

No Presidential Wars Pledge for both House and Senate members

I, [], in fulfillment of my constitutional oath of office required under Article VI of the Constitution, pledge that as a Member of the United States House of Representatives or United States Senate, I will support an article of impeachment in the House against any President who prospectively commences war against either a state or non-state actor without a declaration of war duly enacted by Congress as required under Article I, section 8, clause 11, which action constitutes a high crime and misdemeanor under Article II, section 4, and, as a Senator, vote in favor of conviction. For purposes of this pledge, a President does not commence war by responding defensively with proportionate military force to an actual or imminent attack or a declaration of war against the United States. The impeachment article shall provide:

“In his/her conduct of the office of President of the United States, [name of President], in violation of his/her constitutional oath faithfully to execute the office of President of the United States, and to the best of his/her ability, preserve, protect, and defend the Constitution of the United States, and in disregard of his/her constitutional duty to take care that the laws be faithfully executed, on and subsequent to [date] commenced war against [name of state or non-state actor attacked] in derogation of the power of Congress to declare war, to make appropriations, and to raise and support armies, and by such conduct warrants impeachment and trial and removal from office.”

_____ Date:

Member of Congress

FACT SHEET

1. This pledge is forward-looking only. The objective is to secure prospective congressional and presidential compliance with the Declare War Clause of Article I, section 8, clause 11 and the Impeachment provisions of Article I, section 2, clause 5; Article I, section 3, clause 6; and Article 2, section 4. This is what the respective oaths of Members of Congress and the President require.
2. The pledge is not an embrace of pacifism. If an external threat genuinely justifies the nation in crossing the Rubicon from peace to war, Congress should easily be convinced by the President to declare war. Members of Congress collectively represent the people every bit as much as the President does. They have no incentive to stand idly by while their constituents are attacked by an enemy.
3. At present, the United States is fighting overt presidential wars in Libya, Somalia, Yemen, Syria, Iraq, Afghanistan, and Pakistan, and against the Islamic State of Iraq and Syria (ISIS) and Al-Qaeda everywhere on the planet, without congressional declarations of war as required by Article I, section 8, clause 11 of the Constitution. There may be ongoing

undisclosed presidential covert wars. The fully loaded costs of these wars approach a staggering \$10 trillion.

4. War impoverishes the nation as a whole while unfairly enriching the military-industrial-counterterrorism complex. Since 9/11, the full war costs of the United States, including lifetime treatment of soldiers wounded in battle, approaches a staggering \$10 trillion—or approximately 50% of our national debt. Despite that massive outlay that has starved the nation of needed infrastructure, we are more endangered today by international terrorism than we were more than 15 years ago according to the government’s own national security experts. Yet our demonstrably failed strategy persists.

5. War produces no consumer goods. More importantly, war migrates national genius from production to killing. Geniuses are the lifeblood of the processes of “Creative Destruction” in capitalist societies that is the locomotive of national prosperity.

6. Presidential wars are relics of King George III’s monarchy which was overthrown on July 4, 1776. Alexander Hamilton elaborated in *Federalist 69*:

“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.”

7. The Constitution’s authors understood that war is too important to be left to a single individual or group, and that the congressional personality would foreclose ruinous wars not in self-defense.

8. James Wilson, during Pennsylvania’s debates to ratify the United States Constitution, spoke for every participant in the drafting and ratification process in declaring: “This system will not hurry us into war; it is calculated to guard against it. It will not be in the power of a single man, or a single body of men, to involve us in such distress, for the important power of declaring war is vested in the legislature at large;—this declaration must be made with the concurrence of the House of Representatives; from this circumstance we may draw a certain conclusion, that nothing but our national interest can draw us into a war;”

9. The understanding of Mr. Wilson was enshrined in Article I, section 8, clause 11 of the Constitution, which provides that Congress shall have the power “To declare War.”

10. President George Washington, who had presided over the constitutional convention and supported the Declare War Clause, elaborated during his service in office: “The Constitution 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.”

11. Thomas Jefferson wrote to James Madison on September 6, 1789: “We have already given, in example one effectual check to the Dog of war, by transferring the power of letting him loose from the executive to the Legislative body, from those who are to spend to those who are to pay.”
12. James Madison, father of the Constitution, wrote to Thomas Jefferson on April 2, 1798: ““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.”
13. During 227 years of national life, Congress has declared war on eleven occasions but for only five distinct wars; and, only in cases of actual or perceived aggression against the United States. Congress declared war against two separate sovereigns in World War I and against six in World War II.
14. Presidents have commenced wars not in self-defense against scores of state or non-state actors without congressional declarations since World War II.
15. The Constitution strongly disfavors war except in self-defense for manifold reasons. War sounds the death knell to the rule of law. As Cicero observed, “[I]n times of war, the law falls silent.” War legalizes what is customarily first-degree murder, i.e., killings unjustified by reasonably believed imminent threats to life or serious bodily injury. At present, the President of the United States exercises the power to play prosecutor, judge, jury, and executioner to kill any person on the planet whom he decides in secret is an imminent danger to the national security based on secret, untested evidence. That unchecked executive power is vastly greater than the tyrannical authorities indicted against King George III in the Declaration of Independence.
16. War also fathers the surveillance state, featuring indiscriminate spying on the entire United States population. The Fourth Amendment’s protection against unreasonable searches and seizures crumbles under a national security banner. Executive Order 12333 is exemplary in authorizing warrantless surveillance on the President’s say-so alone. The surveillance state flourishes on fear. Performance in making the nation safer is irrelevant.
17. Finally, war destroys the Constitution’s separation of powers—a structural bill of rights against tyrannical government—by bloating the executive. James Madison, father of the Constitution, elaborated:

“War is in fact the true nurse of executive aggrandizement. In war a physical force is to be created, and it is the executive will which is to direct it. In war the public treasures

are to be unlocked, and it is the executive hand which is to dispense them. In war the honors and emoluments of office are to be multiplied; and it is the executive patronage under which they are to be enjoyed. It is in war, finally, that laurels are to be gathered, and it is the executive brow they are to encircle. The strongest passions, and most dangerous weaknesses of the human breast; ambition, avarice, vanity, the honorable or venial love of fame, are all in conspiracy against the desire and duty of peace.

“Hence it has grown into an axiom that the executive is the department of power most distinguished by its propensity to war: hence it is the practice of all states, in proportion as they are free, to disarm this propensity of its influence.”

18. Article II, Section 4 of the Constitution provides that the “President...shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.”
19. Alexander Hamilton elaborated in *Federalist* 65 that impeachable “offenses...proceed from the misconduct of public men, or, in other words, from the abuse or violation of some public trust. They are of a nature which may with peculiar propriety be denominated POLITICAL, as they relate chiefly to injuries done immediately to the society itself.”
20. In 1974, three Articles of impeachment were voted against President Nixon by the House Judiciary Committee for misconduct less dangerous to the citizenry than presidential wars: obstruction of justice; impairment of the due administration of justice and violations of constitutional rights; and, defiance of a subpoena issued by the House Judiciary Committee. Mr. Nixon’s impending impeachment by the full of House of Representatives and conviction by the Senate precipitated his resignation.
21. Article I, Section 2, clause 5 of the Constitution provides that the “House of Representatives...shall have the sole Power of Impeachment.”
22. Article I, Section 3, clause 6 of the Constitution provides that the “Senate shall have the sole Power to try all Impeachments.”