

Judge J.J. Boesel, Retd

[REDACTED]
Columbus OH 43220

The Unconstitutional UN Treaty

- I. Articles 36 and 43 of the UN Treaty are unconstitutional because they amend the Constitution without the consent of 3/4 of the states. There are also two laws passed pursuant to the UN Treaty which are unconstitutional for the same reason. See *Reid v. Covert*, 35 US1 (1957).
- II. The UN is insolvent. Secretary-General Boutros Boutros Ghali admits in New York Times interview, reprinted in Columbus Dispatch, August 29, 1993.
- III. Oklahoma is a perfect state to seek to recover the \$1.2 billion recently paid by the US to the UN. See attached draft of proposed Oklahoma lawsuit v. the UN.

Sincerely,



J.J. Boesel

REID V. COVERT, 354 US1 (1957)

"IT WOULD BE MANIFESTLY CONTRARY TO THE OBJECTIVES OF THOSE WHO CREATED THE CONSTITUTION ... LET ALONE ALIEN TO OUR ENTIRE CONSTITUTIONAL HISTORY AND TRADITION TO CONSTRUE ARTICLE VI (THE SUPREMACY CLAUSE) AS PERMITTING THE UNITED STATES TO EXERCISE POWER UNDER AN INTERNATIONAL AGREEMENT WITHOUT OBSERVING CONSTITUTIONAL PROHIBITIONS. IN EFFECT, SUCH CONSTRUCTION WOULD PERMIT AMENDMENT OF THAT DOCUMENT IN A MANNER NOT SANCTIONED BY ARTICLE V."

IN THE SUPREME COURT OF THE UNITED STATES OF AMERICA

WASHINGTON, DC

THE STATE OF OKLAHOMA EX REL

CASE NO. _____

ATTORNEY GENERAL

RELATOR

VS.

MR. KOFI ANNAN
SECRETARY GENERAL OF THE UNITED NATIONS
UNITED NATIONS BUILDING, 759 UNITED NATIONS PLAZA
NEW YORK NY 10017

RESPONDENT

COMPLAINT FOR DECLARATORY JUDGMENT, INJUNCTIVE AND OTHER
EQUITABLE RELIEF

This action arises under the United States Constitution; under the Tenth Amendment as to the First Cause of Action; under Articles III, V and VI as to the Second Cause of Action; under the XVI Amendment as to the Third Cause of Action; under Article 1, Section 8 and the doctrine of separation of powers, together with Article III, Section 2 as to the Fourth Cause of Action; and under Article 1, Section 8 as to the Fifth Cause of Action.

FIRST CAUSE OF ACTION

1. The matter in controversy exceeds \$10,000.00, exclusive of interest and costs. This Court has jurisdiction over the action under Article III, Section 2 of the Constitution and Article VI of the Constitution in that it is a case involving a treaty.

2. Relator is the duly elected Attorney General of the State of _____.

Relator says that Article 104 and Article 105 of the United Nations Charter violate Oklahoma's rights of Sovereignty under the Tenth Amendment to the U.S. Constitution in that they impose a Federal regulatory program upon the State of Oklahoma and all the other States using United Nations Officials and representatives of the members of the United Nations who shall enjoy privileges and immunities within the boundaries of the State of Oklahoma. while enforcing the unratified UN Treaty on Biological Diversity and the unconstitutional World Heritage Sites Treaty.

Article 104 United Nations Charter:

"The Organization shall enjoy in the territory of each of its members such legal capacity as may be necessary for the exercise of its functions and the fulfillment of its purposes."

Article 105:

1. The Organization shall enjoy in the territory of each of its members such privileges and immunities as are necessary for the fulfillment of its purposes.

2. Representatives of the members of the United Nations and Officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.

3. The General Assembly may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this Article, or may propose Conventions to the Members of the United Nations for this purpose.

