

It is odd for us as Americans because this seems to be an issue we resolved 200-plus years ago. We resolved it in article VI of the Constitution, which says that there is no religious test for any officer of the United States. There is no requirement to be of a certain faith or, if you are of a certain faith, to take that faith off if you are going to serve in the United States. We have in our Constitution a protection not of freedom of worship, which I hear some people say—they are free to worship as they choose—that is not our constitutional protection. Our constitutional protection is the free exercise of your religion—not just that you can have a faith, but you can both have a faith and live your faith according to your own principles. That is consistent with who we are as Americans, that we allow any individual to have a faith and to live their faith both in their private and public life or to have no faith at all if they choose to have no faith at all. That is a decision for each American.

But we don't ask individuals—as has been asked of this individual—whether faith will be the big issue and whether faith becomes a question in whether they are capable to serve other fellow Americans.

What is so dangerous, quite frankly, about her Catholic faith and her Christian beliefs as far as her being a judge? Are people afraid that she will actually live out what the Book of Proverbs says—to speak up for those who cannot speak for themselves, speak for the rights of all who are destitute, speak up and judge fairly, defend the rights of the poor and the needy? Is that what everyone is afraid of, that she will actually live out that Biblical principle?

I am a little confused why comments, such as “The dogma lives loudly within you,” were said during her questioning in the committee, and there were other questions to challenge her Catholic faith. Faith is a choice that each individual has, and it is an extremely personal but also extremely important choice.

Some individuals in America—myself included—choose to look past the mundane, day-to-day events and to think there is someone and something higher than us. We don't just look at the creation around us; we wonder about the Creator who made it. We don't just wonder about cosmic dust smashing into each other; we ask a logical question: If cosmic dust were to smash into each other in space and create all there is, who made space and who made the cosmic dust that smashed into each other, and how did that happen? Faith drives us to ask harder questions and to look a little longer at things that other people just see as plain in front of them. We ask what is behind it. A lot of Americans do. It is not irrational; it is a part of who we are and a part of how we are made.

It is a challenge to us as Americans to be able to challenge an individual and to say: That person is so radical

that they believe in things like do not murder, do not steal, do not covet, honor your father and mother, or even things as radical as, in whatever you do, do unto others as you would have them do unto you.

It doesn't seem that radical of a belief that we would have to challenge and wonder whether one was able to be a judge if they believe in those things. We dare to believe in something beyond us, as do millions of other Americans.

I really thought that our Nation was past this, that our Nation that speaks so much of diversity and of being open to other ideas is somehow closing to people of faith. People who say they want to demand that everyone be included are afraid of people who have faith and live their faith. Why would that be? If we are going to be an open society, is it not open as well to people of faith to not only have a faith but to live their faith?

We hit a moment like this in the 1960s, and I thought we had moved past it. There was a Senator at that time who was running to be President of the United States. We know him as John Kennedy.

Senator Kennedy was speaking to a group of ministers in Houston, TX, in the 1960s, and he had to stand before them and explain his Catholic faith because, quite frankly, there was this buzz: Could someone be a Catholic and be President? What would that mean? Would you have difficulties with that?

The questions that were asked of Professor Barrett were strikingly similar to the questions that were asked of Senator Kennedy when he was running to be President of the United States. Here is how Senator Kennedy responded:

For while this year it may be a Catholic against whom the finger of suspicion is pointed, in other years it has been, and may some day be again, a Jew—or a Quaker or a Unitarian or a Baptist. It was Virginia's harassment of Baptist preachers, for example, that helped lead to Jefferson's statute of religious freedom. Today I may be the victim, but tomorrow it may be you—until the whole fabric of our harmonious society is ripped at a time of great national peril. . . . And in fact, this is the kind of America for which our forefathers died, when they fled here to escape religious test oaths that denied office to members of less favored churches; when they fought for the Constitution, the Bill of Rights, and the Virginia Statute of Religious Freedom; and when they fought at the shrine I visited today, the Alamo.

JFK had visited the Alamo that day.

For side by side with Bowie and Crockett died McCafferty and Bailey and Carey. But no one knows whether they were Catholic or not, for there was no religious test at the Alamo.

Then he made this closing statement:

If I should lose on the real issues [of the Presidential race], I shall return to my seat in the Senate, satisfied that I had tried my best and was fairly judged. But if this election is decided on the basis that 40 million Americans lost their chance of being president on the day they were baptized, then it

is the whole nation that will be the loser, in the eyes of Catholics and non-Catholics around the world, in the eyes of history, and in the eyes of our own people.

This should be a settled issue for us, not a divisive one. We are a diverse nation—diverse in backgrounds, perspectives, attitudes, and yes, diverse in faith.

