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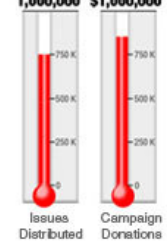
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By: Congresswoman Helen Chenoweth

April 26, 1999

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### Congress must reclaim its authority

When the order was given for American military personnel to attack Yugoslavia, it was not issued following a declaration of war from Congress. Nor was the order given by the President as a means of repelling a sudden attack on America by a foreign aggressor, or as a measure intended to rescue Americans abroad from unexpected peril. In fact, the order to attack Yugoslavia didn't even follow the pattern set in Korea and Vietnam, in which our nation was committed to protracted foreign wars through unilateral presidential action. On March 23rd, the order to commence hostilities was given to an American general by a Spanish Marxist — NATO Secretary-General Javier Solana.

"I have just directed the Supreme Allied Commander of Europe, General [Wesley] Clark, to initiate air operations in the Federal Republic of Yugoslavia," announced Solana, who insisted that the attack "is intended to support the political aims of the international community." Congress played no role in defining those political aims, which means that the American people — in whose name Congress is empowered to act — were not permitted to play any role in the decision to commit our nation to war.

In the run-up to our war with Yugoslavia, Congress was permitted by its leaders to carry out an impotent charade of debate. On March 11th, the House approved a non-binding resolution endorsing the use of American troops to enforce a peace agreement between the Yugoslav regime of Slobodan Milosevic and secessionist leaders in Yugoslavia's Kosovo province. On March 23rd, just hours before Solana issued the order to begin the bombing, the Senate approved a resolution supporting the military campaign. But Clinton Administration officials, including the President, had by that time made it clear that while they sought *approval* of the military action from Congress, they did not consider it necessary for Congress to *authorize* the military strike on Yugoslavia.

A few senators seemed to understand the constitutional implications of these actions. Senator Don Nickles (R-OK) pointed out, "If we start a massive bombing campaign, we're going to war." Senator Ted Stevens (R-AK) described the prospect of waging an undeclared aggressive war upon Yugoslavia as "a precedent I don't want to be involved in." Even more pointed were the comments of Senator Pete Domenici (R-NM). "I say shame on the President," declared Domenici, momentarily forgetting that Bill Clinton has repeatedly demonstrated that he is incapable of shame. "If this is such an important matter, why couldn't [the President] trust the United States Senate and United States House and ask us whether we concur?"

In order to appreciate the depth of the Administration's deception regarding the war over Kosovo, it is necessary to understand that the war was "authorized" by NATO long before the bombing began on March 24th. The day after the war began, the *London Telegraph* reported that General Clark, NATO's supreme military commander, "received his activation order for hostilities last October. The order was the official moment when authority over the forces to be used was transferred to him from the top brass of the member countries supplying them. The supreme commander *does not need new permission* from politicians or diplomats whenever he wishes to change tactics, or increase or scale back operations." (Emphasis added.)

At 1:43 P.M. Eastern Standard Time on March 24th, with American bombers en route to Yugoslavia and just minutes before the first explosions were reported on the ground in Kosovo, White House spokesman Joe Lockhart explicitly admitted that the power to take our nation into war had been surrendered to a foreign official — namely, the NATO Secretary-General. Lockhart was asked by correspondent Helen Thomas, "Who gives the green light on this now? Is it the President himself, or the Supreme Commander of NATO...?" Lockhart replied, "The Supreme Commander of NATO acts on the authority of the political leaders of the NATO countries, and he has that authority."

In brief, the power to declare war in Kosovo was exercised by NATO Secretary-General Solana; the power to make war was given to NATO's Supreme Commander; the President of the United States played the role of "selling" the war to the public, and Congress was tacitly told that its duty was to rubber-stamp the decision to take our nation into war, and to authorize payment of the resulting expenses.

"No power but Congress can declare war," observed Daniel Webster in 1846, "but what is the value of this constitutional provision, if the President of his own authority may make such military movements as must bring on war?" The Administration's actions in committing our country to enforce, through military action, diplomatic initiatives in Kosovo presented Congress with a *fait accompli*. The only recourse left to Congress was to defund military deployments to which

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war is particularly galling in light of the fact that the same body impeached him last December for much less serious crimes.

Under the Constitution, explained Alexander Hamilton, "It is the province and duty of the Executive to preserve to the Nation the blessings of peace. The Legislature alone can interrupt those blessings, by placing the Nation in a state of War." By surrendering to a series of executive usurpations (those of Bill Clinton being the most brazen), Congress has abandoned the separation of powers and embraced in its place a version of *fuehrerprinzip* — the "leader principle" — in which Congress meekly endorses the decisions of an imperial "commander-in-chief."

