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THE GREATEST THREAT TO AMERICAN FREEDOM

FRANK E. HOLMAN

Even as we meet here today American Freedom faces many perils and many threats. It is no mere matter of emotion or rhetoric to say that our individual freedoms and our form of government are challenged as never before. Some would doubtless say that Communism is the greatest threat to American freedom. Certainly we have tolerated the high priests of this subversive and atheistic ideology in many places—in our schools and in our colleges in the professions and in business, and in the policy echelons of the Federal Government and in the United Nations.

We have not only tolerated Communists and fellow travelers in high places but we have tolerated inefficiency in government and double talk and half truths on the part of our public officials in both our national and international affairs. Some, therefore, may well say inefficiency in government and the double talk and half truths that go with it are the greatest threats to the Republic. On the other hand, some will say that inflation and the dishonest dollar is the greatest threat. Belatedly we have come to recognize these perils of Communism, inefficiency, dishonesty in its various forms, and even inflation, and are beginning to meet them head on instead of casually tolerating them. Where perils are recognized for what they are and are brought out into the open and are being realistically and understandingly combatted, the danger from them is less great than where a peril is not yet fully recognized by the high officers of government and by the press and by the American people. This, I am afraid, is still true of the dangers of "treaty law" and its threat to our American Freedom.

Our American Freedom is supposed to be safeguarded by our Constitution and Bill of Rights but during the last twenty years many Americans have given no service at all or only lip service to the preservation of our basic freedoms. We have supposed that the Constitution and the Bill of Rights would take care of themselves and so many Americans have devoted their efforts to so-called more immediate matters of practical concern.

At home, instead of devoting ourselves to the security of our form of government and our fundamental freedoms thereunder—we have devoted ourselves to various forms of social and economic security. Somerset Maugham exposed this delusion and the inevitable result of this type of thinking when he said:

"If a nation values anything more than freedom
it will lose its freedom
And if it is money and comfort that it values more
it will lose those too."

In our foreign policy, we have constantly compromised and sacrificed our national security and independence and the security of our basic individual freedoms for the supposed security and safety to be found in an

international organization where foreigners can outvote us and direct us what to do. Benjamin Franklin fully disposed of this sacrifice of liberty for supposed safety when he said:

“Those who would give up essential liberty to purchase temporary safety, deserve neither liberty nor safety.”

Some will say that the statements I have just made regarding our thinking and our policies at home and abroad during the last twenty years are overdrawn, and largely rhetorical. But let's look at the record, particularly with respect to our foreign policy.

In our foreign policy we have often been derelict in defending our American freedoms. Soon after the adoption of the Charter of the United Nations in 1945 it developed that we were in a world state program under which our individual rights and freedoms and even our political independence and right to govern ourselves and the very integrity of the Republic were all to be threatened by a new form of law-making known as “treaty law.”

Since the establishment of our government under the principles set forth in the Constitution, Americans, through the Congress and their various state legislatures, have made their own laws without foreign direction or interference. Now I am under the necessity of telling you that our individual rights and our right to self-government and even our form of government are all threatened by the program of “treaty law” contemplated by the various agencies of the United Nations.

Ordinarily and until the organization of the United Nations, the average citizen and in fact most lawyers took very little interest in treaties between the United States and foreign countries. This lack of interest was understandable because usually a treaty dealt only with some international subject, such as alliances, war and peace, questions of boundaries, trade agreements and like matters. Either we viewed treaty-making as the sole business of the State Department, the President and the Senate, or else we assumed that treaties and international engagements did not affect the basic rights of the average citizen and could not result in any substantial infringement of our individual rights as citizens and could not possibly result in changing or destroying the American form of government or its system of free enterprise. But Article VI of the Federal Constitution provides that:

“. . . All Treaties . . . shall be the Supreme Law of the Land . . . any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.”