Relator says these two Articles of the United Nations charter grant unlimited authority for these "Officials and representatives of the united Nations members, to enter Oklahoma's boundaries, clothed with "such legal capacity" and with full immunity from the law of Oklahoma to conduct their "independent exercise of their functions and purposes" All the details of their Federal regulatory plan for Oklahoma are patently unlimited but will be up to the General Assembly.

This United Nations Federal regulatory program violates Oklahoma's Sovereignty under the Tenth Amendment to the Constitution, and violate the rule of this Court, as stated in *NY v. US*, 112 S.Ct. 2408 (1992), that the Federal Government may not compel the States to administer a Federal regulatory program. This Federal program was by Act of Congress. This rule applies equally to the two Articles quoted above, where this

UNLIMITED IN SCOPE Federal Regulatory program of the UN is imposed on Oklahoma by a treaty signed by the President and ratified by the Senate. For this Court held in *Reid v. Covert*, 354 U.S.1 (1957) that

“The prohibitions of the Constitution were designed to apply to all branches of the National Government and they cannot be nullified by the Executive, or by the Executive and the Senate combined.”

Articles 104 and 105 are unconstitutional because they violate the Tenth Amendment. Finally, they are unconstitutionally vague.

SECOND CAUSE OF ACTION

Relator challenges Federal spending for an unconstitutional purpose. Relator says that Article 36 of the Statute of the International Court of Justice, being made an “integral” part of the United Nations Treaty by Article 92 of the latter, is in conflict with and changes Article III, Section 2 of the U.S. Constitution, in that said Article 36 transfers to the International Court of Justice, judicial power over “... all legal disputes concerning the interpretation of a treaty ...” (Article 36 A.2 (a)).

Relator says such judicial power has, by Article III, Section 2 of the U.S. Constitution, been lodged in the U.S. Judiciary. Relator says that not only is Article 36 made an “integral” part of the Treaty by Article 92 thereof, but there are Seventy (70) provisions in the Statute of the International Court, or Sixty-three percent (63%) of the One Hundred Ten (110) Treaty provisions which are so interwoven and interdependent with the UN Treaty, that the two cannot be separated. Accordingly, Relator says that the void character of Article 36 of the Statute renders the entire treaty void.

1. Further, Congress has, in pursuance of such void treaty, by Title 22, U.S. Code Section 287 (e), authorized the disbursing officers of the U.S. Treasury department to continue making payments of U.S. tax dollars to cover annual UN assessments against the United States. Relator says the U.S. Supreme Court has already held that “... there is nothing in this language (Article VI, U.S. Constitution) which intimates *that treaties and laws passed pursuant to them do not have to comply with the provisions of the Constitution.*” *Reid v. Covert*, 354 US1 (1957).

Accordingly, Relator says that since the treaty is void, Title 22, U.S. Code Section 287 (e), passed pursuant to said treaty, is likewise void and therefore, the disbursing officers of the U.S. Treasury have absolutely no authority to make further payments of UN assessment against the United States.

2. Relator further says that the change in Article III, Section 2 of the U.S. Constitution made by the conflicting UN Treaty is no more than a proposed amendment to Article III, Section 2, which has never been adopted by two-thirds of the U.S. House of Representatives and three-fourths of the State legislatures, as required by Article V of the U.S. Constitution. Further, Relator says the U.S. Supreme Court has already held that a treaty must be made in pursuance of the Constitution, in the case of *Reid v. Covert*, 354 US1 (1957), in headnote 12, as follows: "Even though Article VI of the Federal Constitution does not specifically provide that treaties must be made in 'pursuance thereof,' no agreement with a foreign nation can confer power on Congress or on any other branch of government which is free from the restraints of the Constitution."

THIRD CAUSE OF ACTION

1. Relator says the U.S. Senate has by Resolution 126, 83rd Congress and by Senate Document 87, January 7, 1954, granted power to the United Nations to establish a United Nations Income Tax, and has exempted certain employees of the United Nations from their obligation to pay the United States Income Tax on their United Nations income by authorizing the reimbursement of their United States Income Tax for the years 1946, 1947, 1948 and 1949. Relator says the grant of authority by the U.S. Senate violates the XVI Amendment to the U.S. Constitution which requires both Houses of Congress to levy an income tax, and hence requires both Houses of Congress to exempt individuals from the obligation to pay their Federal Income Tax.