"Kings had always been involving and impoverishing their people in wars, pretending generally, if not always, that the good of the people was the object," wrote Abraham Lincoln in 1848. The royal war-making prerogative, which permitted one man to commit his country to war, was regarded by our Founding Fathers "to be the most oppressive of all Kingly oppressions," Lincoln explained. For this reason, the statesmen who gathered at the Constitutional Convention of 1787 "resolved to so frame the Constitution that no one man should hold the power of bringing this oppression upon us."

James Madison's notes on the Convention record the care with which the Founders assigned the power to declare war to the legislative branch. This was done, as George Mason of Virginia noted, for the purpose of "clogging rather than facilitating war." At the initiative of Madison and Elbridge Gerry, the original language authorizing Congress to "make" war was changed to the power to "declare" war, thereby (in Madison's words) "leaving to the Executive the power to repel sudden attacks."

In an April 2, 1798 letter to Thomas Jefferson, Madison further elucidated the reasoning behind this careful assignment of powers. "The constitution supposes, what the History of all [governments] demonstrates, that the [executive] is the branch of power most interested in war, and most prone to it. It has accordingly, with studied care, vested the question of war in the legislature."

Alexander Hamilton, who favored a strong Executive branch, observed in *The Federalist*, No. 69: "The President is to be commander-in-chief of the army and navy of the United States. In this respect, his authority would *nominally* be the same with that of the king of Great Britain, *but in substance much inferior to it.*" (Emphasis added.) Where the power of the English king "extends to the *declaring* of war and to the *raising* and *regulating* of fleets and armies," Hamilton explained, the authority of the U.S. President "amounts to nothing more than the supreme command and direction of the land and naval forces, as first general and admiral" after the declaration of war has been issued by Congress.

The text of the Constitution itself (Article II, Section 2) specifies, "The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States...." In other words, "Commander in Chief" describes a specific and limited role played by the President. Rather than Congress having a Commander in Chief before which it must prostrate itself, it has in the President an executive it may entrust with delegated war-making authority.

It bears repeating that in the Kosovo war, the role of commander in chief, by the Administration's own admission, has been assigned to NATO's Supreme Commander, who exercises (in Hamilton's words) "the supreme command and direction of the land and naval forces" called into service by Secretary-General Solana. Perhaps, given Mr. Clinton's own history of "loathing" for the military, personal cowardice, and bottomless corruption, it is of benefit to the morale of American servicemen fighting in Yugoslavia to know that it is General Clark who serves as their commander in chief. Nevertheless, this arrangement gravely undermines the constitutional mechanisms designed to protect our liberties and national sovereignty.

In my remarks to the House of Representatives during the March 11th debate, I reminded my colleagues that nothing in the laws or the Constitution suggests that a determination by the United Nations Security Council or by the North Atlantic Council (NATO's governing political body) is a substitute for a congressional declaration of war. Furthermore, by making war on a sovereign nation, NATO acted in violation of both its own charter and that of the United Nations.

The North Atlantic Treaty states that NATO will "refrain in [its] international relations from the threat or use of force in any manner inconsistent with the purposes of the United Nations." The document specifies that NATO was created to defend "the territorial integrity, political independence or security" of its members in exercising the right of "collective self-defense recognized by Article 51 of the Charter of the United Nations." Whatever one thinks of the actions of the Milosevic regime in suppressing a secessionist movement within its own borders, it must be admitted that the Yugoslav regime did nothing to threaten the "integrity, political independence or security" of NATO members. Thus NATO's attack on that regime violated the alliance's founding treaty.

Furthermore, NATO's commitment to act in harmony with "the purposes of the United Nations" requires that the alliance be bound by the UN Charter. Article 2,

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section 7 of the UN Charter states, "Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the national jurisdiction of any state, or to compel the execution of any of its obligations." The Albanian secessionist movement is clearly within the jurisdiction.

Under the precedent set in the Kosovo war, America may find itself committed to military intervention in ethnic conflicts around the world. Should we attack Turkey to protect the Kurds, who chafe under Turkish rule? Should we go to war with China in support of independence-minded Tibet? Will U.S. planes attack Sri Lanka in defense of Tamil separatists, or bomb targets in India on behalf of Muslims in Kashmir? The logic of the Kosovo precedent dictates that U.S. troops can be committed to war, without congressional sanction, anywhere in the world where atrocities are captured by the camera lens.

The war on Yugoslavia, we must remember, was brought about by NATO's demand that Milosevic consent to the foreign occupation of his country by an international army, which would enforce the terms of an agreement intended to grant "autonomy" to ethnic Albanian rebels. When Milosevic refused to permit the occupation, NATO threatened to bomb his country, and ultimately carried out that threat. Once again, the Clinton Administration has been devastatingly candid about key facts. On February 10th, in testimony before the Committee on International Relations, Under Secretary of State for Political Affairs Thomas Pickering confirmed that Kosovo is part of Yugoslavia's sovereign territory, and that an attack upon Yugoslavia waged because of Milosevic's refusal to allow foreign intervention would be nothing less than an act of war.