When I stated in a speech more than four years ago before the State Bar of California that an International Commission, headed by Mrs. Roosevelt—all the other members of which were foreigners, including three Russians—was engaged in formulating a so-called “Bill of Rights” program to be ratified by the United States Senate in the form of treaties which

would affect domestic law and basic rights (both political and economic) in every state of the Union, and would supersede state constitutions, state legislative enactments and any existing federal legislation on the same subject, and even modify or distort the Federal Constitution and Bill of Rights, I was charged in many quarters with being an "alarmist." But it seemed clear to me at that time, and it has since been confirmed by court decisions, that we were approaching a new development in law-making whereby through "treaty law" the normal legislative processes in this country, both of the Congress and of our state legislatures, were to be bypassed by international agreements ratified as treaties and that through such treaties the established law in the United States and in every state might be changed or nullified without the people generally knowing anything about it, until too late.

What I predicted soon occurred in the State of California and elsewhere. California for many years had a law against aliens owning land. (Some states, like Washington, have Constitutional provisions against aliens owning land.) The California courts, largely influenced by the United Nations Charter and other international concepts, have now held that aliens may own land (*Fujii v. State*, 217 P.2d 481), the laws of California and even formed United States Supreme Court cases to the contrary notwithstanding. Some will say that the final decision in the *Fujii* case is merely based on a new and more modern construction of the Fourteenth Amendment, but this new construction was clearly brought about in the face of a well settled construction that had stood the test of years, and obviously because of the internationalist concept of the United Nations Charter, a ratified treaty.

The *Fujii* case in California conferring the right on a Japanese alien to own land opens a Pandora's box of possibilities. This new internationalist concept leaves Russia or Communist China free to furnish their nationals with funds to buy strategic property up and down our Pacific Coast wherever they can find a willing seller. Thus, foreigners may freely buy land and thereon easily establish observation posts and sabotage centers anywhere they chose. The *Fujii* decision means that our right to self-government, both state and national, and our right to determine for ourselves what kind of laws we want to make and live under, can be nullified whenever the President and two-thirds of the members of the Senate present at the time approve a treaty on a particular subject.

Still as another instance of a treaty changing domestic law, we have the "Warsaw Convention" or treaty relating to international air transportation approved by the Senate some years ago when we were on friendly terms with Russia. It now transpires that this treaty deprives American citizens of their full and proper right to trial by jury because one of the fundamental features of a jury trial in this country is that the jury shall determine the amount of damage, *fair and reasonable* in a negligence case.

In the Warsaw Convention, there is a provision limiting the damage liability of international air carriers for personal injuries or death of passengers in aircraft disasters to the sum of 125,000 French francs. In no event may an American citizen if injured, or his widow or family if he is killed, recover more than 125,000 francs for a plane crash where he is an international passenger, which sum at the present time is the equivalent of about \$8,300 in American money, a ridiculously low sum as the maximum of recovery in a death case due to negligence. Thus, if two of us, both American citizens living in Seattle, get on a plane at Seattle, one a passenger to Bellingham, the other a passenger to Vancouver, B.C., and the plane negligently crashed in landing at Bellingham, and both of us are killed, the Bellingham passenger's widow and family may recover such sum as an American jury thinks proper, but the Vancouver passenger's widow and family (merely because he held an international ticket) in the same accident can recover only the equivalent of 125,000 francs. This Warsaw Convention, being a treaty, has been held to be the Supreme Law of the Land and to override state law and policies. (*Garcia v. Pan American Airways*, 55 N.Y.S.2d 517 Affirmed 67 N.E.2d 257; *Lee v. Pan American Airways*, 89 N.Y.S.2d 888, 89 N.E.2d 258, certiorari denied 339 U.S. 320.)

More serious than that of land ownership—or even jury trial—look at the situation we face in the proposed Covenant of Human Rights with respect to our right to freedom of speech and freedom of press. Our wise forefathers knew that the mind and spirit of man could not be controlled and regimented by government or by the officers of government so long as freedom of speech and of press were preserved. Accordingly, the first provision of our Bill of Rights provided that, "Congress shall make no law . . . abridging freedom of speech or of press. . . ."

