Calendar No. 68

112TH CONGRESS
1ST SESSION

S. J. RES. 14

Declaring that the President has exceeded his authority under the War Powers Resolution as it pertains to the ongoing military engagement in Libya.

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IN THE SENATE OF THE UNITED STATES

MAY 23, 2011

Mr. PAUL introduced the following joint resolution; which was read the first time

MAY 24, 2011

Read the second time and placed on the calendar

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JOINT RESOLUTION

Declaring that the President has exceeded his authority under the War Powers Resolution as it pertains to the ongoing military engagement in Libya.

Whereas Article I, Section 8 of the Constitution of the United States reserves for Congress the right to declare war;

Whereas the War Powers Resolution (50 U.S.C. 1541 et seq.) states that it is intended to "fulfill the intent of the framers of the Constitution of the United States" in requiring the President to seek the consent of Congress be-

fore the introduction of the United States Armed Forces into hostile action;

Whereas the President must seek authorization from Congress prior to engaging the United States Armed Forces in an armed conflict absent an imminent threat to national security;

Whereas President Barack Obama, without seeking a formal authorization from Congress, ordered the execution of a sustained military engagement through the enforcement of a no-fly zone in Libya on March 19, 2011;

Whereas Congress did not consider or pass a formal authorization for the President to initiate military operations in Libya;

Whereas the War Powers Resolution establishes that the President must notify Congress of the introduction of the United States Armed Forces within 48 hours after commencing such action;

Whereas President Obama acknowledged his obligation to submit a notification of his actions in Libya under the War Powers Resolution through a letter delivered on March 21, 2011, to Speaker of the House John Boehner and President Pro Tempore of the Senate Daniel Inouye;

Whereas section 8(a) the War Powers Resolution (50 U.S.C. 1547(a)) establishes that the President may not construe authorization from any other act or treaty unless such act or treaty is "implemented by legislation specifically authorizing the introduction of the United States Armed Forces into hostilities";

Whereas President Obama contends that hostile engagement by the military forces of the United States against the Government of Libya was part of a multilateral response

authorized by United Nations Security Council Resolution 1973 (2011) and in consultation with the Arab League ;

Whereas section 2(c) of the War Powers Resolution (50 U.S.C. 1541(c)) provides that no attempt by the President to introduce the United States Armed Forces into hostile action may be made under the War Powers Resolution unless there is "(1) a declaration of war, (2) a specific authorization, or (3) a national emergency created by attack upon the United States, its territories or possessions, or its armed forces";

Whereas the Government of Libya, immediately prior to the introduction of the United States Armed Forces into the conflict on March 19, 2011, had not attacked the United States nor declared any intent to do so;

Whereas President Obama had stated the purpose of enforcing a no-fly zone over Libya was to "take all necessary measures to protect civilians and civilian populated areas under threat of attack in Libya" and not in response to any direct or immediate threat to the United States;

Whereas section 5(b) of the War Powers Resolution (50 U.S.C. 1544(b)) further establishes that, in absence of authorization from Congress, the President may not engage the United States Armed Forces in an armed conflict for a period longer than "sixty calendar days";

Whereas members of the United States Armed Forces have remained engaged in operations in Libya since March 19, 2011;

Whereas, on May 20, 2011, the limit of sixty calendar days placed on the President's ability to continue engagement of the military forces of the United States against the

Government of Libya will have been exhausted under the terms of the War Powers Resolution;

Whereas Section 5(b) of the War Powers Resolution (50 U.S.C. 1544(b)) requires that "within sixty calendar days. . . the President shall terminate any use of United States Armed Forces. . . unless the Congress (1) has declared war or has enacted a specific authorization for such use of the United States Armed Forces, (2) has extended by law such sixty-day period, or (3) is physically unable to meet as a result of an armed attack upon the United States";

Whereas President Obama reiterated on May 20, 2011, that the military forces of the United States remain engaged in hostilities, including "suppression and destruction of air defenses" and "precision strikes by unmanned aerial vehicles";

Whereas Congress has not considered or passed a formal authorization for the President to continue military operations in Libya; and

Whereas President Obama has not indicated any intent to cease operations in Libya after the sixty-day limit established by the War Powers Resolution: Now, therefore, be it:

1 *Resolved by the Senate and House of Representatives*

2 *of the United States of America in Congress assembled,*

3 That Congress—

4   (1) declares that, as it pertains to the con-

5   tinuing armed engagement of the United States

6   Armed Forces against the Government of Libya, the

7   President has exceeded the statutory time limits

1   placed on him by the War Powers Resolution and is
2   therefore in violation of the law; and
3   (2) calls on the President to—
4   (A) seek a formal authorization from Con-
5   gress to continue the mission in Libya; or
6   (B) cease armed engagement against the
7   Government of Libya until such time as further
8   action is authorized by Congress.

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