2. Moreover, Relator says that the Senate's grant of the taxing power to the United Nations to tax the income of the UN employees is an unauthorized delegation of the income taxing power to a corporate or quasi-corporate person, and that said UN Income Tax is in conflict with the XVI Amendment and is therefore void.

3. Relator further says that Senate Document 87 and Senate Resolution 126, incorporated herein by reference, granted the United Nations employees a refund or reimbursement of their Federal U.S. Income Tax paid by them for the years 1946, 1947, 1948 and 1949. The United States during those four years was financing 33 1/3% of the total budget. This four-year reimbursement was therefore, to the extent of the one-third reimbursement, a restoration to the employees of their U.S. Income Tax; in effect, Senate Document 87 granted these UN employees an exemption for this four-year period from their U.S. Income Tax. This one-third sum is estimated to be \$6.7 million (number of employees estimated at 5,000; average salary estimated at \$10,000; U.S. Income Tax rate during those four years estimated on the average of 10%), equals a U.S. Income Tax fraud estimated at \$6.7 million (one-third of the four-year Federal Tax reimbursement of an estimated \$20 million). Under the Constitution, Amendment XVI, only the Congress has the power to tax income, and therefore only the entire Congress has the power to exempt

from the U.S. Income Tax. The Senate alone and the President combined cannot lawfully do so (*Reid v. Covert*, 354 US1, 1957).

“The prohibitions of the Constitution were designed to apply to all the branches of the National Government and they cannot be nullified by the Executive or by the Executive and the Senate combined.”

FOURTH CAUSE OF ACTION

1. Relator further says that Congress, by Pub. L 291, 79th Cong. (H.R. 4489, 59 Stat 669 of December 29, 1945), created the International Organizations Immunities Act (22 U.S. C 288 *et seq.*) in pursuance of the UN Treaty. Further, Executive Order 9698 of February 16, 1946 designated the UN as an International Organization entitled to the privileges and immunities of the Act. Relator says that under Article I, Section 8, the Constitution grants Congress its power to act. Nowhere in Article I has the Constitution granted to Congress the power to grant the foregoing immunities, and therefore said law of Congress and Executive Order 9698 are unconstitutional and void. As noted above under First Cause of Action, paragraph 3, the Supreme Court in the *Reid* case ruled that “treaties and laws passed pursuant to them must comply with the Constitution.” This International Organizations Immunities Act and Executive Order 9698 do not comply with Article I, Section 8 of the Constitution, and are therefore void.

2. Relator further says the International Organizations Immunities Act violates the doctrine of separation of powers. Under this doctrine the legislative department of the Federal Government cannot interfere with the Judicial department by placing obstructions to the Federal Judiciary in obtaining jurisdiction over the respondent and granting his immunity from suit, unless he waives his immunity. The Supreme Court has established its Federal Rules of Civil Procedure, wherein Rule 4 declares how the Federal Courts may obtain jurisdiction over defendants in civil cases. Rule 4 does not allow a defendant to control jurisdiction of the Federal Court over him by withholding his consent. Yet the Immunities Act grants respondent this power. To this extent the Immunities Act places an obstruction to the Federal Court’s jurisdiction, and is therefore a violation of the doctrine of separation of powers between the judicial and legislative departments. Moreover, under Rule 26 of the Federal Rules of Civil Procedure, the Court has provided for the discovery process giving the parties the right to obtain discovery of documents from each other, without their consent. Yet the Immunities Act makes the property of International Organizations inviolate. Under the Second Cause of Action, Relator alleges a Federal Income Tax fraud, committed by the United Nations. Relator claims a constitutional right under the discovery process of the Federal Rules of Civil Procedure (Rule 26) to obtain Respondent’s financial documents to prove this alleged income tax fraud. The Immunities Act makes these documents inviolate, and is a further example of the Act’s violation of

the doctrine of separation of powers between the judicial and legislative departments of the Federal Government. The Immunities Act is therefore unconstitutional and void.