But under Article 3 of the latest draft of the United Nations Covenant on Human Rights it is provided that "in time of public emergency" a state may take measures derogating from its obligations to preserve freedom of speech and of press which under our Bill of Rights are not subject to suspension. In other words, the whole right to freedom of speech and of press may be suspended when such a "state of emergency" is officially declared by the authorities in power. If such a Covenant on Human Rights were ratified by our Senate, an American President (just like Peron in Argentina) by declaring a "state of emergency" as provided in the Covenant, could close all the newspaper in the United States, or such of those and in such places as he might think it wise to close.

Under our American concept of freedom of speech and of press, the only restriction that the law has imposed or can impose is where a particular court believes that in a specific case there has been a flagrant abuse of one of these freedoms. As a Justice of the Supreme Court once said, "free speech would not protect a man in falsely shouting 'fire' in a theatre where there was no fire and causing a panic—the question in each case is

whether the words are used in such circumstances and are of such a nature as to create a clear and present danger." In other words, except for certain common law limitations as in the case of libel and slander and the limitation suggested in the "cry of fire" case, our forefathers recognized that "freedom of speech and of press" were so precious and so necessary to the continuation of our other freedoms under a free government that they specifically provided in the very first provision of the Bill of Rights that Congress should pass *no law* abridging freedom of speech or of press.

However, the outstanding and most alarming example of the effect of "treaty law" on our domestic law and on our own Constitution and upon the thinking of our judges is to be found in the Opinion of the Chief Justice of the United States in the decision last year dealing with the President's seizure of private property in the steel case. Lawyers had generally recognized that because of the peculiar provisions of Article VI of our Constitution ratified treaties of the United States are the Supreme Law of the land—overriding state laws and constitutions and even existing laws of Congress. This of itself constitutes a dangerous threat to American rights which needs correction by an appropriate Constitutional amendment. But the Chief Justice of the United States in his dissent in the Steel Seizure Case advanced the shocking doctrine that the United Nations Charter and other international commitments and implementing legislation gave the President of the United States authority to seize private property which authority is nowhere granted to him either by the Constitution or by the laws of the country.

The Chief Justice argued that when the U.N. Charter was adopted this country thereby accepted in "full measure its responsibility in the world community" and an obligation "for the suppression of acts of aggression." Consequently, when the United Nations called upon its members "to render every assistance" to repel aggression in Korea the President was thereupon authorized to take every action to render that assistance. The Chief Justice stated:

"Our treaties represent not merely legal obligations but show legal obligations but show Congressional recognition that mutual security for the free world is the best security against the threat of aggression on a global scale."

In other words, acting under the Charter, and other international commitments, the President has powers *not* granted to him by the Constitution but even denied to him by the Constitution. For, among other things, under Section 8 of Article I of the Constitution the Congress has the sole power "to declare war" and "to raise and support armies" and "to provide and maintain a navy;" and under the Fifth Amendment no person is to "be deprived of life, liberty or property without due process of law; nor is private property to be taken for public use without just compensation."

The Chief Justice succeeded in getting two other members of the Supreme Court to join him in this extraordinary doctrine whereby the United Nations Charter and other international commitments would be superior to the Constitution of the United States. If he had succeeded in getting two additional members of the Supreme Court to side with him the United States would in effect then and there have ceased to be an independent Republic and we would have been committed and bound by whatever the United Nations does or directs us to do. We would have had a full-fledged World Government over night, and this is exactly what may happen under so-called "treaty law" unless a Constitutional amendment is passed protecting American rights and American law and American independence against the present effect of treaties.

There are many other proposals in the making affecting our form of government and our American rights and liberties. Under the loose language of the Charter, the Economic and Social Council can propose practically any kind of convention on any subject, political, social or economic. As a matter of fact, one of the great jokers in the Charter is the unlimited scope and power of the Economic and Social Council. It is made up of a Board of 18, elected by the Assembly, each for a three-year period. Its Council may sit continuously and think up new ideas and proposals. It is an international commission sitting more or less continuously and almost without limitation as to what it can investigate and recommend as to anything in the world and as to any nation anywhere touching any economic, social, humanitarian, educational, cultural or health matter. Through proposed treaties this extraordinary group—all foreigners except for one U.S. representative—can initiate laws for the people of the United States.