It is a remarkable spectacle to see the Clinton Administration and NATO taking over from the Soviet Union the role of sponsoring "wars of national liberation." More remarkable still, and even more unsettling, is the fact that the beneficiary in the case of Kosovo — the so-called Kosovo Liberation Army (KLA) — is a collection of Maoist drug-peddlers and terrorists who have been armed by Iran and provided with training and support by Saudi terrorist financier Osama bin Ladin, who is the world's most notorious sponsor of international terrorism.

When Bill Clinton, in an earlier crime against the Constitution, unilaterally launched missile strikes on Afghanistan and Sudan, he claimed that his target was the terrorist network operated by bin Ladin. However, in Kosovo, Bill Clinton has committed America's military might to the support of bin Ladin's Balkan allies, and the policy of the Clinton Administration seeks the creation of a Balkan outpost for bin Ladin's terrorist network.

THE NEW AMERICAN was the first national publication in this country to document the KLA's narco-terrorist background ("Diving Into the Kosovo Quagmire," March 15th issue), and I made this magazine's findings available to many of my colleagues on Capitol Hill. Although few U.S. publications have looked into the KLA's role in international narco-terrorism, the *Times* of London for March 24th, in a story published just before NATO commenced airstrikes upon Yugoslavia, reported that the KLA, in "the judgment of senior police officers across Europe," is "a Marxist-led force funded by dubious sources, including drug money." Police forces in three Western European countries, together with Europol, "are separately investigating growing evidence that drug money is funding the KLA's leap from obscurity to power," continued the report.

A report filed on the same day by Steve Rodan of the *World Tribune* described how an "autonomous" Kosovo under KLA control could serve as a springboard for Iranian sponsored terrorism throughout Europe and beyond. According to Western European security experts, wrote Rodan, "Iran, Saudi Arabia and some of their terrorist beneficiaries have exploited the fighting to establish a sphere of influence that spans from Greece to the Austrian border." NATO's willingness to go to war on behalf of Muslim ethnic Albanians in Kosovo could ignite insurrections across Europe, to which the KLA's terrorist sponsors would eagerly lend support. "The concern of European strategists is that an Iranian sphere of influence would do greater damage to such Western countries as Britain, France and Germany," reported Rodan. "France has about two million Muslims, most of them poor and alienated. Britain has about 1.5 million." A European diplomat told Rodan, "Once these minorities feel that they can obtain the support of NATO, we could see flare-ups everywhere."

We could see "flare-ups" within our own nation as well — and the Kosovo precedent would justify military intervention by the "international community" to settle such conflicts within our own borders. Consider the case of the southwestern United States, a region referred to as "Aztlán," the mythical homeland of the Aztecs, by such militant groups as the "Brown Berets." Aztlán radicals have announced their intention to conduct *la reconquista* — the re-conquest — of that region through unrestrained illegal immigration, as well as subversion and violence. It is not difficult to foresee a future scenario in which the "international community" authorizes the use of military force in support of "autonomy" for Aztlán, in the same way that the war in Yugoslavia was launched in support of "autonomy" for an Albanian Muslim-dominated Kosovo.

Had Congress performed its constitutional duty, all of these facts would have been rigorously examined before our nation found itself committed to an illegal war in Yugoslavia. We would have demanded that the President make his best case to the people's representatives in a formal request for a declaration of war. This would have given us the opportunity to require that he defend an alliance with

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drug-dealing Marxists bent upon pre-emptive terrorism throughout Europe. We are unwilling to exercise a check on presidential ambitions by withdrawing provisioned military deployment, in any fashion, about the unconstitutional arrangement.

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declare war was delegated to a Spanish Marxist, and the power to make war was assigned to NATO's military commander. Had we acted with statesman-like deliberation, we would have soberly discussed and contemplated the implications of the Kosovo precedent for our nation's future.

It was our duty to do all of this before deciding whether or not to interrupt "the blessings of peace ... by placing the Nation in a State of War." Instead, Congress submitted to the usurpations of a corrupt, impeached President, and made itself complicit in his crimes against our Constitution and our national sovereignty.

Congress can reclaim the powers it has surrendered. Indeed it must, if our descent into tyranny and the erosion of our sovereignty are to be arrested. But this will not happen until a critical mass of public understanding is reached, and informed pressure is brought to bear. The actions of an imperial President can, as Lincoln warned, "bring this oppression upon us" — but only if, through our indifference, we allow those malign designs to flourish.

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