3. Relator further says the International Organizations Immunities Act (59 Stat 669, U.S.C. Title 22 Par. 288 to 2886, Dec. 29, 1945), together with Executive Orders granting immunities to UN personnel, are in conflict with Article III, Section 2 of the U.S. Constitution. This Article reads as follows:

“The judicial power shall extend to all cases in law or in equity ... affecting ambassadors, other public ministers, and consuls. In all cases affecting ambassadors, other public ministers, and consuls, the Supreme Court shall have original jurisdiction.”

The Constitution makes no reference to immunities for these foreign agents. Therefore, the Act of Congress and Executive Orders purporting to grant these immunities are unconstitutional and void. The 1957 *Reid* case requires that not only must all treaties comply with the Constitution, but all laws passed pursuant to a treaty must also comply with the Constitution.

FIFTH CAUSE OF ACTION

Relator says the UN Treaty changes the Constitution by transferring Congress' power to Declare War to the UN Security Council, and that this is an unconstitutional transfer. Article 43 of the UN Treaty states:

“All members of the United Nations ... undertake to make available to the Security Council, *on its call* ... armed forces, assistance and facilities.”

Whereas, Article I, Section 8 of the Constitution states:

“The Congress shall have the power to declare war”

Obviously, Congress' Constitutional power to declare war has been changed and transferred to the UN Security Council ... armed forces, assistance and facilities “on the call” of said Security Council. For over 100 years our U.S. Supreme Court has declared,

“A treaty cannot change the Constitution or be held valid if it is in violation of that instrument.” *Foster v. Nielson*, 2 Pat 314

The fact that the treaty was put into effect by the Executive Branch and the Senate in the legislative branch does not preserve the treaty. For as recently as 1957, the U.S. Supreme Court held that,

“The prohibitions of the Constitution were designed to apply to all branches of the National Government and they cannot be nullified by the Executive, or by the Executive and the Senate combined.” *Reid v. Covert*, 354 US1 (1957).

SIXTH CAUSE OF ACTION

Relator further says that the assets of the United Nations are not at a fair valuation sufficient to pay its debts, and the Respondent, the Secretary General of the UN, is currently making transfers of funds, reportedly in excess of a half billion dollars, to so-called trust funds allegedly for the retirement benefits of its employees. Relator is further informed Respondent, the Secretary General of the UN, is transferring or has transferred assets out of the jurisdiction of this Court, viz., to the establishment of a subsidiary United Nations operation in the Country of Chile, and Relator alleges this is also in fraud of creditors, the largest of said creditors being the United States. Relator says that unless a Receiver is appointed to take over the assets of the United Nations, to marshal its assets and liens of its creditors, further transfers in fraud of its creditors will continue to be made by the Secretary General of the United Nations.

Admissions to the press by the Secretary General made on August 29, 1993 establish the United Nations is in fact insolvent. On that date, Mr. Boutros Boutros Ghali said, “The organization runs from hand to mouth.” He made this admission to the UN General Assembly’s committee on financial matters.

It is further requested the Receiver make a finding of the amount of the alleged Federal Income Tax fraud specified in the Third Cause of Action herein alleged for the four years refund to UN employees of their Federal Income Tax paid for the four years 1946, 1947, 1948 and 1949; further that the Receiver be directed to order this amount of Federal Tax Refund be paid into the United States Treasury.

WHEREFORE, Relator prays that because this case involved inter alia, a challenge to the constitutionality of the United Nations Treaty, including the integral Statute of the International Court of Justice, that this Court enter judgment granting injunctive relief and other equitable relief as follows:

1. Issue an order declaring the United Nations Treaty to be unconstitutional and void.

2. Issue an order declaring the UN Income Tax to be unconstitutional because it is beyond the power of Congress to delegate its income taxing power to any person, natural corporate or international; further, that the U.S. Senate action in granting an income tax exemption from U.S. Income Tax and allowing the reimbursement, violates the XVI Amendment and is therefore unconstitutional and void.

