I thank the Acting

President pro tempore.

Mr. President, our debate today

takes place in the context of deep economic

uncertainty at home, coupled

with extraordinary dangers overseas.

Our country is suffering from high unemployment,

with 9.1 percent of Americans

out of work—many for years. Our

national debt stands well above $14

trillion, and our credit rating is in

doubt. Gas prices are still near $4 a gallon

in many locations. The number of

Americans requiring food stamp assistance

has reached 45 million. Some businesses

are returning to profitability

but long-term economic growth is

threatened by numerous forces, including

the skyrocketing national debt, declining

home values, high energy costs,

and increased competition for export

markets.

Overseas, almost 100,000 American

military personnel are fighting a difficult

war in Afghanistan. More than

1,600 of our troops have been killed in

Afghanistan, with roughly 12,000

wounded. Meanwhile, we still have

46,000 troops in Iraq, a deployment that

has cost almost 4,500 American lives,

with more than 32,000 wounded. Our

troops have experienced multiple deployments

over the last 8 years that

have strained our Armed Forces. Tensions

on the Korean Peninsula are extremely

high, with no resolution to the

problem of North Korea’s nuclear program.

We continue to pursue international

support for steps that could

prevent Iran’s nuclear program from

producing a nuclear weapon. We remain

concerned about stability in

Pakistan and the security of that country’s

nuclear arsenal. We are attempting

to counter terrorist threats emanating

from Pakistan, East Africa,

Yemen, and many other locations.

Into this confluence of economic and

national security commitments, the

President has involved our Nation in a

civil war in Libya. We find ourselves in

a situation where Congress is debating

vast cuts in domestic programs to

make essential progress on the deficit,

even as President Obama has initiated

an expensive, open-ended military commitment

in a country that his Defense

Secretary said is not a vital interest.

Any Member who has been here to

witness the last 10 years should understand

that war is an inherently precarious

enterprise that is conducive to accidents,

unintended consequences, and

miscalculations. The last 10 years have

also illuminated clearly that initiating

wars and killing the enemy is far easier

than achieving political stability and

reconstructing a country when the

fighting is over.

This is why going to war should be

based on U.S. vital interests. It is also

why Congress has an essential role to

play in scrutinizing executive branch

rationalizations of wars and their ongoing

management. This holds true no

matter who is President or which war

is being fought.

The President stated he intervened in

Libya in conjunction with the international

community to save lives that

would have been lost had Qadhafi’s

forces been left unchecked. But saving

lives alone cannot be our standard for

using military force. There is no end to

the global humanitarian emergencies

in which U.S. military and economic

power might be devoted. Saying that

American military power in Libya is

morally justified is not the same as

saying it is wise. There are many other

questions that must be answered in a

disciplined examination of whether to

go to war.

The administration placed much

weight on expressions of approval by

the United Nations and the Arab

League. It is better to have international

support than not when considering

war. But neither of those institutions

is determinative to an assessment

of U.S. vital interests.

Even after Qadhafi leaves power, we

will be at risk of substantial costs. Already

NATO has called for a U.N.

peacekeeping force to be deployed on

the ground in Libya to help secure a

transitional government. As the largest

contributor to the United Nations,

the U.S. probably will bear a significant

share of that cost, even if no

American troops participate. What follows

Qadhafi’s regime will be a true nation-

building exercise. Despite massive

natural resources, Libya was a poor

and largely undeveloped country before

the first NATO bomb fell. We have been

assured that the Libyans will have the

financial resources to pay for this reconstruction

effort, but we have heard

this assurance before. We have had

ample experience during the last decade

with the difficulties of reconstructing

nations in which we have intervened.

In justifying our intervention in

Libya’s civil war, the President has

claimed that failure to do so would

have emboldened other dictators to resort

to violence in the face of popular

protests. At a minimum, the unfolding

tragedy in Syria is evidence that our

intervention in Libya has done little, if

anything, to deter such repression.

