



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 116th CONGRESS, SECOND SESSION

Vol. 166

WASHINGTON, WEDNESDAY, FEBRUARY 12, 2020

No. 29

Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. GRASSLEY).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O God, who sustains our universe by Your boundless power, preserve our Senators with Your goodness, and rule them with Your justice. Lord, we cast ourselves entirely upon Your faithfulness, for You are the source of every blessing.

Stabilize our lawmakers in the midst of the contradictions of reality. Grant that they will be able to make sense out of life's complexities. Lord, help our legislators know the constancy of Your presence and the certainty of Your judgment as You guide them with Your higher wisdom.

We pray in Your generous Name. Amen.

PLEDGE OF ALLEGIANCE

The President pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

The PRESIDING OFFICER (Mrs. BLACKBURN). The Senator from Iowa.

Mr. GRASSLEY. Madam President, I ask unanimous consent to speak for 1 minute as in morning business.

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

PARKLAND SHOOTING ANNIVERSARY

Mr. GRASSLEY. Madam President, this Friday marks the 2-year anniversary of the shooting at the school in Parkland, FL, where 17 innocent lives were lost at the hands of evil. We will never forget that tragic moment and day.

I am dedicated to keeping weapons from dangerous people. That is why I have introduced the EAGLES Act over the past 2 years. This bipartisan, bicameral bill reauthorizes and expands the leading center in threat assessment and prevention. This bill is a tribute to the victims and the families.

Also, the Justice Department still hasn't provided to Congress its report on the shooting. I hope the Department of Justice will get off the stick. It owes it to the families to get this report done.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

RECOGNITION OF THE MAJORITY LEADER

The PRESIDING OFFICER. The majority leader is recognized.

FORT KNOX

Mr. McCONNELL. Madam President, yesterday, the U.S. Army and the Commonwealth of Kentucky both received some really great news.

Secretary of the Army Ryan McCarthy and Army Chief of Staff GEN James McConville announced that Fort Knox will be the headquarters for the new Army Corps. They stopped by my office last night to discuss the good news.

The new Fifth Corps will support U.S. forces and operations in Europe, helping fulfill requirements of the national defense strategy. It is expected to bring more than 600 additional soldiers to Fort Knox.

Along with Congressman BRETT GUTHRIE and Senator PAUL, I had urged

Army leadership to select Fort Knox for this new corps headquarters, and, obviously, we think they made a great choice.

Now Fifth Corps will join the eight commands already stationed there, including the Army's Human Resources, Recruiting, and Cadet Commands. I have worked for years to help ensure that Fort Knox receives the national attention that it deserves.

It is really great to see the Army agrees that its high-quality facilities are perfect for this new headquarters. The extraordinary work of the Knox Regional Development Alliance has made it a wonderful place both to live and to work—both for servicemembers and for their families.

Last year I was proud to host Defense Secretary Mark Esper in Kentucky to meet with members of the Fort Knox community. I am certainly grateful to him, Secretary McCarthy, and General McConville for recognizing our potential.

WAR POWERS RESOLUTION

Mr. McCONNELL. Madam President, on another matter, today, the Senate will consider a War Powers Resolution offered by the junior Senator from Virginia. Our colleague's resolution is deeply flawed on a number of levels.

As I explained yesterday, it is too blunt and too broad. It is also an abuse of the War Powers Act, which was designed to strike a balance between the President's constitutional war powers and Congress's own war powers and oversight responsibilities.

Some of us believe the War Powers Act went too far in undermining the separation of powers and infringing upon the authorities of the Commander in Chief. But apart from that debate, everyone should acknowledge that it was designed to stop Vietnams—the deployment of thousands of troops into sustained combat without congressional authorization, not the one-off

- This “bullet” symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



Printed on recycled paper.

uses of limited force that Presidents have carried out literally for centuries.

Until recently, most in this body recognized the need for Presidents to have flexibility with respect to the threat of military force. They saw the deterrent effect and diplomatic utility of keeping our options open.

During President Obama's tenure, Democrats said frequently that when it comes to Iran, we should never take the military option off the table. But now they seek to use this privileged resolution to do precisely that.

The collateral institutional damage of this action would fall on our military. Its ability to operate quickly and adaptively to emerging threats would be jeopardized.

Colleagues, if you want to take the truly significant step of preemptively taking options off the table for defending our troops, if you really want to remove troops from Syria or Iraq altogether, why don't you just be honest about it and make your case? Find 60 votes to pass legislation. Find 67 votes to override a Presidential veto. Don't use a blunt and imprecise War Powers Resolution to end-run around the constitutional structures that make this a difficult proposition by design.

There is no ongoing, protracted combat with respect to Iran. Our troops are not mired in unending hostilities. The War Powers Act aims to impose a 60-day clock on combat operations. The strike that killed Soleimani took maybe 60 seconds. Let me say that again. The strike took about 60 seconds.