3. Issue an order declaring the disbursing officers of the U.S. Treasury shall cease making further payments to the United Nations of the UN assessments, because Title 22 U.S. Code Section 287(e) authorizing these payments was passed pursuant to a void treaty and is likewise void.

4. Issue an order declaring 22 U.S. Code Section 288 *et seq.* (International Organizations Immunities Act) to be unconstitutional and void because it is beyond the powers granted to Congress by Article I, Section 8; further because it violates the doctrine of separation of powers, and grants immunities not permissible under the Supreme Court's original jurisdiction stripped of any immunities for these agents of foreign governments under Article III, Section 2 of the Constitution.

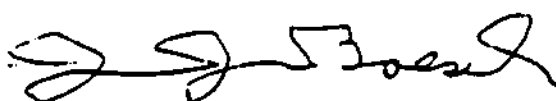
5. Issue an order determining the amount of unpaid Federal Income Tax due the United States, and an additional order to the Respondent, the Secretary General of the United Nations, to make immediate payment of such income tax to the United States.

6. That the Court grant Relator his costs herein, including reasonable attorney fees to the extent permitted by law.

7. Appoint a Receiver to wind up the affairs of the UN and pay off all creditors, including the largest creditor, the United States.

8. That the Court grant further legal and equitable relief as this Court may deem just and proper.

Attorney for Relator



Special Counsel, Pro Bono

SENATE DOCUMENT NO. 87

REVIEW OF THE UNITED NATIONS CHARTER

SUBCOMMITTEE ON THE UNITED NATIONS CHARTER

Pursuant to S. Res. 126, 83rd Congress, 1st Session

Presented by Mr. Wiley, January 7, 1954

Page 21549. TAX EQUALIZATION STAFF ASSESSMENT PLAN: RESOLUTION OF THE
GENERAL ASSEMBLY, NOVEMBER 18, 1948

A

The General Assembly,

Recognizing the inequalities of the present system of net salaries, and desiring to impose a direct assessment on United Nations staff members which is comparable to national income taxes,

Resolves:

Article 1

That for each calendar year beginning after 31 December 1948, all salaries, wages, overtime and night-differential payments, cost-of-living adjustments (or differentials) and the allowance for dependent children, to whomsoever paid by the United Nations, shall be subject to an assessment on the recipient at the rates and under the terms specified in the following articles.

If, however, the recipient is a temporary staff member, exemption may be granted from such assessment if all the following conditions apply:

- (i) The recipient is employed for a period not exceeding ninety days during the calendar year;
- (ii) The payments made to the recipient do not exceed \$250 per month;

(iii) The recipient is not a person to whom both Sections 17 and 18(b) of Article V of the Convention on the Privileges and Immunities of the United Nations apply.

Article 2

That all amounts payable by the United Nations in accordance with arrangements in force at 1 January 1949, other than those assessable under Article 1, shall be exempt from this assessment.

Article 3

(a) That the assessment shall be calculated according to the following rates:

On assessable payments not exceeding \$4,000	15 percent
On the next \$2,000 of assessable payments	20 percent
On the next \$2,000 of assessable payments	25 percent
On the next \$2,000 of assessable payments	30 percent
On the next \$2,000 of assessable payments	35 percent
On the next \$3,000 of assessable payments	40 percent
On all remaining assessable income.....	50 percent

Article 6

That the assessment computed under the foregoing articles shall be collected by the United Nations by withholding it from payments. No part of the assessment so collected shall be refunded because of cessation of employment during the calendar year.

Article 7

That revenue derived from the easement shall be applied as an appropriation-in-aid of the budget.

Hundred and fifty-ninth plenary meeting
18 November 1948

B

The General Assembly,

Having decided to adopt a staff assessment programs,

Recognizing that present salaries were established after making deductions equivalent to national income taxation levied by the country in which the Organization is located, and in order to assure equality among staff members.

