



Written by [Joe Wolverton, II, J.D.](#) on March 16, 2019

Senate Votes to End Funding of Saudi Arabia's Assault on Yemen

The U.S. Senate voted to withdraw the support of the U.S. armed forces from the Kingdom of Saudi Arabia in its war against Yemen.



Remarkably, the Republican-controlled Senate refused to rubber stamp President Trump's plan to provide Saudi Arabia with funds and materiel necessary to that country's continuing military massacre in Yemen.

Just how bad is the situation in Yemen?

Business Insider provides the following data on the Saudi-led, U.S.-funded devastation:

The Yemen war has created the world's largest humanitarian crisis, according to the UN. Nearly 100 civilian deaths or injuries were recorded each week in 2018.

The UN estimates that between the start of the conflict in March 2015 and August 2018 there were roughly 17,062 civilian casualties, 6,592 dead and 10,470 injured. The majority of those casualties, approximately 10,471, were a consequence of airstrikes conducted by the Saudi-led coalition the US supports.

The Senate vote on Senate Joint Resolution 7 — 54-46 — followed party lines, with a few Republicans joining the Democratic Party members in standing against the support for Saudi Arabia's war on Yemen.

One notable Republican senator who voted to withdraw U.S. backing for the bombing of Yemen was Rand Paul (R-Ky.).

"The Constitution is pretty clear that Congress should declare when we go to war," Republican Sen. Rand Paul told *Business Insider*. "We shouldn't be at war with the Saudis in Yemen without approval of Congress. This is an extraordinary measure in the sense that it's been very rare in our history ... that both houses will vote to tell a president that we shouldn't be in a war that wasn't declared by Congress."

Paul's take on the Constitution's placement of the power to declare war mirrors that of the man credited with being the Father of the Constitution, James Madison.

Within five years of the publishing of *The Federalist Papers* (and four years of the ratification by the states of the Constitution), the co-authors of those seminal and influential essays on American political theory and constitutional interpretation were back at their desks once again, writing letters to the editors of newspapers.

This time, however, James Madison and Alexander Hamilton were not allies working to persuade others to commit to their common constitutional cause, but they were opponents, striving through their letters to reveal each other's perceived constitutional misdeeds to the American people. This episode in American history is known as the Pacificus-Helvidius debates, named for the pen names adopted by Alexander Hamilton and James Madison, respectively.

In the first letter, Madison wrote that the power to declare war is "of a legislative and not an executive



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nature.” He continued on that subject:

Those who are to conduct a war [the Executive Branch] cannot in the nature of things, be proper or safe judges, whether a war ought to be commenced, continued, or concluded. They are barred from the latter functions by a great principle in free government, analogous to that which separates the sword from the purse, or the power of executing from the power of enacting laws.

Madison was so strident in his insistence that the power to make war not be placed in the hands of the president, that his next letter (Helvidius No. 2) began with the bold pronouncement that if any president were to presume the war-making power, “no ramparts in the constitution could defend the public liberty or scarcely the forms of republican government.”

Did you get that? James Madison warned us in 1793 that if Americans were to permit the president to make war, then the Constitution would not be able to protect us from tyranny.

In Yemen, as with most American military operations of the modern era, it is typically the president who initiates the commitment of American troops to combat zones and who orders the military might of the United States of America to deploy here or there to fight this or that foreign foe. The Congress is rarely involved in that decision, with the exception of allocating money to supply the armed forces with requisite equipment, ammunition, and other necessary supplies.

In additional warnings against allowing a president to make war, in another Helvidius paper, Madison made a clear and constitutionally sound statement on this subject of profound importance on the future of free government: “Until war be duly authorized by the United States, they are actually neutral when other nations are at war, as they are at peace (if such a distinction in terms is to be kept up) when other nations are not at war.”

Finally, Madison explained, in Helvidius No. 4, why Americans must remain vigilant, keeping close watch over the actions of their elected representatives. To equal degree, though, Americans must be familiar with the powers granted to those representatives lest they claim to possess constitutional powers that are not enumerated in the Constitution. Regarding the duty of Americans to learn for themselves and enforce on their elected leaders the limits of federal power set out in the Constitution, Madison wrote:

It is also to be remembered, that however the consequences flowing from such premises, may be disavowed at this time, or by this individual, we are to regard it as morally certain, that in proportion as the doctrines make their way into the creed of the government, and the acquiescence of the public, every power that can be deduced from them, will be deduced, and exercised sooner or later by those who may have an interest in so doing. The character of human nature gives this salutary warning to every sober and reflecting mind. And the history of government in all its forms and in every period of time, ratifies the danger. A people, therefore, who are so happy as to possess the inestimable blessing of a free and defined constitution cannot be too watchful against the introduction, nor too critical in tracing the consequences, of new principles and new constructions, that may remove the landmarks of power.

And here we are. Americans have not been watchful and now “new principles and new constructions” are considered not only constitutional, but patriotic.

With the Senate’s vote to reject the president’s plan to pour money into the war chest of Saudi Arabia is not the end of the issue, though.



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The House of Representatives will need to take up the Senate's resolution, where Republicans, although in the minority, have successfully deployed tactics that have derailed previous attempts to cut off funding for Saudi Arabia's war in Yemen. Those tactics will undoubtedly be tried again when that body takes up the Senate's measure.

Regardless of whether the House of Representatives votes to disgorge the president of power to wage war, President Trump has promised to veto the resolution should it reach his desk.

A memo published by the Office of Management and Budget on March 13 affirms that if the Senate resolution "were presented to the President, his senior advisors would recommend he veto the joint resolution."

Given that most GOP senators, including Senate Majority Leader Mitch McConnell (R-Ky.), support the president, an override of a veto seems improbable at best.

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