

As the current Presiding Officer knows because he is not only a Senator but a historian, the founding documents of this country are so unusual still today in making the initiation of war a legislative rather than Executive function. Madison and the other drafters of the Constitution knew that the history of war was a history of making it about the Executive—the King, the Monarch, the Sultan, the Emperor—but we decided that we would be different and that war would only be initiated by a vote of the people's elected legislative body and at that point would be conducted by only 1 commander-in-chief, not by 435. We have not had the debate. We have not had the vote.

This has been ironic because for 4 years I have been in a Congress that has been very quick to criticize the President for using Executive action. This is an Executive action that most clearly is in the legislative wheelhouse; yet it has been an Executive action that the body—and I am making this as a bipartisan and bicameral comment—has been very willing to allow the President to make.

I introduced a resolution for the first time to get Congress to debate and do this job in September of 2014, 2 days after the President spoke to the Nation about the need to take military action against ISIL. That authorization led to a Senate Foreign Relations Committee hearing and a vote in December of 2014 to authorize military action against ISIL, but that committee resolution never received any debate or vote on the Senate floor.

In 2015, working together with a Senate colleague from Arizona, Senator FLAKE, we decided we really needed to show our opposition to ISIL. Our belief that appropriate military force from the United States should be used against them was bipartisan, and so we introduced a bipartisan authorization of military force on June 8, 2015, in an attempt to move forward with some congressional debate on this most important issue. Aside from a few informal discussions in the Senate Foreign Relations Committee, there has never been a markup, never been a discussion, never been a committee vote or a floor vote.

So 2½ years of war against the Islamic State and 15 years now after the passage of the authorization in September of 2014, we see that authorization has been stretched way beyond what it was intended to do. The authorization of September 14, 2001, was a 60-word authorization giving the President the tools to go after the perpetrators of the attacks of 9/11. ISIL didn't exist on September 11, 2001; it was formed in 2003. President Obama recently announced that the authorization is now going to be expanded to allow use of military action against Al-Shabaab, the African terrorist group—a dangerous terrorist group, to be sure—but Al-Shabaab did not begin until 2007.

So an original authorization that was very specific by this body to allow action against the perpetrators of the 9/11 attacks is now being used all over the globe against organizations that didn't even exist when the 9/11 attacks occurred. Just to give an example, the 2001 authorization has been cited by Presidents Bush and Obama in at least 37 instances to justify sending Armed Forces to 14 nations. Pursuant to the authorization to go after the perpetrators of the 9/11 attacks, we have authorized military action in the Bush and Obama administrations in Libya, Turkey, Georgia, Syria, Iraq, Afghanistan, Yemen, Eritrea, Ethiopia, Djibouti, Somalia, Kenya, and the Philippines, as well as authorizing military activity in Cuba at Guantánamo to maintain detainees.

Just in the last week, the New York Times reported that President Obama is expanding the legal scope of the war against Al Qaeda by easing targeting and restrictions against Al-Shabaab, but again this was a group that didn't exist until 2007, 6 years after the 9/11 attacks.

Mr. President, I will conclude and say that having been very vocal about this issue for a number of years, it has been disappointing. Although we are all used to not getting our way in all kinds of ways, it has been disappointing to me that we have not been willing to take up this matter.

I do think a transition to a new administration and a transition to a new Congress that will be sworn in, in early January always gives you the opportunity to review the status of affairs and make a decision about what to do. I believe it is time for us to review the progress of the war against nonstate terrorist groups—Al Qaeda, ISIS, Al-Shabaab, Boko Haram, Al-Nusra. It is time for us to review U.S. military action against nonstate terrorist organizations. It is time for us to redraft the 2001 authorization that has been stretched far beyond its original intent. It is time for us to recognize that this is a continuing threat that is not going away anytime soon. But I guess what I will say is most important is that it is time for Congress to reassert its rightful place in this most important set of decisions. Of all the powers we would have as Congress, I can't think of any that are more important than the power to declare war. I view that as the most important, the most difficult, the most challenging, the power we should approach with the most sense of gravity. That is the most important thing we should do. It should never be an easy vote. It should always be a hard vote, but it should be a necessary vote. I think the inability or unwillingness of Congress to grapple with this sends a message that is unfortunate. It sends a message of lack of resolve to allies. It might even send a message of lack of resolve to our adversary.