As to the far-reaching effect of "treaty law" in changing and even destroying our American rights and form of government as heretofore fixed by the Constitution and the Bill of Rights, Mr. Dulles, the present Secretary of State, in his speech at Louisville, Kentucky, on April 12, 1952, outlined the omnipotence of "treaty law" as follows:

"The treaty-making power is an extraordinary power liable to abuse. Treaties make international law and also they make domestic law. Under our Constitution treaties become the supreme law of the land. They are indeed more supreme than ordinary laws, for congressional laws are invalid if they do not conform to the Constitution, whereas treaty laws can override the Constitution. Treaties, for example, can take powers away from Congress and give them to the President; they can take powers from the state and give them to the Federal Government or to some international body and they can cut across the rights given the people by the constitutional Bill of Rights." (Italics supplied)

I can hear some of you say, "But we have a new administration in Washington and a new State Department and may it not be accepted that the dangers of 'treaty law' will now subside and disappear?"

Although when Mr. Dulles testified before the Senate Judiciary Committee in Washington, D. C., on April 6, 1953, he said that the present State Department would now abandon ratification of the Genocide Convention and ratification of a Human Rights Covenant, and two other treaty proposals, he said nothing whatever about abandoning the proposed Convention for the Establishment of an International Criminal Court for the trial of American citizens in time of peace for alleged offenses committed in the United States, and by an international court made up largely, if not entirely of foreigners—on which an American citizen could be tried in a foreign country without right of trial by jury, presumption of innocence, or the other important Constitutional safeguards that are afforded Americans when tried in their own courts.

One of the so-called international crimes for which it is proposed to try an American in this international criminal court to be established by treaty is the act of criticizing the personalities or policies of a foreign government, where it is charged that such criticism is "unfair and disruptive of cordial international relations." This could, of course, easily mean that speakers and writers and editors of newspapers in this country could be tried and imprisoned by a court made up of foreigners. The proposal is to extradite Americans from America for such so-called international offenses alleged to be disruptive of cordial international relations although wholly committed in this country, and to transport these Americans for trial in a foreign country. Did you ever hear of George III and his attempt to transport Americans overseas for trial? This is one of the grievances set forth in the Declaration of Independence itself. Can anyone imagine a more brazen and flagrant treaty proposal for violating our Constitutional rights and freedom speech and of press and right of trial under our American Constitutional safeguards?

Mr. Dulles said nothing about abandoning the official State Department declaration announced by its official Bulletin in September, 1950, that "There is now no real difference between domestic and foreign affairs"—under which declaration or doctrine all our domestic rights and freedoms and laws become the subject of treaties under which our rights and freedom can be modified or bartered away for some so-called international purpose, as each and every administration may think it necessary for global defense or world peace. This fallacy that American rights and freedoms must be modified or bartered away in the interest of international cooperation and peace is one of the great delusions that besets official Washington and a considerable number of well-meaning people.

Edmund Burke once pointed out that "The people never give up their liberty but under some delusion."

One great delusion for the moment is that many Americans seem to think we can save the world and achieve world peace by giving up American rights and American independence.

Mr. Dulles said nothing about abandoning some 200 other treaties being "spawned" in the United Nations, or the numerous ILO (International Labor Organization) treaties, that would affect many basic rights of American citizens and change the relationship, as fixed by our Constitution, between the states and the Federal Government. Under the present Constitutional situation as announced by Mr. Dulles in his Louisville speech last year, all these various treaties—and any others that may be thought up by the "eager internationalists"—affecting our civil, social and economic rights, could become the Supreme Law of the Land; in fact, Mr. Dulles says, "more supreme than ordinary laws."

Generally Mr. Dulles admitted, in his statement before the Judiciary Committee of the Senate, that all these various proposals in the United Nations occasioned a "legitimate" concern on the part of the citizens of this country because, as he frankly stated, "they may impose upon our citizens conceptions regarding human rights 'alien to our traditional concepts'." But yet the distinguished Secretary opposed any Constitutional amendment for the permanent protection of the citizens of this country and for the protection of the basic concepts of the Republic, and instead he asked the Senate and the Congress of the United States and the citizens of this country to accept his assurance that, at least in certain matters, the present administration will not make bad treaties.