Resolves

1. That salary rates in effect on 31 December 1948 shall be converted to gross rates on 1 January 1949, disregarding dependents and using the assessment rates set forth in resolution A, Article 3;
2. That the Secretary-General is directed:
 - (a) To provide in all future personnel contracts, for the payments of salaries on a gross basis, without provision for reimbursement of national income taxes;
 - (b) To replace all existing personnel contracts, except indeterminate contracts and contracts for a fixed term, with contracts providing for the payment of salaries on a gross basis, without provision for reimbursement of national income taxes;
3. That the foregoing provisions shall not affect the authorization to the Secretary-General to reimburse staff members for national income taxes paid on salaries and allowances received from the United Nations during the year 1946, 1947 and 1948, as provided in resolution 160 (II) of the General Assembly, and during the year 1949 as provided in resolution D below;
4. That the contributions by the staff member and the United Nations to the Joint Staff Pension Fund or Provident Fund shall continue to be made provisionally at the net salary rates in effect for each grade and step on 31 December 1948.

Hundred and fifty-ninth plenary meeting
18 November 1948

C

The General Assembly,

Desiring to achieve both equity among the Member States and equality among members of the staff of the Organization,

Noting that certain members have not yet taken the necessary action to that end,

Requests members which have not acceded to the Convention on Privileges and Immunities of the United Nations or which have acceded to it with reservations as to its Section 18(b), take the necessary action, legislative or other, to exempt their nationals employed by the United Nations from National income taxation with respect to their salaries and emoluments paid to them by the United Nations, or in any other manner to grant relief from double taxation to such nationals.

Hundred and fifty-ninth plenary meeting
18 November 1948

D

The General Assembly

Authorizes the Secretary-General:

1. To reimburse staff members for national income taxes paid by staff members in respect of payments received from the United Nations during 1949;
2. To withdraw funds from the Working Capital Fund for this purpose if such reimbursements are necessary in 1949.

Hundred and fifty-ninth plenary meeting
18 November 1948

83rd CONGRESS
1st Session

S. RES. 126

IN THE SENATE OF THE UNITED STATES

June 30 (legislative day, June 27), 1953

Mr. Gillette submitted the following resolution;
which was referred to the Committee on Foreign Relations

RESOLUTION

WHEREAS revision of the present Charter of the United Nations is necessary if the purpose for which the United Nations was established, to maintain international peace and security, is to be achieved; and

Whereas Article 109 of the Charter provides that a general conference to review the Charter "may be held at a date and place to be fixed by a two-thirds vote of any seven members of the Security Council," and further that "if such a conference has not been held before the tenth annual session of the General Assembly, the proposal to call one shall be placed on the agenda of that session of the General Assembly, and the conference shall be held if so decided by a majority vote of the members of the General Assembly and by a vote of any seven members of the Security Council"; and

Whereas the Department of State has anticipated that a proposal to call a Charter Review Conference will be considered at the tenth regular session of the General Assembly, that is, during 1955; and

Whereas the Department of State has stated that the development of an official United States position toward the question of Charter review, and toward the many individual issues involved, will require careful and detailed preparation within the Government, including official studies, advice from Members of Congress, and

private discussions with other governments, as well as full opportunity for the public to inform itself regarding the problems involved, and to express its views; and

Whereas the establishment and development of regional security arrangements and agencies in accordance with Article 53 of the charter have raised questions as to the relationship of such regional security organizations with the United Nations: Now, therefore, be it

Resolved, That the Committee on Foreign Relations, or any subcommittee thereof duly designated by the chairman of such committee, in conjunction with two other Senators, not members of the Committee on Foreign Relations and not of the same political party, designated by the President of the Senate, is hereby empowered and directed to make a full and complete study of proposals to amend, revise or otherwise modify or change existing international peace and security organizations, for the purpose of guiding the Senate in the fulfillment of its responsibility, under the second paragraph of Section 2 of Article II of the Constitution, to advise the President with respect to the foreign policy of the United States, and particularly with reference to the policy of the United States at the General Conference of the United Nations for review of the Charter to be held in accordance with Article 109 of Chapter XVIII of the Charter.

