



Written by [Thomas R. Eddlem](#) on March 28, 2011

Tom Woods Smacks Down Mark Levin on War Powers

Professor Thomas E. Woods (pictured, left), Jr. has taken syndicated radio talk show host Mark Levin (picture inset) to task for claiming the President can constitutionally bring the nation to war without the permission of Congress.

Woods argued that Congress has the exclusive power under Article I, Section 8 of the U.S. Constitution to declare war and to make rules for the military. Levin contended that Woods' argument was "utter nonsense." "He refutes nothing I said," Woods concluded in a [March 28 column](#) on [LewRockwell.com](#), "and then declares himself the winner."



The Internet exchange began after Levin, a lawyer and former Justice Department official, assailed Representative Ron Paul for his antiwar stance on the U.S. attack on Libya on his [radio show March 25](#):

I want to repeat this for those out there who write stupid stuff and are a little dense because they're advancing a dogma rather than an honest assessment of what our history is. You can see some of these morons on television too. The language was originally "Congress shall make war." The framers rejected that. And instead replaced "make" with "declare." The president of the United States, well, they made him the commander-in-chief. Now why do you think they did those two things? Out of basic logic. They knew it was a dangerous world — hell they've been in a revolution. And by the way, after the revolution and establishment of our government it wasn't clear still that it would survive given all the threats that we faced.

Levin went on to claim that the President can bring the United States government to war without the permission of Congress, adding that Congress' power over the purse was a sufficient check to presidential war-making. Levin [argued](#): "And as Hamilton pointed out, it's the ultimate power — the power of the purse." Woods [replied](#):

Here Levin is trying to claim that the power of Congress over warmaking is confined to the power to de-fund presidential wars. But as long as Levin wants to quote Hamilton, let's quote Hamilton, from [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."

Hamilton elsewhere says that the president's war powers consist of "the direction of war when



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authorized or begun.”

Well, that’s pretty much the opposite of Levin’s view.

In response, Levin published several [tweets](#) and Facebook status remarks quoting Alexander Hamilton vaguely referring to the President as the body in charge of actually waging war once Congress declares the war, such as this quote from Federalist #74:

Alexander Hamilton: "Energy in the executive is a leading character in the definition of good government.... It is essential to the protection of the community against foreign attacks."

Levin also published a longer [Facebook note](#) claiming that Professor Woods was "cutting and pasting history for a dogma." He wrote:

I'm embarrassed for Woods. He knows I know he's a propagandist on this issue. His misuse of the Constitutional Convention, the Federalist Papers, and other quotes here and there is politically expedient. There's nothing scholarly about it....

History, facts, experience, and events prove the Left [right] and Paulists wrong, like Woods, but they are true believers so it doesn't matter. Woods would fundamentally alter our constitutional construct respecting war, the executive, and legislative functions, fabricating additional power in Congress — even authorizing one House of Congress under the War Powers Act to ensure defeat on the battlefield if the battle is not completed in 90 days through a silent veto — while denuding the commander-in-chief power. Is that what they said at the Constitutional Convention? Is that supported anywhere in our history? Is that how Congress is to legislate under the Constitution? Utter nonsense.

Levin's response was remarkable in one respect: He failed to cite any language in the Constitution to support his case that the President can make war, and failed to cite any federalist supporter of the U.S. Constitution or any Founding Father who argued the President had the ability to initiate war without the permission of Congress. Woods [replied](#) on March 28:

I am accused of misusing the Constitutional Convention, the Federalist, etc., but Levin does not condescend to share any specific examples of this alleged misuse. We are to be satisfied with his *ex cathedra* pronouncements alone.... And no wonder: there is no evidence for his position at all.

Woods [concluded](#) with a challenge to Levin:

Here is my challenge to you. I want you to find me one Federalist, during the entire period in which the Constitution was pending, who argued that the president could launch non-defensive wars without consulting Congress. To make it easy on you, you may cite any Federalist speaking in any of the ratification conventions in any of the states, or in a public lecture, or in a newspaper article — whatever. One Federalist who took your position. I want his name and the exact quotation.

It's likely that Levin will reply, though he'll be unable to quote any Founding Father who supported presidential war powers. There *is* none. Based upon the tenor of Levin's radio talk show, the response to Woods' challenge will be abuse rather than genuine argument.

Woods has [reportedly](#) said he's willing to debate Levin. But one has to wonder why Levin would ever accept a debate he can't win.

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