In discussing the matter of how treaties can affect American rights I desire to call to your attention the recent Status of Forces Agreement ratified by the Senate on July 14, 1953, which provides that American service personnel stationed abroad shall be tried in foreign courts. I doubt whether Americans really understand the far-reaching effect of these treaty provisions. We went through two world wars without subjecting our military personnel to trial in foreign courts. It had been the settled rule of international law and of Constitutional law throughout the course of our history that when the forces of our country were in another country by consent and for the purpose of defending that country they were not subject to the jurisdiction of the courts of the receiving country. But during the Acheson administration and in connection with N.A.T.O. this long standing rule of international and Constitutional law was waived by our State Department. In order to validate this waiver of American rights the present State Department conceived the idea of making a treaty on the subject.

Last April within 48 hours after the representatives of the State Department had assured the members of the Judiciary Committee and the American people that this administration could be trusted not to make any treaties endangering American rights, the legal advisor of the State Department appeared before the Senate Foreign Relations Committee and assured that committee that there was "no doctrine which says that a nation which has in its soil representatives of a foreign nation must give immunity to those persons. "Immunity," the legal advisor of the State Department

assured the committee, "is restricted to those which the receiving nation chooses in the handling of its diplomatic affairs to give immunity to, such as ambassadors, etc."

On the contrary, it was an established principle of international law that where the armed forces of any nation come into the territory of any other nation with the consent of that nation, the law of the sending nation, in this case the United States, follows and protects the members of such armed forces and they must be tried in accordance with the laws and military procedures of the sending country. In other words, it has always been the theory both of international law and of our own Constitutional law, that the Constitution follows the Flag and that the humblest soldier who is sent to serve under our Flag in a foreign country is entitled to the rights and protections assured him under the law and procedures of his own country.

The Constitution of the United States, among other things, vests in the Congress of the United States the sole power "to make rules for the government and regulation of the land and naval forces," whether at home or abroad. It is nowhere suggested in the Constitution that such rules and regulations can be waived by treaty. Pursuant to the Constitutional power vested in it, the Congress passed *Codes of military procedure*. These codes of procedure have now been by-passed and overridden by the recent N.A.T.O. Status of Forces Agreement. When this matter first went to the floor of the Senate in April of this year and Senator Bricker called attention to what was being proposed, Senator Taft immediately withdrew the matter for further study and consideration.

On July 14, 1953, Senator Knowland again brought the matter to the attention of the Senate and with the backing of the White House and certain of the top brass of the Army sufficient votes were obtained to ratify the arrangement. This treaty fails to protect the American soldier and his basic rights. Senator McCarran said:

"All of those rights, Mr. President, are rights enumerated and protected in the first 10 amendments of our Constitution; but every one of them is being waived, under the terms of this treaty, with respect to American soldiers who may find themselves charged with an offense under the laws of a foreign country."

Even Senator Knowland admitted that if the matter were before the Senate as an original proposition the arrangement would not be acceptable. But apparently because the Acheson administration had in more or less secret agreements committed itself to this waiver of the rights of American soldiers many senators were persuaded to go along with the proposition on the old, old argument of appeasement that international cooperation required it. It was admitted on the floor of the Senate that under our treaty with Japan the same rights to try our soldiers would have to be conceded there. This will also apply to other countries than N.A.T.O. even though

it is recited that this N.A.T.O. arrangement is not to be considered as a precedent—but in the interest of international cooperation it will have to be extended to other countries. There are certain countries in the world in which we have troops where the law imposes what we call cruel and inhuman punishments like cutting off a man's hand who may be charged with having stolen a chicken, or other personal property. As Senator Bricker pointed out, "Some day we can expect to witness an American soldier convicted and sentenced to die by a foreign court" where the soldier has had none of the rights to defend himself that are accorded under American procedure. Senator Bricker read letters from many of our service men—not the top brass, but servicemen actually on duty in foreign countries who pointed out the dangers of our service men being tried in foreign courts. Here is a letter from a United States Air Force officer in France, which contains the following:

"How long do you think a French judge of a police court would last if he disregarded the testimony of a Communist policeman and accepted the testimony of a GI? It's hard to convince me that all of our top military and naval personnel really believe in this proposed treaty."

