

sources and methods. It is just automatic in the consideration of any business before us and before the Congress. That is because we so admire—I know the Presiding Officer feels this way—we so admire those who work in the intelligence field and in the national security field, and should sources and methods be exposed, we can have people who are helping to keep us safe die. So we put it in every bill.

In order to get my amendment to make sure that we would actually have the American people get the information that the intelligence community has about how Mr. Khashoggi died, I accepted boilerplate language about protecting sources and methods. But I want to be clear—because the intelligence community has, in effect, bobbed and weaved around this issue for some time—that if the intelligence community attempts to use that boilerplate language to avoid real accountability and real transparency, I am going to fight them tooth and nail, and that includes using the procedure, which I will describe tonight, that is available to members of the Senate committee to get information to the American people.

I am going to be specific here just for a moment. I am going to describe section 8 of S. Res. 400, which allows members of the Intelligence Committee to initiate a process that ultimately would permit the Senate to release information over the objection of the President of the United States. I don't make this statement lightly. I don't make threats lightly, and I hope it doesn't come to this.

I hope the intelligence community finally adheres to the intent of the provision in this legislation and tells the American people and the world what it knows about the death of Mr. Khashoggi. But if the intelligence community stonewalls again—once again blocks the truth from the American people—I am not going to rest. The stakes are too high. Press freedom here and around the world must survive. Intimidation and murder cannot be allowed to stand.

I state tonight that I will use S. Res. 400 and every tool at my disposal to finally get this long overdue information about the death of Jamal Khashoggi to the American people.

I yield the floor.

I note that my colleague from Oregon, who is doing important work, is here and I am sure wishes to speak now.

The PRESIDING OFFICER (Mr. SULLIVAN). The Senator from Oregon.

#### CONSTITUTIONAL POWERS

Mr. MERKLEY. Mr. President, this Chamber has the responsibility to debate tough issues that face our Nation. It has been devoid of such tough debates now for a very long time, essentially failing to perform its responsibilities to the American people under the vision of our Constitution. I am more

troubled at this moment about this failure than any previous moment because, at this moment, the drums of war are beating, and this Chamber stays silent.

At this moment, we have a bill before us to address security issues. Yet we are being denied the chance to debate the most important security issue of all—whether or not the United States goes to war.

The question before us in the amendment put forward by TOM UDALL of New Mexico and TIM KAINE of Virginia is this: Has there already been an authorization by this body for the President to go to war against Iran? Their amendment answers this question. It says with great clarity that the answer is no. The President does not have authority to go to war. The power to make that decision is vested with Congress, and no bending and twisting and contorting of any previous authority can be used in this situation. That is what their amendment says. It says: Mr. President, if you want to go to war, you have to come to Congress to get authority—authority voted on after the date of their amendment.

It is a fundamental question: Are we going to follow the Constitution or not? When our Framers were working on the Constitution, many feared that a President would become a King, and many feared that Kings take countries to war to the benefit of their treasure and their power but to the disadvantage of the people. But we are supposed to be a country with a different vision—not government by and for a King or by and for the powerful, but by and for the people.

They debated this at great length and decided with clarity and authority that Presidents in the United States would not have that power. Hamilton wrote about this in his *Federalist* Paper 69 in 1788:

The President is to be the commander-in-chief of the army and navy. . . . 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 . . . while that of the British king extends to the DECLARING of war.

This declares a huge difference between a kingship that can decide on war, but here in America, it is the power vested in this body—Congress.

At another point Hamilton wrote that the President of the United States “would be an officer elected by the people for FOUR years,” again, describing the difference between a President and a King. “[T]he king of Britain is a perpetual and hereditary prince. . . . The one would have a right to command the military and naval forces of the nation”—the one being America, the other being the King of Britain—“possesses that of DECLARING war,” very much emphasizing how important this distinction is.

President Lincoln addressed this when he was in office:

Allow the President to invade a neighboring nation, whenever he shall deem it necessary to repel an invasion and you allow him to do so whenever he may choose to say he deems it necessary for such purpose—and you allow him to make war at pleasure. . . . If, today, he should choose to say he thinks it necessary to invade Canada to prevent the British from invading us, how could you stop him? You may say to him, “I see no probability of the British invading us,” but he will say to you, “Be silent; I see it, if you don’t.”

