

Congressmen Challenge Obama On Violating War Powers Act

by Nancy Spannaus

July 14—Representatives Jim McGovern (D-Mass.), Walter Jones (R-N.C.), and Barbara Lee (D-Calif.) introduced House Concurrent Resolution 105 on July 11, mandating that all U.S. troops be withdrawn from Iraq by the end of the year, except for those needed to defend U.S. diplomatic facilities and personnel. The resolution follows the submission of an open letter to Obama on June 24 by Representative Lee, co-signed by 80 Congressmen from both parties, insisting that the President respect the Constitution, and come to Congress before deciding on military action.

This action to reassert Congressional responsibility for the decision on going to war comes in the context of an increasingly heated debate on the question of the impeachment of President Obama. This discussion includes many other violations of the Constitution by the Obama Administration, one of which is the subject of the mooted lawsuit by House Speaker John Boehner (R-Ohio) against President Obama (see *Feature*).

The Resolution

H.Con.Res. 105 is entitled “Directing the President, pursuant to section 5(c) of the War Powers Resolution, to remove United States Armed Forces, other than Armed Forces required to protect United States diplomatic facilities and personnel, from Iraq.” It reads, in part:

“Pursuant to section 5(c) of the War Powers Resolution (50 U.S.C. 1544(c)), Congress directs the President to remove United States Armed Forces, other than

Armed Forces required to protect United States diplomatic facilities and personnel, from Iraq—(1) by no later than the end of the period of 30 days beginning on the day on which this concurrent resolution is adopted; or (2) if the President determines that it is not safe to remove such United States Armed Forces before the end of that period, by no later than December 31, 2014, or such earlier date as the President determines that the Armed Forces can safely be removed.”

The resolution was referred to the House Committee on Foreign Affairs for action.

In a speech on the House Floor, Representative McGovern announced the resolution, declaring that “we did this for a simple reason. Congress has the responsibility to authorize the introduction of American troops where hostilities are imminent...” (see *Documentation* below). McGovern made a point of the fact that this resolution, under the War Powers Act, has to be heard expeditiously, specifically, after the elapse of 15 calendar days.

Jones Joins In

Rep. Walter Jones posted a press release the same afternoon underscoring his reasons for joining McGovern’s resolution. Jones himself has introduced numerous resolutions asserting the necessity of Congress taking its responsibility, granted under the Constitution, for deciding on questions of war. In the Summer of 2011, he joined in a lawsuit filed by Rep. Dennis Kucinich (D-Ohio), which sought to stop Obama’s illegal

war on Libya, which lawsuit was thrown out by the judge with the argument that Congress had other remedies available—either refusing to fund the war, or moving for impeachment.

In January 2013, Jones introduced H.Res. 3, which expresses “the sense of Congress that the use of offensive military force by a President without prior and clear authorization of an Act of Congress constitutes an impeachable high crime and misdemeanor under article II, section 4 of the Constitution.” That resolution currently has five cosponsors: Dan Benishek (R-Mich.), Thomas Massie (R-Ky.), Tom McClintock (R-Calif.), Michael Michaud (D-Me.), and Steve Stockman (R-Tex.).

The resolution has languished in the Foreign Affairs Committee.

In a statement on H.Con.Res. 105 posted on his website July 11, Representative Jones noted that “the executive has an unfortunate history of ignoring the constitutional responsibility of Congress to authorize the use of our military. To put our men and women in uniform back into harm’s way without express approval from Congress is both unlawful and ignorant of our past experience wasting American lives and taxpayer dollars in an attempt to bring Iraq into a state of ‘stability’—a stability that has quickly disintegrated in the face of opposition from ISIS. I call on my colleagues in the House and Senate to support this effort in compliance with our congressional authority as dictated in the Constitution and the War Powers Resolution.”

Impeachment Is the Answer

Jones, unlike most other Congressmen, is not afraid to take on the question of impeaching the President—which is, in fact, the only action which would work to cripple his ability to get the nation into a devastating, perhaps thermonuclear war.