But what I am most concerned about are people like CPO Scott Dayton, peo-

ple who are serving in a theater of war, who are risking their lives in a theater of war, who have been giving their lives in a theater of war and doing it without the knowledge that Congress supports the mission they are on.

As I conclude, Article I and Article II allocation of responsibilities are not just about what is constitutional. I think it reflects a value, and the value is this: We shouldn't order people into harm's way to risk their lives unless there is a political consensus that the mission is worth it. Anyone who volunteers for military service knows it is going to be difficult, and we will not be able to change that. But if we are going to order people into combat and order them to risk their lives—and even if they are not harmed, they may see things happen to colleagues of theirs that could affect them the rest of their lives. If we are going to order them to do that, then there should at least be a national political consensus that the mission is worth it. The way the Constitution sets that up is the President makes a proposal, but then Congress—the people's elected body—votes and says: Yes, the mission is worth it.

Now that we have had that vote, now that we have had that debate and we have educated the public about what is at stake, and now that we have said the mission is worth it, it is fair then to ask our 2 million Active-Duty Guard and Reserves—folks like Chief Petty Officer Scott Dayton, folks like my oldest son—to go and risk their lives on a mission like this. But if we are unwilling to have the debate and have the vote, it seems to me to be almost the height of public immorality to force people to risk and give their lives in support of a mission that we are unwilling to discuss.

Again, I offer these words in honor of a brave Virginian who lost his life on Thanksgiving Day, November 24. I hope that the growing number of people who are losing their lives in Operation Inherent Resolve may spur this body to take this responsibility with more gravity.

Mr. President, I yield the floor.

THE PRESIDING OFFICER. The Senator from Ohio.

MR. BROWN. Mr. President I thank my colleague from Virginia, who is always speaking up for our men and women in uniform and for our Nation's veterans.

MINE WORKERS' HEALTH CARE AND PENSIONS AND THE 21ST CENTURY CURES BILL

MR. BROWN. Mr. President, right now our Nation's retired coal miners—and I know Senator KAINE and Senator WARREN care about this, too—are on the brink of losing the health care and retirement benefits that they have earned over a lifetime of hard work.

It is within the power of this Congress to stop this, to help the mine workers, and to do right by these hard-working Americans. Many of them are

veterans. Most of them wore their bodies out to give their families a better life. There is no more fitting action that we can take during this holiday season than to honor this promise that the American Government has made to our Nation's mine workers since Harry Truman made that promise. The workers held up their end of the bargain. It is despicable that we are not holding up ours and that we are preparing to leave town without lifting a finger to help these workers.

United Mine Workers of America's health care and pension plan covers some 100,000 mine workers; 6,800 live in Ohio. If Congress fails to act, thousands of retired miners could lose their health care this year. I emphasize that it is retirement security they worked for, security they fought for, and security they sacrificed raises and their own health for.

Understand this: Too many people that dress in suits, work here, draw good salaries, and draw good benefits don't understand what happens at the bargaining table for workers in our country. They often give up raises today to defer that money so that they have retirements and pensions in the future.

Say that again: People at the bargaining table give up dollars today. Rather than take a little higher pay today, they are willing to defer that so they will have better pensions and health care. This Congress, this Senate leadership is blocking us from doing that.

These are workers who worked for decades in the mines—hard, back-breaking work but work that had dignity. I live in a place that some national media people, including President-Elect Trump, have referred to as the “rust belt.” When they say “rust belt,” that is a direct attack on the dignity of work. It demeans their work. It diminishes who they are. It is saying that those people, such as miners, steelworkers, and others who make things, are in the past.

For these mine workers, every year in their work in the mines, they have earned and contributed to a health plan and pension plan. I have met with some of these workers—Ohioans like Norm Skinner, Dave Dilly, and Babe Erdos. I have heard their stories. They knew they were signing up for tough, dangerous work. They worked in the mines, after all. They knew that. But they also know their work had dignity. That work was part of a covenant we used to have in this country—a covenant that said: If you work hard, if you put in the hours, if you contribute to retirement, if you provide for your own health care in the future, you will be able to support yourself and your family. It is what built our country. It is what created the middle class.

