

119TH CONGRESS
2^D SESSION

S. J. RES. _____

To direct the removal of United States Armed Forces from hostilities within or against the Republic of Cuba that have not been authorized by Congress.

IN THE SENATE OF THE UNITED STATES

Mr. KAINE (for himself, Mr. SCHIFF, and Mr. GALLEGO) introduced the following joint resolution; which was read twice and referred to the Committee on _____

JOINT RESOLUTION

To direct the removal of United States Armed Forces from hostilities within or against the Republic of Cuba that have not been authorized by Congress.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled,*

3 **SECTION 1. FINDINGS.**

4 Congress makes the following findings:

5 (1) Congress has the sole power to declare war
6 under article I, section 8, clause 11 of the United
7 States Constitution.

8 (2) The President has a constitutional responsi-
9 bility to take actions to defend the United States, its

1 territories, its possessions, citizens, service members,
2 and diplomats from attack.

3 (3) Congress has not declared war upon Cuba
4 or upon any person or organization within Cuba, nor
5 enacted a specific statutory authorization for the use
6 of military force within or against Cuba.

7 (4) The Supreme Court held in the *Prize Cases*,
8 2 Black 635 (1863), the “proclamation of blockade
9 is itself official and conclusive evidence to the Court
10 that a state of war exist[s]”. The President, the Su-
11 preme Court noted, “has no power to initiate or de-
12 clare a war either against a foreign nation or a do-
13 mestic State”.

14 (5) The use of force by the United States
15 Armed Forces within or against Cuba, including the
16 use of the United States Coast Guard and other
17 components of the Armed Forces to conduct a block-
18 ade or quarantine of Cuba constitutes the introduc-
19 tion of United States Armed Forces into hostilities
20 within the meaning of section 4(a) of the War Pow-
21 ers Resolution (50 U.S.C. 1543(a)).

22 (6) Section 1013 of the Department of State
23 Authorization Act, Fiscal Years 1984 and 1985 (50
24 U.S.C. 1546a) provides that any joint resolution or
25 bill requiring the removal of United States Armed

1 Forces from imminent engagement in hostilities
2 without a declaration of war or specific statutory au-
3 thorization shall be considered in accordance with
4 the expedited procedures under section 601(b) of the
5 International Security and Arms Export Control Act
6 of 1976 (Public Law 94–329).

7 **SEC. 2. REMOVAL OF UNITED STATES ARMED FORCES**
8 **FROM HOSTILITIES WITHIN OR AGAINST**
9 **CUBA.**

10 (a) REMOVAL.—Pursuant to section 1013 of the De-
11 partment of State Authorization Act, Fiscal Years 1984
12 and 1985 (50 U.S.C. 1546a), and in accordance with sec-
13 tion 601(b) of the International Security Assistance and
14 Arms Export Control Act of 1976 (Public Law 94–329),
15 Congress hereby directs the President to remove the
16 United States Armed Forces from hostilities within or
17 against Cuba, unless explicitly authorized by a declaration
18 of war or a specific authorization for use of military force.

19 (b) RULE OF CONSTRUCTION.—Nothing in this sec-
20 tion may be construed to prevent the United States from
21 defending itself from an armed attack, the threat of an
22 imminent armed attack, or the lawful execution of coun-
23 ternarcotics operations.