In an article posted by *Huffington Post* July 9, on responses to House Speaker John Boehner’s decision to eschew impeachment in favor of a lawsuit against Obama, Jones was clear: “Most of the conservatives down in my area would like to see impeachment brought to the floor for debate. I would rather have the option of



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Rep. Walter Jones

seeing a bill that deals with impeachment. I voted for Dennis Kucinich’s resolution to impeach George W. Bush.”

By contrast, the House Republican leadership has determined to pursue Boehner’s lawsuit against the President, on the narrow issue of whether the President violated the Constitution by unilaterally changing the so-called Affordable Care Act. Legislation authorizing the lawsuit has been filed with the Congress, and will be debated by the House Rules Committee

on July 16. After it is passed by the Committee, it will be forwarded to the full House for a vote. The plaintiff in the suit would be the House of Representatives itself.

The hearing before the Rules Committee will itself put the issue of Obama’s impeachment before the Congress and the American people. The Obama Administration announced on July 11 that two constitutional lawyers—Walter Dellinger and Simon Lazarus—would be testifying against the authorization to sue. The GOP will be presenting their constitutional law experts—Jonathan Turley and Elizabeth Price Foley—to argue that Obama has violated the Constitution and the lawsuit is appropriate. Turley has been outspoken that Obama has committed a wide range of impeachable crimes.

Turley, a constitutional law professor at George Washington University, was a panelist at a House Judiciary Committee hearing last December, on the question of the Obama Administration’s Executive overreach. At that time he argued, “When a President claims the inherent power of both legislation and enforcement, he becomes a virtual government unto himself. He is not simply posing a danger to the constitutional system, he becomes the very danger that the Constitution was designed to avoid.” Turley stressed that the U.S. Constitution was designed to thwart the “royal prerogative” exercised by King James I. “If this trend continues unabated, Congress will be left like some Maginot Line on the constitutional landscape—a sad relic of a once tripartite system of equal branches.”

And the remedy put in the Constitution for such behavior is clear: impeachment.

McGovern: Pull All Troops Out of Iraq

Rep. Jim McGovern (D-Mass.) gave this speech on the House Floor on July 11. It is also available as a video and press release on his website (<http://mcgovern.house.gov/>).

Mr. Speaker, I join today with Representatives Walter Jones and Barbara Lee to introduce a privileged resolution, H. Con. Res. 105, to direct the President to remove U.S. troops from Iraq within 30 days, or no later than the end of this year, except for those troops needed to protect U.S. diplomatic facilities and personnel.

We did this for a simple reason. Congress has the responsibility to authorize the introduction of American troops where hostilities are imminent. In less than 3 weeks, in three separate deployments, the U.S. has sent at least 775 additional troops to Iraq.

Now is the time for Congress to debate the merits of our military involvement in this latest Iraq conflict. Openly. Transparently. Do we approve of these deployments and any future escalation? If so, we should vote to authorize it. If we do not support it, then we should bring our troops back home.

It's that simple, Mr. Speaker. Congress has the responsibility to act on Iraq. Now.

Mr. Speaker, we did not introduce this privileged resolution lightly. By doing so, we have started a process to hold a debate on our engagement in Iraq later this month. We are using the special procedures outlined under the

War Powers Resolution. While this is an imperfect tool, it requires the House to take up this bill after 15 calendar days.

Like most of my colleagues, I would prefer for this House to bring up a bill authorizing our engagement in Iraq. And nothing in this resolution inhibits such important legislation from being drafted and brought before this House for debate and a clean up-or-down vote. Frankly, I wish that were happening. But I have not heard that such authorization is even under discussion, let alone being prepared for debate.

So, my colleagues and I are introducing this concurrent resolution because we strongly believe Congress has to step up to the plate and carry out its responsibilities when our servicemen and women are, once again, being sent into harms way.

The time for that debate is now.

