Thank you, Chairman Ros-Lehtinen, and committee

members for holding this hearing and inviting me to testify on this

important and timely topic. It’s an honor to be here.

The Constitution vests Congress with the power to declare war.

We are at war in Libya. Either Congress must authorize our

strikes against Libya, or Congress must withdraw the use of force.

What Congress cannot do is to continue standing by idly as our

constitutional war powers are disregarded.

The founders distributed the decision to go to war between the

two political branches to assure that the decision will be made

carefully. The founding generation experienced the hardship of several

wars, and they knew wars’ human and financial costs. They

understood that a strong Executive, who is already given the title

Commander-in-Chief, might flex the country’s military strength injudiciously.

Giving Congress the essential power to declare war allows heads

to cool, alternatives to be considered, and makes certain there is

consensus if the country is called to fight.

If Congress’ authority to declare war has any content, at minimum

it must prevent the Executive from starting an offensive war

without Congress’ consent.

President Obama once held this view. As a candidate, he told the

Boston Globe, ‘‘The President does not have power under the Constitution

to unilaterally authorize a military attack in a situation

that does not involve stopping an actual or imminent threat to the

nation.’’

In 1973, Congress codified this constitutional understanding in

the War Powers Resolution. The law allows the President to introduce

the armed forces into hostilities in only three circumstances

pursuant to (1) a declaration of war; (2) specific statutory authorization,

or (3) a national emergency created by attack upon the

United States, its territories or possessions, or its armed forces.

Congress has not declared war or authorized use of force against

Libya. And, of course, Libya has not attacked us. The undeniable

conclusion is that the President is breaking the law by continuing

the unilateral offensive war against Libya.

The administration has tried to paper over its legal actions by

first consulting with Congress. The War Powers Resolution does require

the President to consult with Congress in every possible instance

before introducing the armed forces into hostilities, and regularly

during a military engagement.

I appreciate consultations as much as the next Member of Congress,

but letters and phone calls from the White House cannot

substitute for the constitutional requirement that Congress act.

With pressure from the public and some Members of Congress

building, the President signaled on Friday that he now supports

Congress’ authorizing the war.

Anyone concerned about constitutional war powers should read

the President’s letter to Congress carefully. The President voiced

support for a Senate resolution on Libya that was not public at the

time. However, the President stated, ‘‘The purpose of the resolution

was to confirm that Congress supports the U.S. mission in Libya.’’

Congress has passed almost no legislation regarding Libya. We

have not even approved supplemental funding for the $1 billion

war, so I’m not sure why the President believes we merely should

confirm our support for the war.

Whether or not the President actually asked for authorization of

force, the larger question Congress must ask itself is, why have we

waited for the President’s request? The country has been at war for

67 days, and we have neither authorized force, nor ordered force

to be withdrawn. There is no greater sign that Congress’ constitutional

muscles have atrophied than the fact that we only became

interested in authorizing the war after the President told us to do

so.

I wrote H.R. 1212, the Reclaim Act, to require the President to

obtain Congress’ specific authorization before continuing military

action against Libya. My bill’s requirement of specific authorization

tracks language in the War Powers Resolution, and the Constitution’s

mandate that the legislature and Executive agree before the

country wages offensive war.

The President’s orders to strike Libya are outlawed by the War

Powers Resolution. His unilateral decision to take us to war violates

the Constitution. The tragedy for our system of self-government

would be if Congress continued to do nothing.

Pass the Reclaim Act to require the President to obtain congressional

authorization before continuing the strikes. Thank you.

[The prepared statement of Mr. Amash follows:]