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Statement introducing concurrent resolution about status of forces treaties and agreements

Strom Thurmond

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Mr. President, I am sending to the desk for appropriate reference a Concurrent Resolution to advise the officials of the Executive Branch who deal with our Status of Forces Treaties and Agreements that the Congress does not approve of the United States waiving the primary right to jurisdiction, when the right to jurisdiction is held by the United States, with reference to any member of our Armed Forces serving overseas.

Article VII of the Status of Forces Treaty, which was ratified by the Senate on July 15, 1953, contains the definitions of jurisdiction. Section 3 (a)(ii) contains the pertinent part of the treaty
for the purpose of this resolution. It reads as follows:

"(a) The military authorities of the sending State shall have the primary right to exercise jurisdiction over a member of a force...in relation to...

"(ii) offences arising out of any act or omission done in the performance of official duty."

The material I have just quoted from the Status of Forces Treaties/specifies that the United States, in sending members of the Armed Forces to countries where the Status of Forces Treaties prevail, shall have authority — or the primary right — to try our men for criminal acts committed in those countries/when such acts are
committed in the performance of official duty.

However, part (c) of Section 3 of the same article provides that:

"...The authorities of the State having the primary right shall give sympathetic consideration to a request from the authorities of the other State for a waiver of its right in cases where that other State considers such waiver to be of particular importance."

That is the point which concerns me.

The best illustration of what can happen when the United States waives the primary right to jurisdiction over a member of our Armed Forces is the Girard Case, which is now pending before the Supreme Court. I anticipate that, under the waiver provision, the Court will permit Girard to be turned over to the Japanese for trial.
When this country sends fighting men overseas, the least we can do is to protect the best interests of the men by providing them trial by courts martial for acts done when they are on duty. When our officials waive the right actually held under the treaties to provide our men with such protection, I believe the Congress should take action to remedy the situation.

This resolution would make clear to the Executive Branch that the Congress expects all of its officials to exercise jurisdiction over our Armed Forces, when a right to such jurisdiction is held under the treaties.

Mr. President, I hope that early action can be taken on this resolution.

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