, airmen, or Marines, the decisions are not theirs. When they fulfill their duties honorably, we do not blame them for needless loss of life or violations of other people's territorial integrity in conflicts over which reasonable men and women may disagree.



But perhaps we should also pause from time to time to give such "honor" as is due to those who serve in the ranks of the mentally dead. Perhaps we should honor the Congress of the United States, that courageous group of men and women who are determined not to be defeated and who cannot be insulted. There are a few good members who actually use the intelligence God gave them in some semblance of right reason. But taken as a whole, the Congress of the United States is too damn dumb and ignorant to be insulted. Simply put, Congress as an institution is brain dead.

And when the intellect is dead, the will is impotent. Or might as well be. For Congress will not act if it sees no reason to act. And reason is as foreign to Congress as a Baptist revival meeting is to the holy land of Mecca. Congress is like a bad saloon. It is a place where reason goes to die.

There are many examples one could cite of the mental rigor mortis of which I speak, but one obvious example is the lack of response by the members to President Barack Obama's arrogant and insolent defiance of his requirement under the War Powers Resolution to report to Congress on the military action he and our NATO allies have initiated in Libya. The President can thumb his nose at Congress, he can tell Congress to drop dead, or he can simply ignore an act of Congress. All three have the same effect.

On Friday of last week, conveniently for the administration the eve of a long holiday weekend, the U.S. military action in Libya — by whatever euphemism the President and his fellow prevaricators wish to call that war-making — reached its 60th day. By that time the President is required under the War Powers Act to seek the approval of Congress for continuation of the mission, whatever it is, or withdraw



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the forces within the next 30 days. The President has not done the first and has shown no indication of doing the second.

To be sure, the United States does not have "boots on the ground" in Libya — not that we know of, anyway. But planes flying overhead and dropping bombs are military forces. So are the ships enforcing a blockade. In the absence of an attack or threat of imminent attack on the United States and the urgent need to deter or repel such an attack, [the President had no right to launch the attacks on Libya without Congressional authorization](#) in the first place. That is the plain, unvarnished meaning of the power "to declare war," assigned to Congress in Article I, Section 8 of the Constitution of the United States, as made clear by the records of the Constitutional Convention and the essays bound together in the *Federalist Papers*, which were originally newspapers articles, written by three of the Founders, to explain the new Constitution to the reading public.

Congress was never even asked to authorize the military actions, which include the enforcement of a no-fly zone, bombing raids, and a naval blockade, all ostensibly to protect civilians — although "mission creep" appears to have added "regime change" to the ambitious, imperial agenda, as President Obama, acting in his role as ruler of all the nations (and perhaps all the planets as well) has been demanding that Moammar Gadhafi step down as head of that war-torn nation. Now the Libyan dictator has no fans here, but if the United States is going to intervene wherever and whenever a despot is beastly to the people in his land, Congress should at least have some say in the matter. In fact, the decision belongs to Congress. The President may propose, but Congress must dispose of such a request.

In the Senate, freshman [Rand Paul of Kentucky has led the effort to force the President's hand on compliance with the War Powers legislation](#). "Friday is the final day of the statutory sixty-day period for you to terminate the use of the United States Armed Forces under the War Powers Resolution," Paul said in a letter he and five other Republican members of the Senate sent to the President last week. "As recently as last week your administration indicated use of the United States Armed Forces will continue indefinitely." Senators Mike Lee of Utah, Jim DeMint of South Carolina, Ron Johnson of Wisconsin, Tom Coburn of Oklahoma, and John Cornyn of Texas were the other signers. The action is commendable on the part of the six, but where are the other 94 members of the U.S. Senate? And it is interesting that not one Democrat either signed that letter or sent a similar one, since the Democrats are still the majority in the upper chamber and the War Powers Act was passed by a Democratic Congress in 1973 in response to secret military campaigns being run by President Richard Nixon in Laos and Cambodia.

There was no response from the White House, but to be fair, the President of all the people and all the planets has been busy traveling abroad during the past week and probably has not had time to obey the law, especially one that inhibits his vast and ever expanding powers. Never mind that he is charged by the very Constitution he has sworn to "preserve, protect and defend" with the solemn duty "to take Care that the laws be faithfully executed..." (Article II, Section 3.) But he has aides and advisers to explain away such things.

"The U.S. role is one of support" of the NATO mission and "the kinetic pieces of that are intermittent," an advisor informed [ABC News](#). Oh. Well, that explains everything, right?

Both the Framers of the Constitution in 1787 and the Congress that passed the War Powers Act in 1973 forgot to write in the exceptions for "kinetic pieces" of "intermittent" military actions. One wonders, though. Perhaps the bombing is intermittent, but the sea blockade? Isn't that ongoing? And is it not true that absent our "support" role and leadership of the campaign, there would likely be no NATO mission in or around or over Libya?



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So what did the Congress do? Well, it sat in the corner, wearing its congressional dunce cap and apparently didn't know what do, except to go home for the holiday weekend, march in Memorial Day parades, and tell their constituents how hard they are working for them and what a wonderful job they are doing of protecting us all. Come on now, admit it. When was the last time you saw an al Qaeda or Taliban terrorist in your neighborhood?

To call the Congress cowardly would be a slur on honest cowards, some of whom really are hardworking. The Congress allows the Supreme Court to dictate the "supreme law of the land" and allows the chief executive to usurp the powers of Congress under the same Constitution all are sworn to uphold. For what Arthur Schlesinger wrote in *The Imperial Presidency* a few decades ago is no less true today: The erosion of the authority of the legislative branch has been ["as much a matter of congressional abdication as presidential usurpation."](#)

Uh, "usurpation"? Gee, what does that mean? And if Congress were to abdicate, how could we tell? No, they don't abdicate, they just recess a lot and go off for long weekends. Long before the Memorial Day weekend even arrived, members of the House of the Howling Hypocrites had gone their merry ways. Asked if Speaker John Boehner believes the President needs congressional approval for continued military strikes on Libya, spokesman Michael "Stainless" Steel responded with a terse non-answer.

"The House is not in session this week," he said.

For all the good it does, it might as well never be.



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