After the debate in the Senate had continued for some time the administration offered a sugar coating for the shocking surrender of the rights of our service men in the form of a so-called protective provision. This provision is a hodge-podge of foolish language. I should like to read it to you and have you judge whether it contains foolish language. It was introduced by Senator Wiley. It reads:

"Where a person subject to the military jurisdiction of the United States is to be tried by the authorities of a receiving state, under the treaty, the commanding officer of the Armed Forces of the United States in such state shall examine the laws of such state with particular reference to the procedural safeguards contained in the Constitution of the United States."

Please note what this amounts to. After having agreed in the treaty to turn our service men over to the foreign authorities for trial then, if you please, the commanding officer shall examine the laws of the foreign country "with particular reference to the procedural safeguards contained in the Constitution of the United States." Anyone with the slightest knowledge of foreign law and procedure knows that there is nothing in the laws of any foreign country, not even England, that adds up to the safeguards found in the Constitution of the United States.

The so-called protective provision goes on to say:

"If in the opinion of such commanding officer, under all of the circumstances of the case, there is danger that the accused will not be protected because of the absence or denial of the constitutional rights he may enjoy in the United States, the commanding officer shall request the authorities of the receiving state to waive jurisdiction."

Note this language—"If in the opinion of the commanding officer there is danger that one of our soldiers will not be protected because of the denial of a Constitutional right, the commanding officer may then ask the (foreign) state to waive jurisdiction." Why give jurisdiction in the first place since anyone knows or ought to know that American Constitutional rights are not a part of the jurisprudence of any other country? And finally the sugar coating ends with the following statement that:

"if such (foreign) authority refuse to waive jurisdiction, the commanding officer shall request the Department of State to press such request through diplomatic channels, and notification shall be given by the executive branch to the Armed Services Committees of the Senate and House of Representatives."

This places the welfare and life and liberty of our American soldiers in such protection as can be achieved through diplomatic channels which of course will proceed about as slowly as diplomacy proceeded in the case of Mr. Oatis and other Americans who have been imprisoned in foreign prisons.

And there you have it, the full story of the shocking surrender of our American soldiers to the jurisdiction of foreign courts—all in the interest of so-called international cooperation. It is so shocking that it calls for protest from all red-blooded Americans. Thus, treaty law cannot only undermine and destroy our liberties at home, but it strikes down the protection of the American law for our soldiers abroad.

This whole matter of "treaty law" has become so dangerous in the hands of international pressure groups that to protect our American freedoms and basic rights we need a provision in the Constitution to protect the American people for all time as against both the present, and all future State Departments that may drift into a policy of compromise and appeasement as to our precious rights and freedoms on some supposed ground of international cooperation.

As many of you know, the Senate Judiciary Committee by a large majority on June 4, 1953, recommended for passage a Constitutional amendment to protect American rights in an appropriate form satisfactory to Senator Bricker and his associates and satisfactory to the representatives of the American Bar Association. However, in spite of the strong support and recommendation of the Senate Judiciary Committee the administration succeeded in keeping the amendment bottled up in the Senate Policy Committee until July 21, 1953. During this period conferences were held between the Attorney General and Senator Bricker in an effort to work out a compromise.

The administration could find no particular fault with the first section of the proposed amendment, but the Attorney General declined to approve the second section which specifically provides that treaties shall not make

domestic law for the American people unless implemented by legislation which is valid apart from the treaty. Without the second sentence of the amendment our domestic laws and rights would be as subject to treaty control as they are now and of course Senator Bricker could not concede to any such compromise. Thus, it appeared, when the Senate Policy Committee concluded its hearings on this matter on July 21, 1953, that this particular phase of the amendment could only be settled by debating it out on the floor of the Senate.

