

(1) in paragraph (1), by striking “December 31, 2015” and inserting “December 31, 2017”; and

(2) in paragraph (3), by striking “January 1, 2016” and inserting “January 1, 2018”.

#### DIRECTING SENATE LEGAL COUNSEL

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 333, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 333) to direct the Senate Legal Counsel to appear as amicus curiae in the name of the Senate in *Bank Markazi, The Central Bank of Iran v. Deborah D. Peterson, et al.* (S. Ct.)

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCONNELL. Mr. President, the Supreme Court has taken up a case presenting the question whether a provision of the Iran Threat Reduction and Syria Human Rights Act of 2012, which provides terrorism victims in the case of *Peterson v. Islamic Republic of Iran*, Case No. 10 Civ. 4518, filed in the Southern District of New York, with the right, notwithstanding any other law, to obtain money damages for existing judgments against Iran from certain Iranian bonds held in the United States, violates the separation of powers.

The plaintiffs here are victims and families of victims of Iran-sponsored terrorist attacks, including the 1983 Beirut Marine barracks bombing and the 1996 Khobar Towers bombing, who hold billions of dollars in unpaid compensatory damages judgments against Iran. In 2010, they initiated an action in Federal court seeking turnover of \$1.75 billion in bond assets held by Citibank in New York, which through two foreign intermediary banks were ultimately owned by Bank Markazi, the Central Bank of Iran, which is wholly owned by the Iranian Government.

Plaintiffs argued they were entitled to the assets under the Terrorism Risk Insurance Act of 2002, TRIA, which permits the satisfaction of terrorism judgments from “the blocked assets of any agency or instrumentality of th[e] terrorist party.” Pub. L. No. 107-297, §201(a), 116 Stat. 2322, 2337. Bank Markazi argued the assets were not subject to execution under TRIA because they were held on behalf of intermediaries and therefore, under controlling state law, those assets could not be considered Iran’s property.

Against that backdrop and with plaintiffs’ motion for seeking execution pending, Congress enacted section 502 of the Iran Threat Reduction and Syria Human Rights Act of 2012. 22 U.S.C. §8772. That statute identified plaintiffs’ case by name and docket number and directed that, “notwithstanding any other provision of law”

the assets “shall be subject to execution or attachment in aid of execution in order to satisfy any judgment to the extent of any compensatory damages awarded against Iran.” 22 U.S.C. §8772(a)(1), (b). It also expressly disclaimed any effect on “any [other] proceedings.” 22 U.S.C. §8772(c)(1). Before permitting execution against the assets, the statute required the court to determine both whether Iran holds title or interest in the assets and whether any “other person possesses a constitutionally protected interest in the assets.” 22 U.S.C. §8772(a)(2).

Bank Markazi challenged section 502 as unconstitutional for violating the separation of powers between the legislative and judicial branches explicated in *United States v. Klein*, 80 U.S. (13 Wall.) 128 (1871), by effectively dictating the outcome of a single case. After making the statutory determinations that Iran and only Iran held a beneficial interest in the assets, the district court rejected Bank Markazi’s constitutional challenge. *Peterson v. Islamic Republic of Iran*, slip op (S.D.N.Y. March 13, 2013), 2013 WL 1155576. The court, noting it was required to determine whether Iran holds title or interest in the assets, as well as whether any other party holds a protected interest in the assets, held that “[t]he statute does not itself ‘find’ turnover required; such determination is specifically left to the Court.” *Id.* at 31.

On appeal, a unanimous Second Circuit panel affirmed. *Peterson v. Islamic Republic of Iran*, 758 F.3d 185 (2d Cir. 2014). The appellate court noted that “while *Klein* illustrates that Congress may not ‘usurp[] the adjudicative function assigned to the federal courts,’ later cases have explained that Congress may ‘chang[e] the law applicable to pending cases,’ even when the result under the revised law is clear.” *Id.* at 191 (citations omitted).

Bank Markazi filed a petition for certiorari with the Supreme Court. After calling for and receiving the views of the United States Solicitor General, who filed an opposition to certiorari defending the constitutionality of section 502, the Supreme Court granted certiorari.

Title VII of the Ethics in Government Act authorizes the Senate to appear as an amicus curiae in any legal action in which the powers and responsibilities of the Congress under the Constitution are placed in issue. Appearance as an amicus curiae in this case would enable the Senate to respond to Bank Markazi’s contention that this law infringes on the judiciary’s constitutional power to decide cases and controversies and to present to the Court the basis for the Senate’s conviction that the law is consistent with the Constitution.

This resolution would authorize the Senate legal counsel to appear in this case in the Senate’s name as amicus curiae to support the constitutionality of the statute.

Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table with no intervening action or debate.

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

The resolution (S. Res. 333) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is printed in today’s RECORD under “Submitted Resolutions.”)

#### ORDERS FOR MONDAY, DECEMBER 14, 2015

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 3 p.m. on Monday, December 14; that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, and the time for the two leaders be reserved for their use later in the day; further, that following leader remarks, the Senate be in a period of morning business until 5 p.m., with Senators permitted to speak therein for up to 10 minutes each; finally, that at 5 p.m., the Senate then proceed to executive session as under the previous order.

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

#### ADJOURNMENT UNTIL MONDAY, DECEMBER 14, 2015, AT 3 P.M.

Mr. McCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 6:32 p.m., adjourned until Monday, December 14, 2015, at 3 p.m.

#### DISCHARGED NOMINATION

The Senate Committee on Environment and Public Works was discharged from further consideration of the following nomination unanimous consent and the nomination was confirmed:

RICHARD CAPEL HOWORTH, OF MISSISSIPPI, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE TENNESSEE VALLEY AUTHORITY FOR A TERM EXPIRING MAY 18, 2020.

#### CONFIRMATIONS

Executive nominations confirmed by the Senate December 10, 2015:

##### DEPARTMENT OF ENERGY

CHERRY ANN MURRAY, OF KANSAS, TO BE DIRECTOR OF THE OFFICE OF SCIENCE, DEPARTMENT OF ENERGY.

MORRIS K. UDALL AND STEWART L. UDALL FOUNDATION

ERIC DRAKE EBERHARD, OF WASHINGTON, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL AND STEWART L. UDALL FOUNDATION FOR A TERM EXPIRING OCTOBER 6, 2018.

##### IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE UNITED STATES MARINE CORPS WHILE ASSIGNED TO A