I look forward to supporting Professor Barrett in this position, and I look forward to seeing her decisions as they come out of that court, consistent with the law—as she is well trained to be able to do—and consistent with our convictions as Americans.

With that, I yield the floor.

THE PRESIDING OFFICER. The Senator from Virginia.

AUTHORIZATION FOR USE OF MILITARY FORCE

Mr. KAINE. Mr. President, I rise to speak on a topic I have often spoken about on the floor.

We have been at continuous war since September 14, 2001, when Congress passed an Authorization for Use of Military Force to go after the perpetrators of the 9/11 attacks. That was 16 years, 1 month, and 18 days ago as of today.

The war in Afghanistan is the longest armed conflict in America's history, and it shows no signs of abating, even 6 years after the death of Osama bin Laden. The conflict has been going on for so long that many are somewhat immune to it. I heard a high schooler recently say: War is all I have ever known. It is the status quo. It is the background music to daily life.

Yet only 0.4 percent of the population of the United States serves in the military. That is down from 1.8 percent in 1968 and 8.7 percent in 1945, so it is increasingly unlikely that many of us even know those who are deployed and fighting in this ever-expanding global conflict.

Sadly, last week, for tragic reasons, these issues were brought to the forefront with the death of four brave American servicemembers in Niger: Army SGT La David Johnson, SGT Bryan Black, SGT Jeremiah Johnson, and SGT Dustin Wright.

Two of those killed—the two Sergeants Johnson—were part of a 12-man patrol whose mission is not clear. We know that their trained military occupational specialties—vehicle mechanic and chemical-biological specialist—were outside traditional combat roles.

In a June war powers letter, the Department of Defense described the mission of over 645 military personnel in Niger as “advise and assist,” but none of the varying accounts of what took place in early October seem to support that seemingly benign summary of what occurred.

Frustration over this lack of understanding of that mission and the events that transpired were shared by everyone from Secretary Mattis to all the Members here. I can't imagine what the servicemembers on duty and their families must be feeling. We see the strain that an ever-expanding operational commitment is having on our

military, from our servicemembers relying upon foreign countries or contractors to provide critical air support where servicemen are stranded on the battlefield for over a day, to our warships, for which schedules have been so strained that their crews are unable to safely navigate international waters.

Being a Senator from Virginia, a State with one of the largest military presences that is home to tens of thousands of servicemembers and their families, I have a personal responsibility to ensure that these strains don't lead to any more tragic mistakes.

The attack in Niger has also laid bare other issues: how little information is provided to Congress about U.S. troops deployed abroad equipped for combat; how little Congress exercises the authority and oversight of these issues and demands information to debate before the public; and the possible "mission creep" and growth of military forces in Africa—an increase by a factor of 17 over the past decade—in which hundreds of missions are being run daily in over 20 countries where there is no specific authorization for use of military force provided by Congress. The Niger operation really identified a gray area between advising and assisting in combat operations, which keeps some deployments just beyond the tripwire of requiring congressional notification.

SASC held a briefing last week with the Department of Defense to try to understand the scope of the Niger mission, the reason for the escalation of our footprint, and why this surprising attack left our troops without support for so long.

But beyond the immediate tactical answers, we need a strategic and fundamental understanding of how and where this country engages in military operations and if the war on terror has become the "forever war" with ever-changing objectives and no end in sight, absolving the need for Congress to weigh in and speak.

Yesterday, in Foreign Relations, we held a much overdue hearing on legal authorization for military force. We heard solid testimony and straightforward answers by Secretaries of State Tillerson and Mattis. I am encouraged that we had the hearing, and I am encouraged that our chair, at the end of the hearing, expressed the desire to move forward to finally, after 16-plus years, engage in a debate and a congressional vote on war authorization.

I was disappointed that the two Secretaries, who were being candid, took the position that the Trump administration needs no more legal authority to do what they are doing. But I have to acknowledge the position they take is actually the position that the Obama administration took, and it is exactly the position that the Bush administration took, so I was not completely surprised. In fact, we shouldn't be surprised when the administration says: We don't need any more authority. But

of course, we are not playing "Mother May I" on this question. It is Congress's role, pursuant to article I, to declare war.

I disagree with the legal analyses offered by all three administrations. I was tough on President Obama about this, as well, that the 60-word authorization from 2001 covers military action all over the globe. But there is some legal dispute about the question, still.

Beyond the legal question, there are also questions of moral authority, political authority, and the abdication of responsibility in this body. Seventy-five percent of the Members of Congress today were not even here when the 2001 authorization was passed and, thus, have never had to cast a vote on it, even as our men and women risk their lives and, in some instances, are killed in action.

Simply put, the 2001 AUMF has become a golden ticket that justifies U.S. military action against terrorist groups all over the globe without the need for additional congressional approval. I am not surprised the Executive wants to keep it that way. Who wouldn't prefer such flexibility? But we have a job to do.

