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NEW BRICKER AMENDMENT

Congressman John Ashbrook has introduced into Congress a proposal to amend the U.S. Constitution to make clear that no treaty or executive agreement with a foreign nation can ever take away the rights of American citizens.

A genention ago, the U.S. Congress debated this very issue which was then called the Bricker Amendment. It was born of fears that United Nations entanglements might override or nullify our constitutional rights. The loss of 30,000 American lives in the "UN police action" in Korea gave substance to such fears.

Article VI of the Constitution says that U.S. laws must be "in pursuance" of the Constitution in order to be "the supreme law of the land," but imposes no such requirement on treaties. The broad language of Justice Oliver Wendell Holmes in Missouri v. Holland had put the Supreme Court on record as permitting a treaty to authorize an internal law which, in the absence of the treaty, would have been unconstitutional.

After a vigorous national debate, the Bricker Amendment was defeated by one vote in the U.S. Senate on February 25, 1954, largely because of Congressional faith that the Eisenhower Administration could be trusted never to do such a thing.

The Supreme Court, probably influenced by the considerable body of distinguished legal and pub1ic opinion supporting the Bricker Amendment, subsequently responded to their conterns and modified the sweeping implications of Missouri v. Holland. In the 1957 case of Reid v. Covert, Justice Hugo Black, speaking for the Court's majority, held that "no agreement with a foreign nation can confer rower on the Congress, or on any other branch of Government, which is free from the restraints of the Constitution."

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The new need for the Bricker Amendment is indicated by treaty actions of the Carter Administration which represent a reversal of policies of previous administrations.

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President Carter went to the UN headquarters and signed the UN Covenant on Civil and Political Rights and the UN Covenant on Economic, Social, and Cultural Rights. The Senate is now being asked to ratify them.

Presidents Truman, Eisenhower, Kennedy, Johnson, Nixon and Ford all refused to sign these UN treaties because th y exclude the right to own private property. The Communist bloc refuses to recognize property rights or agree to any treaty provision in harmony with our Fifth Amendment which specifically guarantees that "no person shall be ... deprived of life, liberty or property without due process of law. "

Other treaties proposed by the Carter Administration also risk U.S. constitutional rights. The Genocide Convention would make American citizens subject to being transported to an international tribunal to be tried for the vague "crime" of causing "mental harm" to the members of a national, racial, ethnic or religious group. Traditional Bill of Rights guarantees of due process would not prevail in foreign courts.

The proposed treaty to give away the Panama Canal to the Torrijos dictatorship is an attempt to bypass Article IV, Section 3 of the U.S. ConstitutiO'Jl which gives to "the Congress " the power to dispose of U.S. territory or property. As every schoolchild knows, "the Congress" has two branches, the Senate and the House, but the Carter Administration is trying to deprive the House of its right to act.

President Carter is even trying to change U.S. tax law by this treaty. The proposed Panama Treaty grants an exemption from income taxes to Ameri4cans 1 i vi ng in the U.S. Canal Zone -- probably as a "sweetener" to silence their known opposition to the Treaty.

These are just some of the many reasons why the Bricker Amendment is far more needed today than when it was originally proposed. As introduced by ongressman Ashbrook it would guarantee that (1) no treaty provision could abridge any U.S. constitutional right, (2) no treaty alone could make U.S. internal law, and (3) the same would apply to executive agreements.

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