In fact, I think it is more likely that

dictators such as Bashar al-Assad have

learned the opposite lesson from the

Libyan example. That lesson is do not

let an opposition force gain control of

territory or the West might intervene

to protect it from the sky. Is this the

thinking behind the Syrian government’s

brutal military takeover of the

cities along its border with Turkey? At

the same time, our Libyan involvement

has made it more difficult to obtain

Security Council action of any sort,

even rhetorical, against the Syrian regime.

American intervention in Libya did

not come as a result of a disciplined assessment

of our vital interests or an

authorization debate in Congress. In

the broader strategic context that I

have described, a civil war in Libya is

not a priority that required American

military and economic investments. It

is an expensive diversion that leaves

the United States and our European allies

with fewer assets to respond to

other contingencies.

President Obama’s assertion that he

does not need a congressional authorization

to wage war in Libya represents

a serious setback to the constitutional

limits on Presidential war powers. Historians

will point out that this is not

the first time that a President has

gone to war unilaterally. But saying

that Presidents have exceeded their

constitutional authority before is little

comfort. Moreover, the Libya case is

the one most likely to be cited the next

time President Obama or a future

President chooses to take the country

to war without congressional approval.

Declarations of war are not anachronistic

exercises. They force the President

to submit his case for war to Congress

and the American public. They

allow for a robust debate to examine

that case, and they help gauge if there

is sufficient political support to commit

American blood and treasure. And

they define the role and strategy of the

United States. Neither U.N. Security

Council resolutions nor administration

briefings are a substitute for a declaration

of war or other deliberate authorizations

of military operations.

Actions leading up to the wars in

Iraq and Afghanistan at least acknowledged

that congressional authorization

was vital to initiating and conducting

war. Despite deep flaws in the process

of authorizing those wars, there was

recognition that both required a deliberate

affirmative vote by Congress.

During this debate there will be appeals

to set aside discussion of war

powers issues in favor of expressing

support for the military mission underway.

We will be asked to send a message

to Colonel Qadhafi, notwithstanding

our displeasure with President

Obama’s unilateralism.

I understand that one can be for the

Libya mission while simultaneously

being critical of the President’s failure

to involve Congress in his

decision making. But I also believe that

it would be difficult to render a judgment

on the Libya operation without

reference to the process failures that

have preceded this debate, for two reasons.

First, in the long run, the significance

of the war powers precedent created

by President Obama’s unilateral

intervention in Libya and his subsequent

rationalization for not needing

congressional authority may be far

more significant than the short term

geopolitical consequences of what happens

in Libya. Second, we are debating

an authorization that the President

has taken no affirmative action to

seek, that he asserts is not necessary

under the Constitution or the War

Powers Act, and that presumably will

have little impact on his actions.

Even if one believes that the President

somehow had the legal authority

to initiate and continue U.S. military

operations in Libya, it does not mean

that going to war without Congress

was either wise or helpful to the operation.

There was no good reason why

President Obama should have failed to

seek congressional authorization to go

to war in Libya. A few excuses have

been offered ranging from an impending

congressional recess to the authority

provided by U.N. Security Council

Resolution 1973. But these excuses do

not justify the President’s lack of constitutional

discipline. Twelve days before

the United States launched hostilities

I called for the President to

seek a declaration of war before taking

military action. The Arab League resolution,

which is cited as a key event in

calculations on the war, was passed a

full week before we started launching

cruise missiles. There was time to seek

congressional approval, and Congress

would have debated a war resolution if

the President had presented one.

That debate would not have been

easy. But Presidents should not be able

to avoid constitutional responsibilities

merely because engaging the people’s

representatives is inconvenient or uncertain.

If the outcome of a congressional

vote on war is in doubt, it is all

the more reason why a President

should seek a debate. If he does not, he

is taking the extraordinary position

that his plans for war are too important

to be upset by a disapproving vote

in Congress.

The Founders believed that Presidents

alone should not be trusted with

war making authority, and they constructed

checks against executive

unilateralism. James Madison, in a 1797

letter to Thomas Jefferson, stated,

‘‘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.’’