Then Lincoln brings to bear that our Constitution doesn’t allow this.

The provision of the Constitution that gives the war-making power to Congress was dictated, as I understand it, for the following reason: that Kings had always been involving and impoverishing their people in wars, pretending generally, if not always, that the good of the people was the object. Our Convention understood this to be the most oppressive of all kingly oppressions, and it resolved to so frame the Constitution of the United States that no man should hold the power of bringing this oppression upon us.

These were powerful words from President Lincoln in his describing the Founders’ vision to make sure that no one man, including the President, holds the power to bring that oppression, the oppression of war, upon us.

James Madison’s notes of the debate of the Constitutional Convention of 1787 revealed that when Pierce Butler, of South Carolina, urged the President be given the power to initiate a war, the delegates overwhelmingly rejected his proposal.

Elbridge Gerry, of Massachusetts, said that he never expected to hear in a republic a motion to empower the Executive to declare war.

George Mason, of Virginia, remarked that he was “against giving the power of war to the Executive” because the President “is not safely to be trusted with it.”

Leader after leader said this power must reside in Congress, not in the President.

This list of the Founders’ vision goes on and on, all to this fundamental point: No one man—certainly not a President—is given the power to declare war.

While we are here on the Defense Authorization Act, shouldn’t we debate this issue? We have a President who, regardless, claims he has complete power to declare war. We have asked members of his Cabinet: Do you respect the Constitution? Will you come to Congress and ask for authority if you want to wage war against Iran? They have refused to answer that question time and again.

So we demand here on this floor that we hold a debate on TOM UDALL and TIM KAINE’s amendment that states, very clearly, we have not authorized war. You cannot take any prior authorization and bend and twist and contort it to somehow say Congress has provided you this authority.

I expect, under debate, if we were here listening to each other, this would

have broad, bipartisan support. All of us took an oath to the Constitution. It does nothing but restate the fundamental principle written into the Constitution.

The drumbeat of war against Iran has been steady—a continuous demeaning of its every move. For sure, it does many things that bother us a great deal. Yet it is more than just being concerned about its current activities when I speak of the drumbeat of war; I am talking about the fact that we exited an agreement that we made with Iran, the JCPOA agreement, which had it dismantling all of its nuclear programs in exchange for some loosening of economic restrictions. We exited it. When we did that—when President Trump pulled us out of it, he did exactly what the rightwing said, what the hard-liners in Iran said, which was that America was not to be trusted, that America will not stand by the agreement. President Trump showed Iran that it was right.

Then, in this tightening of the economic restrictions by us that has ensued, we have made life difficult all across the spectrum of Iranian civilians, and we have created more support for the rightwing, for the hard-liners, for the Islamic Revolutionary Guard in Iran—the folks who are the least interested in negotiating with the United States of America, the folks who are most interested in pursuing a nuclear program. We have strengthened Iran, within its country, with this action.

Then we deployed the Abraham Lincoln carrier strike group to the Persian Gulf. One of our carrier strike forces is immensely powerful. It is able to rain down bombs on a vast number of cities in short order with there being massive destruction that symbolizes and embodies that power.

It is not just that. We deployed a B-52 squadron to the region, and it has an immense, heavy lifting, bombing capability as well.

It is not just that. The Iranian economy, while it suffered under quotas, still had some ability to sell some oil and therefore an ability to alleviate some suffering within its country economically. We cut off those waivers. Now they are really hard-pressed.

So we empowered the rightwing. We strengthened the citizens of Iran to support the hard-liners, and the hard-liners then did something like shoot down an American drone, and we came this close to going to war.

Our President's—President Trump's—inner Cabinet recommended our bombing Iran in retaliation. It was at the last moment that President

Trump apparently recognized that Iran had shot down an unmanned drone and that we were going to conduct a bombing campaign that might kill 150 people, but that would not have been proportional. His observation was right. Yet where were his advisers when talking about proportionality—his advisers who had been beating this drumbeat of war, who had looked for a trigger, an opportunity to unleash the forces that had been pre-positioned in the gulf by the United States of America? Shouldn't we demand the President follow the Constitution?