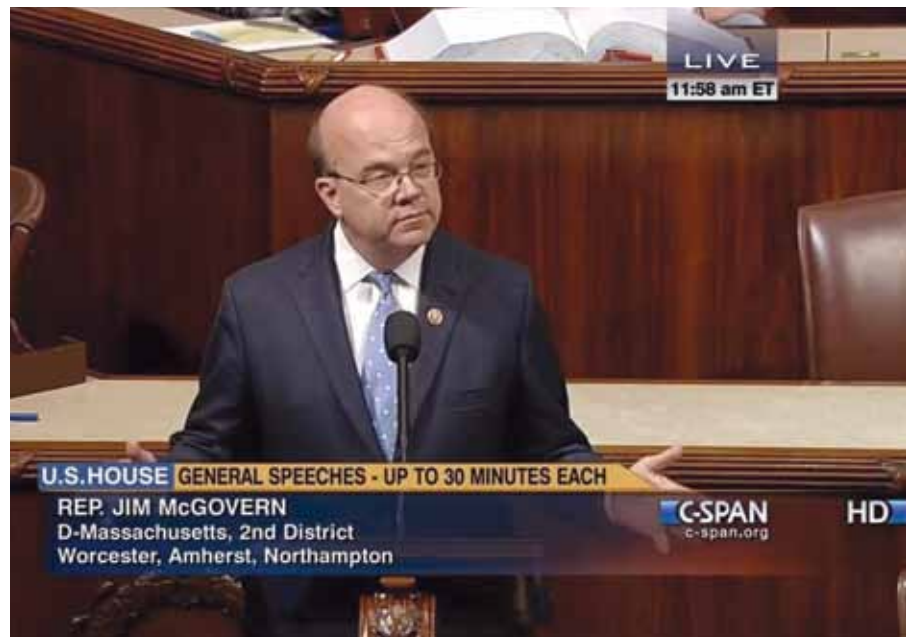
Not when the first body bag comes home from Iraq.

Not when the first U.S. airstrikes or bombs fall on Iraq.

Not when we are embedded with Iraqi troops trying to take back an ISIS-held town.

And, worst case scenario, not when our troops are shooting their way out of an overtaken Baghdad.

Now, Mr. Speaker, is the time to debate our new en-



Rep. Jim McGovern introduces H. Con. Res. 105 on July 11, calling for removal of U.S. troops from Iraq.

agement in Iraq. Before the heat of the moment. When we can weigh the pros and cons of supporting the Maliki government, or whatever government is cobbled together should Maliki be forced to step down.

Now, before we are forced to take sides in a religious and sectarian war.

Now, before the next addition of more troops takes place—and make no mistake, I firmly believe we will continue to send more troops and more military assets into this crisis.

Now, Mr. Speaker, before we are forced to fire our first shots or drop our first bombs.

Now, Mr. Speaker, is when the House should debate and vote on this very serious matter.

For those who say it is too early, too premature for this debate, I respectfully disagree. The longer we put off carrying out our Constitutional responsibilities, the easier it becomes to just drift along. This is what Congress has done over and over and it has to end, Mr. Speaker. Congress must speak, and Congress must act.

This resolution, should it pass the House, would direct the President to bring our troops home from Iraq within 30 days, or should that pose security questions, no later than by the end of this year, nearly 6 months

from now.

It would NOT require those troops that have been deployed to safeguard the security of our diplomatic facilities and personnel from withdrawing. They could remain and carry out their crucial roles of protecting our civilian personnel on-the-ground in Iraq.

This is why we need to take up this resolution later this month, debate our military engagement in this latest war in Iraq, and have a clean vote on this resolution, up-or-down, about whether we stay in Iraq or whether we bring our troops home.

We owe this much to our troops and their families.

We owe this much to the American people.

And we owe at least this much to our own democracy and democratic institutions that require Congress to be the final arbiter on whether our troops are sent into hostilities abroad.

I ask my colleagues to join Representatives Jones, Lee, and me as cosponsors of H. Con. Res. 105. I look forward to debating the merits of the Iraq war later this month and voting on whether our troops should stay or leave Iraq.

U.S. Reps. Walter Jones (R-NC) and Barbara Lee (D-CA) are co-sponsors of the bill.

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