Clearly, there are circumstances

under which a President might be justified

in employing military force

without congressional authorization.

But as Senator JIM WEBB has pointed

out systematically, none of the reasons

apply to the Libyan case.

Our country was not attacked or

threatened with an attack. We weren’t

obligated under a treaty to defend the

Libyan people. We were not rescuing

Americans or launching a one-time punitive

retaliation. Nor did the operation

require surprise that would have

made a public debate impractical.

In this case, President Obama made a

deliberate decision not to seek a congressional

authorization of his action,

either before it commenced or during

the last 3 months. This was a fundamental

failure of leadership that

placed expedience above constitutional

responsibility.

Moreover, the highly dubious arguments

offered by the Obama administration

for not needing congressional

approval break new ground in justifying

a unilateral Presidential decision

to use force. The accrual of even more

war making authority in the hands of

the Executive is not in our country’s

best interest, especially at a time when

our Nation is deeply in debt and our

military is heavily committed overseas.

At the outset of the conflict, the

President asserted that U.S. military

operations in Libya would be ‘‘limited

in their nature, duration, and scope.’’

Three months later, these assurances

ring hollow. American and coalition

military activities have expanded to an

all but declared campaign to drive Qadhafi

from power. The administration

is unable to specify any applicable limits

to the duration of the operations.

And the scope has grown from efforts

to protect Libyan civilians under imminent

threat to obliterating Libya’s

military arsenal, command and control

structure, and leadership apparatus.

Most recently, the administration

has sought to avoid its obligations

under the War Powers resolution by

making the incredible assertion that

U.S. military operations in Libya do

not constitute hostilities, a view that

has been rejected by many supporters

of the war.

Let us be clear that we are deliberately

trying to overthrow the government

of Libya with military force.

We were instrumental in putting the

alliance together, we were the major

force behind the U.N. resolution authorizing

the war, we set the table for

the NATO operation through an intensive

bombing campaign to open the

war, our planes and drones continue to

bomb Libya, and most missions flown

by allied pilots are dependent on the

intelligence and refueling capabilities

that we are providing. The means that

we are using to overthrow the Libyan

government are limited in the sense

that we could be applying more military

force to the task, but the goal of

the operation is not limited. We are

using military force to achieve regime

change. Defining these actions as

something less than hostilities requires

extraordinary legal contortions.

Administration analysis focuses on

the question of whether U.S. casualties

are likely to occur, thereby minimizing

other considerations relevant to the

use of force. Such an interpretation

would deny Congress a say in other

questions that are obviously implicated

in decisions to go to war, including

the war’s impact on U.S. strategic

interests, on our relations with other

countries, and on our ability to meet

competing national security priorities.

The administration also implies that

because allied nations are flying most

of the missions over Libya, the U.S. operations

are not significant enough to

require congressional authorization.

This characterization underplays the

centrality of the U.S. contribution to

the NATO operations in Libya. We are

contributing 70 percent of the coalition’s

intelligence capabilities and the

majority of its refueling assets. The

fact that we are leaving most of the

shooting to other countries does not

mean that the United States is not involved

in acts of war. If the United

States encountered persons performing

similar activities in support of al Qaida

or Taliban operations, we certainly

would deem them to be participating in

hostilities against us.

This state of affairs is at odds with

the President’s own pronouncements

on war powers during his Presidential

candidacy. For example, in December

2007, he responded to a Boston Globe

question by saying: ‘‘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.’’

American combat forces are so efficient

at certain types of operations and

our over-the-horizon technology is so

potent that the use of the military instrument

to right wrongs exists as a

tremendous temptation for Presidents.

If we fail to come to grips with this

now, I fear that we are setting the

stage for Presidents to undertake other

humanitarian interventions without

congressional approval.

The President does not have the authority

to substitute his judgment for

constitutional process when there is no

emergency that threatens the United

States and our vital interests. The

world is full of examples of local and

regional violence, to which the U.S.

military could be applied for some altruistic

purpose. Under the Constitution,

the Congress is vested with the

authority to determine which, if any,

of these circumstances justify the consequences

of American military intervention.