Here is what we need to do. This is what I think needs to happen. We need to end the legal gymnastics with the 2001 AUMF—a 60-word authorization against the perpetrators of 9/11. Applying that now to the fight against ISIL, Boko Haram, and others is a stretch. The AUMF outlines the focus of military action as follows: "Nations, organizations, or persons [the President] determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons."

There were 19 hijackers for the 9/11 attacks, and we have now used the 2001 AUMF in 37 instances to send forces prepared for combat and engaged in combat to 14 nations, including Libya, Turkey, Georgia, Syria, Iraq, Afghanistan, Yemen, Eritrea, Ethiopia, Djibouti, Somalia, Kenya, the Philippines, and Cuba.

Were all of these instances and nations and places really associated with planning or support of the attacks of 9/11? These legal interpretations are in addition to now countless "train and advise" missions around the world, to include those that took the lives of the four servicemembers in Niger.

This was not an unforeseen combat environment. I found this interesting. In April of 2014, the U.S. Government—the Department of the Navy—solicited contractual bids for "Personnel Recovery, Casualty Evacuation, and Search and Rescue," aviation support in "at risk" environments in the following 14 countries: Algeria, Burkina Faso, Chad, Libya, Mali, Morocco, Niger, Nigeria, Cameroon, Cote D'Ivoire, Ghana, Benin, Togo, Tunisia and as directed by operational requirements. Only 5 of those 14 countries have ever been noti-

fied to Congress, pursuant to war powers letters, but we are planning to engage in casualty evacuation in connection with high-risk activities in all of these countries in Africa.

I would like to have a process that informs Congress—and informs the public—that is equal in transparency to what we put in contracting documents to inform military contractors. So Senator FLAKE and I have introduced an authorization for military force intended to keep the Congress and the American people not only informed of our military operations but also engaged in carrying out our constitutional duty. The intent is to recognize the fluid environment in which our military must operate to implement the counterterrorism campaign.

Terrorist organizations don't necessarily operate in just one country. They don't follow Geneva Conventions. It is a different kind of military action, but the requirement for congressional approval is no less important. We need to make our legal authorities, which are now dated, current and appropriately scoped.

I applaud my Foreign Relations chair, Senator CORKER, who, after the hearing yesterday, said that we would move to a markup and clearly, I suspect, an amendment of the proposal Senator FLAKE and I have put on the table. We have done a lot of work on it. A war authorization should be bipartisan. If anything in this body should be bipartisan, I think a war authorization should be. We don't pretend that we have thought of everything; we don't pretend that the bill cannot be improved.

In conclusion, I want to make a few comments. This week, the New York Times reported that President Trump has approved—without providing Members of Congress any information on why these changes are necessary—changes giving the Department of Defense and the CIA more latitude in pursuing "counterterrorism drone strikes and commando raids" against Islamic terrorist groups scattered across the world, all while using the 2001 AUMF as its legal justification. This expansion of war will only continue to magnify and mutate and will do so without public scrutiny, unless and until Congress steps up to provide the oversight and legal authority we are required to do.

I have come to the floor of the Senate since I came here in 2013 to speak about war powers, to speak about a need to revise the War Powers Resolution of 1974, to critique and challenge President Obama around the Libya mission, which had no vote from Congress, and to critique President Obama—who is a personal friend—over the offensive campaign against ISIL without requiring a congressional vote. Since I was clear and repetitive in my critiques of President Obama for using war powers without Congress being involved, I am going to do the same with respect to President Trump.

At the end of the day, my critique is more about this body. An Executive will overreach. An Executive will act, but that does not excuse inaction in this body.

I do worry about a progressive loosening of the rules from the Bush administration to the Obama administration to the Trump administration, which eventually has turned the 2001 AUMF into a golden ticket that allows for action against nonstate terrorist groups anywhere in the world on a Presidential say-so.

We shouldn't take our institutions and, frankly, the fairly radical rebalancing of powers in the Constitution for granted. When Madison and the other drafters put the declaration of war authority in the hands of Congress, they knew they were doing something pretty radical. They knew the world of the day—1787, 230 years ago last month—was a world of Kings, Emperors, Monarchs, Sultans, and Popes. War was primarily for the Executive, but they decided they wanted to do something different. Ten years after the Constitution was done, Thomas Jefferson, as President, was grappling with a nonstate terrorist group in Northern Africa—the Barbary Coast pirates—and what could be done about them? He wrote a letter to James Madison and asked what was behind the war-making powers in the Constitution's article I. Madison described it very well. He said: Our constitution supposes what the history of all governments demonstrates, that it is the Executive most interested in war and, thus, most prone to war. For this reason, we, with studied care, granted the question of war in the legislature.

