



Written by [Jack Kenny](#) on September 21, 2013

Ex-Defense Chiefs Say Obama Can Strike Syria Without OK From Congress

Former defense secretaries Leon Panetta (left, in photo) and Robert Gates (right) disagreed this week on whether President Obama should launch a military strike against Syria. The ex-Pentagon chiefs agreed, however, that the president does not need authorization from Congress to take that action — despite the fact that the U.S. Constitution delegates to Congress the power to declare war.



As [reported](#) in the *New York Times*, the two men appeared together Tuesday night at a conference at Southern Methodist University in Dallas, Texas, where they discussed the growing tension between Washington and Damascus over reports last month that chemical weapons were used by government forces in Syria against rebels fighting to overthrow the Bashar al-Assad regime. Syria's civil war, now in its third year, is said to have killed more than 100,000 people, including the more than 1,400 reported dead from a sarin gas attack on August 21. More than 400 children were reported dead from the attack.

Obama, who said a year ago that a resort to chemical weapons by the Assad regime would cross a "red line," resulting in serious consequences, has since asked the Congress to authorize the use of military force. That was a mistake, said Panetta, who served as Obama's defense chief from July 1, 2011 to February 27 of this year. He argued that for the president to fail to follow through on the promised retaliation would make the United States appear weak in the eyes of other nations.

"Iran is paying very close attention to what we're doing," Panetta said, alluding to a long-standing dispute between Washington and Tehran over Iran's nuclear program. "There's no question in my mind they're looking at the situation, and what they are seeing right now is an element of weakness." He said the president "has to retain the responsibility and the authority on this issue," and that it was wrong to, in Panetta's word, "subcontract" the decision to Congress. "Mr. President, this Congress has a hard time agreeing as to what the time of day is," he said.

Gates served as defense secretary in the second term of President George W. Bush and for the first year and a half of the Obama administration. His opinion of the proposed military action against Syria was in sharp contrast to that of his predecessor.

"My bottom line is that I believe that to blow a bunch of stuff up over a couple days, to underscore or validate a point or a principle, is not a strategy," Gates said. "If we launch a military attack, in the eyes of a lot of people we become the villain instead of Assad." The attack would be akin to "throwing gasoline on a very complex fire in the Middle East," he said. The only member of the Bush cabinet to have also served under Obama, Gates called into question military decisions made by both presidents.

"Haven't Iraq, Afghanistan and Libya taught us something about the unintended consequences of military action once it's launched?" he asked.

Obama in 2011 had the U.S. leading a NATO air war against government forces in Libya in support of the insurgents in that country, who succeeded in overthrowing the dictator Moammar Gaddafi.



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Militants in Libya later turned their fire on the United States, however, launching the September 11, 2012 attack on a U.S. diplomatic outpost in Benghazi that killed four Americans, including the U.S. ambassador to Libya. Numerous reports of the presence al-Qaeda and other radical Muslim fighters among the Syrian rebels have led some critics of the Obama policy to argue that support for the insurgency might come back to haunt the United States and its allies.

Obama neither sought nor received any authorization from Congress for the action in Libya, and Gates, who was defense secretary then, believes it was a mistake for Obama to ask Congress for authority for an attack on Syria. It would make both the president and the country look weak, he said, if Congress were to vote down the request.

"It would weaken our country. It would weaken us in the eyes of our allies, as well as our adversaries around the world," Gates said.

When a similar request by British Prime Minister David Cameron was voted down in the House of Commons, Cameron abandoned the idea of committing military forces of the United Kingdom to an attack on Syria. Apparently the Prime Minister of Great Britain has more respect for the principles embedded in the [Constitution of the United States](#) than some former and current U.S. officials do. When that document was before the states for ratification, Alexander Hamilton, in [Federalist, No. 69](#), explained the meaning of the congressional power to declare war (and related powers, such as raising an Army and Navy), as stipulated in Article I, Section 8:

The President is to be commander-in-chief of the army and navy of the United States. In this respect his 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.

The "plain meaning" of the power to declare war, Hamilton would later [write](#), is that "it is the peculiar and exclusive province of Congress, when the nation is at peace, to change that state into a state of war; whether from calculations of policy or from provocations or injuries received: in other words, it belongs to Congress only, to go to War."

George Washington, who was not only the first president of the new nation, but president also of the Constitutional Convention, was of a similar mind. "The Constitution," he [wrote](#), "vests the power of declaring war with Congress; therefore no offensive expedition of importance can be undertaken until after they have deliberated on the subject, and authorized such a measure."

The word "offensive" in that statement is critical to a right understanding of the different war powers of the president and the Congress, as set forth in the Constitution. In the initial draft, the powers delegated to Congress included the authority to "make war." That raised the question, delegates to the convention realized, of how to defend the country against an unexpected attack, especially one that might come when the Congress is not in session. Thus the word "declare" was substituted for "make," leaving it clear that it was up to the president, as commander-in-chief, to direct a war declared by Congress or to ["repel a sudden attack"](#) in the absence of such a declaration.

James Madison, whose guiding mind and hand at the convention earned him the unofficial but widely respected title, "Father of the Constitution, [wrote the following](#) in 1793:

The power to declare war, including the power of judging the causes of war, is fully and exclusively



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vested in the legislature ... the executive has no right, in any case, to decide the question, whether there is or is not cause for declaring war.

Robert Gates and Leon Panetta both served their country honorably and conscientiously in difficult times. But both do a disservice to the Constitution to which they have sworn allegiance when they argue that the right to decide whether to wage war against another nation, one that has neither attacked us nor threatened our national security, belongs to the president and not the Congress. For the president to ask for authorization by the Congress is not, as Panetta describes it, a decision to “subcontract” the power to the legislative branch. It is to honor, however reluctantly on Obama’s part, the contract of liberty this nation founded long ago — the one that begins with “We the People....”

Photo of Leon Panetta (left) and Robert Gates: AP Images



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