The Foreign Relations Committee

markup of S.J. Res. 20 significantly improved

the resolution in several key respects.

First, the committee adopted

amendments that Senator WEBB and I

introduced, establishing legally binding

prohibitions on the introduction of

American ground troops and contractors

into Libya. The original resolution

addressed this issue only through nonbinding

language that the President

could have ignored.

Second, the committee adopted an

amendment I offered requiring specific

reports on the Libya operation from

the administration on strict deadlines.

These deadlines were strengthened further

by an amendment from Senator

BOB CORKER. The original resolution

lacked sufficient provisions for congressional

oversight of the operations,

their costs, and their potential impact

on other U.S. national security objectives.

Third, I offered an amendment specifying

that the War Powers resolution

applies to current U.S. military operations

in Libya, and that continuation

of those operations requires congressional

authorization. This was adopted

by acclamation after Members on both

sides delivered statements supporting

the amendment. In doing so, the committee

repudiated the administration’s

contention that U.S. operations in

Libya do not constitute ‘‘hostilities’’

and therefore are not subject to the

War Powers resolution.

Fourth, the committee adopted a

sense of the Congress amendment stating

that postwar reconstruction costs

should be borne primarily by the Libyan

people and Arab League nations.

Even with the success of these

amendments, S.J. Res. 20 remains overly

broad, despite its stated purpose of

authorizing a limited use of force. Specifically,

it contains no meaningful

limits on the use of American air assets

over Libya.

This resolution clearly would give

the President the authority to escalate

the American role in the bombing campaign.

I understand that some Members

of the Senate may favor that course.

But Members who have concerns about

a re-escalation of the U.S. combat role

should understand that passage of the

resolution not only gives the President

that authority, it makes such a re-escalation

more likely.

The defining limitation in S.J. Res.

20 is U.N. Security Council resolution

1973, which calls on nations to protect

Libyan civilians. Effectively, any use

of airpower consistent with this U.N.

resolution is permitted under S.J. Res.

20. Using resolution 1973 as justification,

the President already engaged in

an intensive bombing campaign against

Libyan targets at the beginning of our

intervention. By definition, the administration

and our allies would regard

S.J. Res. 20 as permitting at least the

intensity of American bombing that

was undertaken in the first week of the

war.

Moreover, President Obama publicly

has defined the removal of Colonel Qadhafi

as in the interest of protecting

Libyan civilians. From the administration’s

point of view, almost any airstrike

that degrades Libyan military

capabilities or contributes in some way

to the potential for the ouster of Qadhafi

can be justified as contributing

to the protection of civilians. This

could include the use of slower fixed

wing aircraft flying close air support

missions and perhaps helicopters.

Passage of this resolution does not

guarantee that there will be a full scale

re-escalation, but if President

Obama is armed with this resolution

and if the Libyan operation drags on, it

is almost inevitable that the American

role in Libya will expand. We know

that some of our allies are running

short of munitions. We also know that

public opinion in some allied nations

may trend against continuing this mission.

Our military is the best and most

capable in the world. If the President

has this broad authorization from Congress

in hand, allies will be far more

confident that the United States will

pick up the slack if they withdraw or

limit their participation. In a recent

press conference, the President said,

‘‘There’s no risks of additional escalation.’’

But the only barrier to escalation

would be the decision-making of

the President himself.

I do not believe that our intervention

in the Libyan civil war was prudent in

the context of U.S. vital interests. I

continue to be concerned that the U.S.

role in Libya will escalate, that Libya

reconstruction burdens could fall on

our country, and that the Libyan operation

siphons attention and resources

away from more important national security

priorities. I cannot support the

broad mandate that this resolution

would give to the President to expand

U.S. military activities over Libya. I

urge my colleagues to join me in opposing

adoption of S.J. Res. 20.

I yield the floor and suggest the absence

of a quorum.