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Setting aside the wisdom of the Libyan operation, did President Obama require a congressional declaration of war before he undertook it? Ask this: In more than 200 years, with upwards of 200 such operations behind us, why have we had only five declarations of war? Is it mere indifference to the Constitution's Declare War Clause?

Of course not. A declaration of war is a juridical, not an authorizing, instrument. It puts the nation in a formal state of war and, as such, triggers vast other powers. Be careful what you ask for.

The president has power under Article II to conduct the foreign affairs of the nation, including those that may require military action. Obviously, he should do so in close consultation with Congress, but that is a political, not a legal, matter. If he does not, Congress has all the power it needs to check him -- through hearings, the purse, and, ultimately, impeachment. Those too, like war itself, are political matters, which is why the Supreme Court has never ruled otherwise on this basic constitutional issue.