Today, the value of that work is eroding. Too often, too many major corporations in this country are choosing profits over people. We haven't lifted a finger, frankly. The political agen-

da here—some people who run this Senate simply don't have respect for the mine workers, for the union. They seem to have some anti-union sensibilities about this. Whatever it is, they are not lifting a finger to help these workers who put in the effort and who are in trouble through no fault of their own.

There is no reason to leave town. We shouldn't be going home for the holidays without taking care of the 6,800 mine workers in Ohio, a number of mine workers in West Virginia, thousands of mine workers in Virginia, Eastern Kentucky, and Southwest Pennsylvania.

This is a bipartisan solution. It will not cost taxpayers a dime. If this bipartisan mine workers legislation were brought to the floor today, it would pass with majorities in each party. We shouldn't be taking up other legislation. Until we do this, it should be part of the Cures Act that we will be voting on later.

The Cures Act has important components to it, good steps on mental health, on hospital reimbursement. It has my National Pediatric Research Network Act in it. But it is a 900-page bill negotiated entirely in the House. It has major flaws.

It does include funding for NIH, funds to fight the opioid epidemic. We know how important that is. But the funding isn't mandatory. It will be subject to the whims of future Congresses. This is pretty good happy talk, and we are saying the right things. We are putting language in this bill, but it doesn't guarantee the money will be there. It is so important to my State.

A new report released this week showed Ohio had the most drug overdoses that resulted in death in the country in 2014, not the most per capita. We had more drug overdose deaths than California, three times our population; Texas, twice our population; more than Illinois, Pennsylvania, New York, Florida—all States with more people than we have. More Ohioans died from drug overdoses from OxyContin or oxycodone or heroin or the new synthetic drugs we are seeing more and more. We have to do more.

The billion dollars in grants in this bill are critically important, but it needs to be mandatory funding. It can't be that down the road some powerful Member of the House or Senate stands in the way of actually getting these communities the money. We can't fight year after year to get these dollars appropriated.

The Cures Act gives significant concessions to Big Pharma, which is the big drug industry, the drug giants in this country, but it does absolutely nothing to combat drug prices. We give concessions to the big drug companies, but we do nothing to fight the high cost of drugs in this bill.

We shouldn't be spending time on this flawed bill until we keep our promises to the 12,000 mine workers I mentioned. These miners worked in some of the most dangerous conditions of any

jobs in this country. They deserve the full pension and health benefits they were promised. They have worked a lifetime to earn these benefits. They kept faith with us. We must keep faith with them. It is simply irresponsible and immoral for us to leave town and not take care of the mine workers.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. SASSE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BARRASSO). Without objection, it is so ordered.

USE OF MILITARY FORCE AUTHORIZATION

Mr. SASSE. Mr. President, I had not intended to speak today. I was presiding in the chair, but I simply want to take one minute to associate myself with the comments of the Senator from Virginia, Mr. KAINE, who just spoke about our war against ISIS.

I think two points he said are worth underscoring for us in this body:

No. 1, we are obviously at war with ISIS. We should acknowledge that we are at war with ISIS.

No. 2, why is it important that we do this? It is important for the troops who are at war for us to acknowledge the reality of the fact that we are at war. It is important for their families. It is important for debate and deliberation in this body and in the country more broadly. And, frankly, it is important for the future of this body to honor a constitutional intent that distinguishes between Article I, the legislature, and Article II, the Executive.

In the American system, in Madison and the other Founders' genius, they recognized that many foreign wars have not made sense in human history because Executives get wrapped up in war without broader deliberation about the consequences of their actions.

To be clear, we should absolutely be at war with ISIS, and we are at war with ISIS. But in the American constitutional system, it is the obligation of the 535 of us who serve in the Congress—and particularly the 100 who serve in the Senate—to represent our people and to have this debate before the people about the fact that we are at war with ISIS.

Then, the Commander in Chief, as Chief Executive, should prosecute that war in a way that the American people know has the sanction and the validation of both branches and of all the people across 50 States.

This is not the action of one President acting unilaterally. It is a bad precedent to set for us to continue to drift and to remain at war now 15 years post the authorization that was against the perpetrators of the 9/11 attack, now using that old authorization to conduct