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Congress of the United States
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ALASKAN NATIVE AFFAIRS
COMMITTEE ON THE BUDGET

March 23, 2011

The Honorable Barack Obama
President of the United States
The White House
Washington, D.C. 20500

Dear Mr. President:

I have read your letter to the Speaker of the House of Representatives and the President pro tempore of the Senate dated March 21, 2011 concerning your order that United States Armed Forces attack the nation of Libya. You cite the authority of United Nations Security Council Resolution 1973 and your “constitutional authority to conduct U.S. foreign relations and as Commander in Chief and Chief Executive.”

The Constitution clearly and unmistakably vests Congress with the sole prerogative “to declare war.” Your letter fails to explain how a resolution of the United Nations Security Council is necessary to commit this nation to war but that an act of Congress is not.

The United Nations Participation Act expressly withholds authorization for the President to commit United States Armed Forces to combat in pursuit of United Nations directives without specific Congressional approval. The War Powers Resolution states that the President’s power to engage United States Armed Forces in hostilities “shall not be inferred ... from any treaty heretofore or hereafter ratified unless such treaty is implemented by legislation specifically authorizing the introduction of United States Armed Forces into hostilities...”

The War Powers Resolution unambiguously defines three circumstances under which the President as Commander in Chief may order United States Armed Forces into hostile action: “(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.” Your letter cites none of these conditions.

President Barack Obama

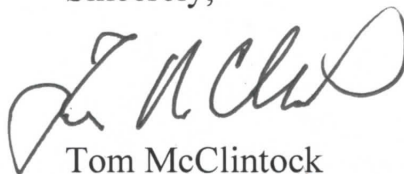
March 23, 2011

Page 2

Nor can the power to order an act of war be inferred from the President's authority as "Commander in Chief and Chief Executive." The Constitution's Framers were explicit on this point. In Federalist 69, Alexander Hamilton draws a sharp distinction between the President's authority as Commander in Chief as "nothing more than the supreme command and direction of the military and naval forces" and the authority of the British king "which 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."

With all due respect, I can only conclude that your order to United States Armed Forces to attack the nation of Libya on March 19, 2011 is in direct violation of the War Powers Resolution and constitutes a usurpation of Constitutional powers clearly and solely vested in the United States Congress and is accordingly unlawful and unconstitutional.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom McClintock". The signature is fluid and cursive, with a large initial "T" and "M".

Tom McClintock
Member of Congress