They were trying to change human history. They were trying to say that we shouldn't be at war unless there was a legislative, collective judgment—not 116 years ago by 25 percent of the people who were there then, but a legislative, collective judgment expressed in an authorization that we should be in war. We are lacking that now.

It is not hard to imagine a future President, whether it is President Trump in the remainder of his term or Presidents in the future, using the expanding war authorities to increasingly justify initiating war without the permission of Congress.

We asked President Trump for the legal authority justifying the Syrian missile strike on Syria that he made in March, and they have not yet provided an answer about their legal authority. What Congress has done is basically told Presidents: You can do whatever you want. That has a way of creeping and growing, and I think it already has. I think the American people deserve better, but, especially, our troops deserve better.

I have said it before; I will say it again. I can't think of anything more publicly immoral—public, civic immorality—than ordering troops to risk their lives and be killed, as the four were in Niger, while Congress is unwilling

to cast a vote because this would be a politically difficult vote: I would rather not vote; I would rather make the President do it and blame the President if it works out badly. A political calculation has caused Congress to abdicate a responsibility while others are shouldering the burdens of responsibility—and even losing their lives in the process.

Finally, Senator Jacob Javits wrote a book in 1973 entitled "Who Makes War" after Congress passed the War Powers Resolution during the Vietnam war. He offered a very prescient commentary. I will close here:

Many advocates of presidential prerogative in the field of war and foreign policy seem to be arguing that the President's powers as Commander in Chief are what the President alone defines them to be. The implication that the Presidency is beyond the range of congressional authority to check in the exercise of the war powers raises a serious constitutional danger. If we accept such a view we accept a situation in which the American people are dependent solely on the benign intent and good judgment of the incumbent President. We may not always be fortunate enough to see a person with such qualities in the White House.

With that, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CRUZ). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THUNE. I ask unanimous consent that I be able to speak until such time as my remarks are concluded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAX REFORM

Mr. THUNE. Mr. President, the House and the Senate are moving forward on a final draft of our tax reform bill, and I am excited about the progress we are making. We have one goal in mind with tax reform. It is to provide real relief to ordinary Americans—to the parents who are questioning whether they can afford the car they need to fit their growing family, to the single mom who is wondering how she is going to pay the bills this month, and to the middle-age couple worrying about a secure retirement. Everything in our tax reform framework is centered on providing relief to these Americans.

To start with, we are going to provide them with a substantial amount of direct relief by lowering their tax rates and doubling the standard deduction so that they are keeping more of their paycheck every month.

We are also going to significantly expand the child tax credit.

And we are going to simplify and streamline the Tax Code so that it is easier for Americans to figure out what benefits they qualify for and so they don't have to spend a lot of time and money filing their taxes.

All of these reforms mean more money in Americans' pockets. But we are not stopping there. We are also going to focus on reforming the business side of the Tax Code so that we can give Americans access to the kind of jobs, wages, and opportunities that will set them up for a secure future.

In order for individual Americans to thrive economically, we need American businesses to thrive. Thriving businesses create jobs. They provide opportunities. They increase wages and invest in their workers, and they invest in new equipment, facilities, and product lines to innovate and expand their businesses.

Right now, though, our Tax Code is not helping businesses thrive. Instead, it is strangling both large and small businesses with high tax rates.

Our Nation has the highest corporate tax rate in the industrialized world—at least 10 percentage points higher than the majority of our international competitors. That is a problem for American workers because high tax rates leave businesses with less money to invest in their workers, to increase wages, or to create new jobs. This situation is compounded when you are an American business with international competitors that are paying a lot less in taxes than you are.

It is no surprise that U.S. businesses struggling to stay competitive in the global economy don't have a lot of resources to devote to creating new jobs and increasing wages. A study from the White House Council of Economic Advisers estimates that reducing the corporate tax rate from 35 percent down to 20 percent would increase average household income by \$4,000 annually.

A second study shows a similar pay increase. Boston University professor and public finance expert Larry Kotlikoff found that lowering the corporate tax rate to 20 percent would increase household income by \$3,500 per year on average. That is a significant pay raise for hard-working Americans.

In addition to lowering the corporate tax rate, there is another important thing we can do to increase the availability of jobs here at home; that is, reforming our outdated, worldwide tax system. Under our worldwide tax system, American companies pay U.S. taxes on the profit they make here at home, as well as on part of the profit they make abroad, once they bring that money home to the United States.

The problem with this is that most other major world economies have shifted from a worldwide tax system to what is called a territorial tax system. In a territorial tax system, you pay taxes on the money you earn where you make it and only there. You aren't taxed again when you bring money back to your home country.

Most American companies' foreign competitors have been operating under a territorial tax system for years. So they are paying a lot less in taxes on the money they make abroad than American companies are, and that