Clearly, this is the wrong tool for this subject.

We have just come through an impeachment trial because House Democrats rushed to use this serious tool as a political weapon of first resort rather than patiently conducting more normal oversight using the more normal tools that Congresses of both parties typically use. No patience for ordinary oversight—just rush to grab the bluntest tool available to make a political statement against the President. Well, this war powers debate bears an eerie resemblance to that pattern.

To listen to some of the advocates of Senator Kaine's resolution, you would think that sweeping resolutions like this were the only means available to Senators to express any discomfort with White House foreign policy. Of course that isn't so.

If Senators' priority is genuine oversight, there are countless tools in their toolbox. They can hold hearings. They can engage the administration directly. They can ask questions and raise issues they feel were not sufficiently addressed in interagency deliberations.

Instead, like impeachment, this War Powers Resolution cuts short that interplay between the branches. It short-circuits the thoughtful deliberation and debate. It is a dangerously overbroad resolution that should not pass Congress and is certain to be ve-

toed if it does. If my colleagues want to make a real difference, this is not the way to go.

The amendments my Republican colleagues and I have filed expose the shortcomings and unintended risks of this approach.

Senator Kaine has drafted a rule of construction that tries to provide an exception allowing U.S. troops to defend themselves against an attack if it is "imminent." My amendment exposes the absurdity of this by simply removing the word "imminent."

How imminent, exactly, is imminent enough? When do our men and women in uniform get to defend themselves? I would like to know. Should our servicemembers need to sit on intelligence until an attack is a week away? A day away? An hour away? Until they see the whites of the enemy's eyes?

And who makes the determination about imminence? Five hundred thirty-five Members of Congress? The President? A Pentagon lawyer? A battlefield commander? Some young private?

This resolution imposes a new constraint on the military without answering any of those questions.

If we have intelligence warning that an enemy is planning to attack our forces, can we not disrupt the plot until the attack is almost underway?

Senators Cotton, Rounds, and Sullivan have also filed amendments. They propose sensible additions to give our troops and their commanders more confidence we aren't trying to tie their hands against precisely the threat they might face if Iran were again to become emboldened enough to attack us—oh, and to make sure we can defend our diplomats and Embassies, too, if they were to face renewed threats.

So clearly this resolution is not ready for prime time. I believe it is just an effort to broadcast a political message, but even that message can be harmful to our troops and to our national security.

So what message will the Senate send to American servicemembers? Should they doubt whether their own leaders are authorized to defend them? What message should we send to our regional allies and partners? Can they count on continued solidarity from the United States? What would it say to real great-power competitors like Russia and China if we cannot even remain united in the face of a lesser challenge, such as Iran?

Let's send the right message with our vote. Let's defeat this misguided resolution.

MEASURE PLACED ON THE CALENDAR—S. 3275

Mr. McCONNELL. Madam President, I understand there is a bill at the desk due a second reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for the second time.

The legislative clerk read as follows:

A bill (S. 3275) to amend title 18, United States Code, to protect pain-capable unborn children, and for other purposes

Mr. McCONNELL. Madam President, in order to place the bill on the calendar under the provisions of rule XIV, I would object to further proceedings.

The PRESIDING OFFICER. Objection having been heard, the bill will be placed on the calendar.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to resume consideration of the following nomination, which the clerk will report.

The legislative clerk read the nomination of Joshua M. Kindred, of Alaska, to be United States District Judge for the District of Alaska.

The PRESIDING OFFICER. The Senator from Illinois.

WAR POWERS RESOLUTION

Mr. DURBIN. Madam President, last week the Senate concluded the impeachment proceeding. I heard one of my colleagues say it is the most serious thing that the U.S. Senate has the constitutional authority to do. That argument can be made, but I would disagree.

I think the most serious thing we are assigned under the Constitution is the declaration of war because, you see, it isn't just a matter of the political fate of any individual; it is the matter of the lives of many good people in America who serve in our Armed Forces, who may be in danger if we decide to go to war. Even under the best circumstances, a quick and effective war can lead to the deaths of brave and innocent Americans who are simply serving their country. That is why the comments made by the majority leader this morning need to be responded to.

His suggestion that Senator Kaine's War Powers Resolution is a mistake, I think, really ignores the obvious. It has been 18 years—almost 18 years—since Congress and the Senate had an active debate about the United States engaging in war. I remember that debate in 2002 very well because it was a debate that consumed the attention of the Senate, the House, and the Nation over whether we would invade Iraq and whether we would invade Afghanistan.

Most of us remember the argument made by the Bush administration for the invasion of Iraq. We were told there were weapons of mass destruction in that country that could threaten the