The next day, without Senator Bricker's knowledge, and without his being consulted on the matter by anyone, Senator Knowland, the acting Chairman of the Policy Committee, "pulled off" a surprise by introducing an administration version of a Constitutional amendment, which wholly fails to protect American domestic rights and domestic law. This administration proposal resulted in delaying further proceedings on the Bricker Amendment during this session of the Congress. It was introduced without Senator Bricker's previous knowledge; it would appear from the Congressional Record that it was done with the idea of throwing this whole matter into a long-drawn-out hearing before the Foreign Relations Committee; it was done with the hope that in yielding "half a loaf" the administration could defend itself during the next months before the January session of Congress on the ground that it is not now opposed to a Constitutional amendment on treaties and executive agreements but that it merely does not like the Bricker-Senate Judiciary Committee text and now favors a version of its own, but to all those who have adequately studied the problem the Knowland language fails to protect the Constitution and the rights of the people as to their domestic affairs.

To advocate a Constitutional amendment which fails to protect our basis rights (state and individual) is a fraud on the American people. In continuing to support the passage of a Constitutional amendment it should be distinctly borne in mind that the only form thereof which will adequately protect American rights is the Bricker-Senate Judiciary text.

On Wednesday, August 25, 1953, Mr. Dulles, the Secretary of State, came to Boston to address the Assembly of the American Bar Association at its 75th (Diamond Jubilee) Anniversary Celebration. He used most of his time as a general convention speaker to attack the Bricker Amendment. His arguments were substantially the same as before the Senate Judiciary Committee, which arguments that Committee by a large majority refused to follow. At Boston he again admitted that the public concern over treaties and executive agreements and their effect upon American rights was a "legitimate" concern and that those who had voiced it had "performed a genuine service in bring the situation to the attention of the American public." However, he again concluded that "the arousing of that concern was a correction of the evil."

This is an obvious non sequitur. Certainly it is no permanent cor-

rection of the evil to have the threat of "treaty law" constantly hanging over the nation endangering our basic rights and merely hope that when other dangerous proposals like the Genocide Convention and the Covenant on Human Rights are advanced that the American Bar Association or some other agency will be again able to alert the country in time to prevent the ratification of treaties that may override not only state laws and constitutions, but even as Mr. Dulles says, the Federal Constitution itself, or transfer the powers of our government to some international organization.

Mr. Dulles' further argument was that we have lived with the present treaty supremacy clause of the Constitution for over 160 years and have not suffered too much. He tries to clinch this argument by saying "because power can be abused it follows that power should not be annulled". This is another one of Mr. Dulles great non sequiturs. Nobody proposes that the treaty power be annulled. The Bricker Amendment merely provides that no provision of a treaty which conflicts with the Constitution shall be valid and no provision of a treaty shall be domestic law until implemented by appropriate legislation. Thus, no annulment of the treaty power is even suggested. The Bricker Amendment leaves treaties fully effective as international agreements. None of the dire consequences predicted by Mr. Dulles can possibly occur under the present form of the Bricker Amendment. The President and the State Department can continue negotiating treaties and the Senate ratifying just as freely as before. The Amendment will merely screen out those particular provisions of a treaty which conflict with the Constitution or which undertake to make domestic law without being implemented by appropriate legislation. The American Bar Association like the Senate Judiciary Committee, after giving Mr. Dulles a respectful hearing, also by a large majority of its House of Delegates found all his arguments unsound and reaffirmed the position of the American Bar Association in support of the Bricker Amendment.

Actually, Mr. Dulles let the cat out of the bag, or partly out of the bag, in his Boston speech as to the real basis of his opposition. He pointed out that the United Nations Charter by its own terms will come up for amendment in 1955. What Mr. Dulles and the other believers in world government really want is to be free to put the United States into some form of world government at that time via the treaty route without the people really knowing what is being done. The Bricker Amendment would definitely prevent this. This is why it is so important that this amendment be adopted as soon as possible and certainly ratified by the states before 1955 when the Charter will come up for amendment.

