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Handout on The Bricker Amendment Controversy

Following the Second World War, various treaties were proposed under the aegis of the United Nations (e.g. the Genocide Convention, the Universal Declaration of Human Rights). Conservatives were worried that these treaties could be used to expand the power of the Federal government at the expense of the people and the states. These fears arose largely from two Supreme Court rulings, *Missouri v. Holland*, 252 U.S. 416 (1920), and *United States v. Pink*, 315 U.S. 203 (1942). **In particular, many of these conservatives feared that human rights treaties might require the US to end *de jure* racial segregation and discrimination, which were still quite legal here in 1951.** (This changed w/ *Brown v. Board of Education* (1954) and the 1964 Civil Rights Act.)

In response to these fears the Bricker Amendment was proposed as an amendment to the US Constitution in the period between 1951-1954. It is unofficially named after Senator John W. Bricker, a conservative Ohio Republican.

Section 1

"A provision of a treaty which conflicts with this constitution shall not be of any force or effect."

(Reflected fears concerning the implications of *Missouri v. Holland* (1919))

Section 2

"No treaty shall authorize or permit any foreign power or any international organization to supervise, control, or adjudicate rights of citizens of the United States within the United States enumerated in this constitution or any other matter essentially within the domestic jurisdiction of the United States."

(Reflected fear that international organizations might become involved in the US over issues such as civil rights/human rights)

Section 3

"A treaty shall become effective as internal law in the United States only through the enactment of appropriate legislation by the Congress."

(would make all treaties non-self executing in the US)

Section 4

"All executive and other agreements between the President and any international organization, foreign power, or official thereof shall be made only in the manner and to the extent to be prescribed by law. Such agreements shall be subject to the limitations imposed on treaties, or the making of treaties, by this article."

A full 63 Senators originally endorsed the amendment, so the Eisenhower administration had to negotiate carefully to preserve its constitutional prerogatives.

The Bricker Amendment was defeated only after John Foster Dulles promised that the Eisenhower Administration did not intend for the US to become a party to any Human Rights treaties

The vote was 55 for and 40 against on February 25, 1954.

An amended weaker version proposed by Senator George of Georgia (consisting of the first two sections only, and originally supported by Eisenhower but later rejected by him) missed Senate approval by a single vote on February 26, 1954.