

**House Armed Services Committee Hearing
Outside Perspectives on the President's Proposed Authorization for the Use of Military
Force Against the Islamic State of Iraq and the Levant.**

February 23, 2015

Unofficial Transcript with Congressman Garamendi

Witnesses: General Jack Keane, USA (Ret.), Former Vice Chief of Staff, U.S. Army; Robert M. Chesney, Professor in Law at University of Texas; and Benjamin Wittes, Senior Fellow in Governance Studies at Brookings Institution.

Garamendi: Thank you very much Mr. Chairman and a big thank you to you for conducting this hearing and I understand another hearing coming up next week or thereafter on the military side of this what might be necessary. We are doing exactly what we should be doing as members of Congress. In my view it's absolutely essential for Congress to act. To use the 2001 or 2002 AUMF as a reason for a new war, actually a war that was declared over in Iraq, is in my estimation just dead wrong. And we have a responsibility, we represent the American people, 535 of us plus one, the President, and we have the obligation to deal with this. Not easy. Easier to duck but it's our responsibility.

With regard to the 2001 AUMF still being in place and the sunset: The 2001 AUMF proves the reason for a sunset – an unending war. [We] can't continue it. We've got to deal with this and a sunset seems to be absolutely appropriate in that in three years [the proposed AUMF against ISIL] requires the next presidential election be about war. And that's a really good thing for the United States to debate and to discuss.

With regard to the issue of, and this is coming to a question, the issue of limitations of boots on the ground which the President says he wants to limit but then writes in such a way as probably not limiting. Is there any debate between our two esteemed lawyers and General about the ability of Congress to use the purse to limit the use of ground troops? For example, no money for infantry brigades, armored brigades, artillery, etc. but perhaps money for Special Forces and the like? Is there any doubt about the ability of Congress to limit using the purse?

Chesney: I don't think there's any serious doubt about that. Among those who debate these war powers issues, one common touchstone is that the power of the purse – there's very little Congress can't accomplish with it. We can imagine a bizarre hypothetical where somehow that power is leveraged to say that the President's not the Commander-in-Chief but instead "fill in the blank" will have command. But obviously nothing like that sort is being contemplated of talk about here. So as long as you're away from that, that core superintendent's function, I think the power of the purse gives you a lot of leverage if it can be used in a particular way.

Garamendi: Any debate about that amongst the remaining [witnesses]?

Keane: No debate from me. I mean, you've done it before. The Congress stopped a war in Vietnam. It unauthorized... no longer authorized our advisors, no longer authorized our use of airpower and that war ended. I think it's the most powerful mechanism that you actually have.

Wittes: I have nothing to add to that.

Garamendi: Given that and given the debate which will go on forever about how you define “boots on the ground” or limitations on what can actually be done, it just seems to me that we could simply say “You have the power to bomb, you have the money to bomb, you have the money to do special operations or all of the other things but there is no money for the brigades, infantry, artillery, etc.” And I think that’s a good, clear way to limit it. It also gives this committee and the Congress the opportunity at any moment to change its mind and appropriate the money for those purposes. So we would be constantly and appropriately engaged in the ongoing issue of the war and its outcome.

The other issue that I think is one that we’re going to have to deal with is this issue of limitation. As I said before, I think it’s absolutely essential. Three years is perfect in my view. I know you disagree that maybe the next president ought not [to] have to deal with it immediately. I strongly disagree. That the next president must deal with this, up front in the campaign, tell the American people whether they want war or not and how they would conduct it.

The other issue is the geography here. We’re going to go round and round on geography and again my personal view of this is it must be limited. And probably by doing that clearly stating who we are at war with.

And a final point and I guess this won’t be a question but rather a comment, and that is General you are absolutely correct about the ideological war that we must be engaged in. It’s not just going to be a military war. This is a question about ideology and our necessity of dealing with that reality. I thank you gentlemen for the clarity on the power of the purse.