In pressing for the passage of a Constitutional amendment on treaties and executive agreements, patriotic Americans of this day are only exercising the same wisdom as our forefathers when they insisted upon the first Ten Amendments as a "protective shield" to safeguard American rights. For our wise forefathers—particularly Jefferson and Patrick Henry—insisted

upon the first Ten Amendments (our Bill of Rights) without waiting for any actual acts of the Government of that day threatening the basic individual rights inherent in the people. With the great number of treaties that have already been proposed by the various "international" agencies upon every conceivable subject, it is now necessary to set up a "bill of rights" against "treaty law" as a "protective shield" by way of a Constitutional amendment which will make it crystal clear to all the courts and to the officers of government that the American people have decided for themselves that no provision of a treaty shall be valid which conflicts with any provision of the Constitution of the United States and that none shall be effective as internal law unless implemented by legislation valid apart from the treaty. To do so is no more a reflection on General Eisenhower's administration than the original Bill of Rights was a reflection on General Washington's administration. Actually under the law the President has nothing to do about this matter of a Constitutional amendment. It never goes to his desk for approval or disapproval. It is unfortunate that he and his high office is being brought into this issue. President Washington carefully stayed out of a similar issue regarding our original Bill of Rights.

When President Hoover was discussing the Prohibition Amendment with Elihu Root and suggested he thought as President he ought to recommend a repeal, Elihu Root advised him that as President he had no concern with Constitutional amendments or their repeal. Mr. Root said:

"You can veto any other form of legislation, but you do not have that power in relation to a Constitutional amendment. That distinction was made for the definite purpose of holding alterations of the Constitution away from the President who is solely an enforcement officer in this relation."

Even President Truman, last year when the Acheson State Department opposed the Bricker Amendment, avoided expressing himself publicly on the matter. Again I say, it is unfortunate that those around President Eisenhower have involved him and his high office in this Constitutional issue. It is a matter for the Congress and the people to decide without Presidential influence or interference.

A Constitutional amendment can be passed by the Congress next session if you members of the Bar and all other patriotic citizens and all important and patriotic organizations throughout the country continue to keep up their efforts by writing senators and members of Congress that they favor the Bricker resolution for a Constitutional amendment. This is no easy fight. The time has arrived to set up local committees of action in each state in which representatives of various organizations would join. I hope the lawyers of Wyoming will sponsor and hold group meetings all over the State and make it clear to your Senators and to your members of Congress that the people of Wyoming insist on protecting American rights by the adoption of an adequate Constitutional amendment. The Knowland-Administration Amendment is less than a "half loaf."

The adequate protection of American rights and American independence is not a policy of isolation. Certainly we have an interest and a stake in the well-being of the rest of the world but America will perform its role in world affairs better if it first protects the rights and liberties of its own citizens and preserves the American form of Government against the alien concepts of government of international socialism and international Communism. We can and should give intelligent aid and advice and a measure of financial help to other countries, but there is no need to sacrifice our own basic rights and even our independence as a nation and allow our State Department in following a policy of so-called world-wide "cooperation," to yield to a program of "treaty law" undermining and destroying and giving away our precious American rights and liberties and changing our form of government. To halt these stupidities by an appropriate Constitutional amendment is not isolationism.

A RESPONSIBILITY AND AN OPPORTUNITY TO MEET IT

H. GLENN KINSLEY

"I question," said DeTocqueville years ago in writing about the legal profession in his great book DEMOCRACY IN AMERICA, "whether democratic institutions could long be maintained, and I cannot believe that a republic could subsist at the present time if the influence of lawyers in public business did not increase in proportion to the power of the people."

Never before in history has our country stood in greater need of what De Tocqueville described as "this admixture of lawyer-like sobriety" than now, and happily never before has there been a deeper insight than now on the part of lawyers into their responsibilities to the public, or a finer vision of the destiny of the profession.

Lawyers of America are confronted with a problem and with the responsibility for its solution.

The problem, briefly stated, is to keep the legal profession abreast of changing conditions and to develop laws that will fit today's economic and social order.

Solution of this and related problems will be accomplished only by the constant study of changing conditions, scholarly analysis of facts, and scrupulously considered recommendation for such changes in our laws as will enhance the public welfare.

Fortunately, the opportunity now exists for the legal profession itself to provide facilities that will speed such solution. It is an opportunity for