We must debate this amendment—the Udall-Kaine amendment—on this floor. Let people vote no or yes according to their opinions, but let us listen to each other. Let us argue about one of the most important issues a nation can ever argue about—the power to go to war.

I hope my colleagues here in the Senate will read the commentary by the Founders and by those who came later. I was struck that Jefferson, who was very involved in the structuring of the Constitution, talked about putting a leash on the dogs of war by transferring the power from the executive to the legislative. Yet he didn't just talk the talk; he walked the walk. He wrote a message to Congress in 1805: “Considering that Congress alone is constitutionally invested with the power of changing our condition from peace to war, I have thought it my duty to await their authority for using force.”

Jefferson talked the talk, and he walked the walk. Are we going to walk the talk? Are we going to stand by and not even debate the issue?

Let us have the Senate be the Senate and put amendments before this body on issues that are important to this Nation. We are on a bill about the security of the Nation. There is no better time in the future than now.

Are we to come together after war has been unleashed and then hold a debate on whether it was authorized? Can we not send clarity now or at least debate as to whether to send clarity now that, indeed, it is not authorized and that the President must come to Congress, as envisioned—as laid out in article I, section 8 of the Constitution? Shouldn't we have that debate now, not after a conflict has started? The answer is, yes, we should have the debate now.

ADJOURNMENT UNTIL 10 A.M.  
TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 10 a.m. tomorrow.

Thereupon, the Senate, at 7:10 p.m., adjourned until Tuesday, June 25, 2019, at 10 a.m.

## NOMINATIONS

Executive nominations received by the Senate:

### NATIONAL TRANSPORTATION SAFETY BOARD

MICHAEL GRAHAM, OF KANSAS, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR A TERM EXPIRING DECEMBER 31, 2025. (REAPPOINTMENT)

### CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

KATHERINE ANDREA LEMOS, OF CALIFORNIA, TO BE A MEMBER OF THE CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD FOR A TERM OF FIVE YEARS, VICE MARK A. GRIFFON, RESIGNED.

### DEPARTMENT OF STATE

ANTHONY F. GODFREY, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SERBIA.

MARY BETH LEONARD, OF MASSACHUSETTS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE FEDERAL REPUBLIC OF NIGERIA.

HERRO MUSTAFA, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF BULGARIA.

LESLIE MEREDITH TSOU, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SULTANATE OF OMAN.

### LEGAL SERVICES CORPORATION

MATTHEW KEENAN, OF KANSAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 2020, VICE HARRY JAMES FRANKYN KORRELL III, TERM EXPIRED.

### THE JUDICIARY

DANIEL Z. EPSTEIN, OF MARYLAND, TO BE A JUDGE OF THE UNITED STATES COURT OF FEDERAL CLAIMS FOR A TERM OF FIFTEEN YEARS, VICE EDWARD J. DAMICH, TERM EXPIRED.

JOHN FITZGERALD KNESS, OF ILLINOIS, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS, VICE SAMUEL DER-YEGHIAYAN, RETIRED.

### DEPARTMENT OF JUSTICE

W. STEPHEN MULBROW, OF PUERTO RICO, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF PUERTO RICO FOR THE TERM OF FOUR YEARS, VICE HUMBERTO S. GARCIA, RESIGNED.

### THE JUDICIARY

HALIL SULEYMAN OZERDEN, OF MISSISSIPPI, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT, VICE E. GRADY JOLLY, RETIRED.

ELENI MARIA ROUMEL, OF MARYLAND, TO BE A JUDGE OF THE UNITED STATES COURT OF FEDERAL CLAIMS FOR A TERM OF FIFTEEN YEARS, VICE MARY ELLEN COSTER WILLIAMS, TERM EXPIRED.

JUSTIN REED WALKER, OF KENTUCKY, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF KENTUCKY, VICE JOSEPH H. MCKINLEY, JR., RETIRED.

## WITHDRAWAL

Executive Message transmitted by the President to the Senate on June 24, 2019 withdrawing from further Senate consideration the following nomination:

ROBERT C. TAPELLA, OF VIRGINIA, TO BE DIRECTOR OF THE GOVERNMENT PUBLISHING OFFICE, VICE DAVITA VANCE-COOKS, WHICH WAS SENT TO THE SENATE ON JANUARY 16, 2019.