SEC. 2. The committee shall report to the Senate prior to January 31, 1955 the results of its study and investigation, together with such recommendations as it may find desirable.

SEC. 3. For the purpose of this resolution, the committee is authorized to employ on a temporary basis such technical, clerical or other assistants, experts and consultants as it deems desirable. The necessary expenses of the committee under this resolution, which shall not exceed \$50,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee or subcommittee, as the case may be.

SUBPOENA DUCES TECUM
(to be filed with the case)

DIRECTED TO MR. KOFI ANNAN, SECRETARY GENERAL OF THE UNITED NATIONS

Bring these documents with you:

1. Payroll records of the United Nations employees for the tax years 1946, 1947, 1948, 1949, disclosing the amount of Federal Income Tax withheld and refunded in pursuance of Senate Document 87 and Senate Resolution 12b, 83rd Congress dated January 7, 1954, said refund being authorized by TAX EQUALIZATION STAFF ASSESSMENT PLAN: RESOLUTION OF THE UNITED NATIONS GENERAL ASSEMBLY, NOVEMBER 18, 1948.
2. All United Nations financial statements, including Income and Expense and Balance Sheets of the United Nations issued since 1970, the approximate date of the last audit of the United Nations by the General Accounting Office of the United States.
3. A statement showing the amount of funds transferred to the United Nations Employees' Retirement fund, as of June 30, 1994.
4. A statement of all United Nations properties used as United Nations headquarters, and an appraisal of the value thereof wherever located in the world, as of June 30, 1994.
5. A statement of the number of employees of the United Nations, and the salaries of each, as of June 30, 1994.
6. A statement as of June 30, 1994 of all proposed property acquisitions planned by the United Nations, and an appraisal of the value thereof.
7. A statement of the total liabilities of the United Nations as of June 30, 1994, and the total assets of the United Nations.

U.S. Supreme Court declaring the law of treaties:

*It need hardly be said that a treaty cannot change the Constitution or be held valid if it be in violation of that instrument.*¹

There is nothing in this language (Article VI U.S. Const.) which intimates that *treaties and laws passed pursuant to them* do not have to comply with the provisions of the Constitution.²

The prohibitions of the Constitution were designed to apply to all branches of the National Government and they cannot be nullified by the Executive or by the Executive and the Senate combined.³

International law is part of our law, and must be ascertained and administered by the courts of justice of appropriate jurisdiction.⁴

It is the law of this land and has been for more than a hundred years that a U.S. treaty cannot change the Constitution¹. The treaty must comply with the Constitution². The act of the Senate in ratifying the treaty, must be based upon a valid treaty³, for the Constitution cannot be nullified by the acts of the Executive and the Senate combined³. Finally, all laws of the Congress, enacted pursuant to the treaty are equally invalid if the treaty is invalid².

Article 36 of the UN Treaty is invalid because it changes Article III, Section 2 of the U.S. Constitution (see APPENDIX for Article 36, made an "integral part" of the treaty by Article 92).

Article 36 transfer to the International Court judicial power over ... "all disputes concerning the interpretation of a treaty"

By making this transfer, Article 36 comes into direct conflict with and changes Article III, Section 2 of the Constitution which vests the judicial power of the United States over treaties in the Supreme Court (*Foster*¹, *The Paquette Habana*⁴ and *Marbury v. Madison*⁵).

A comparison of Article III, "Before and After" will show this change:

¹ *Foster v. Nielson* (1829) 2 Pet 314

² *Reid v. Covert* (1957) 354 U.S. 1

³ *Reid v. Covert* (1957) 354 U.S. 1

⁴ *The Paquette Habana* (1900) 175 U.S. 677

⁵ *Marbury v. Madison* (1803) 1 branch 137

Article III U.S. Constitution **BEFORE** the change:

Section 2. The judicial power shall extend to all cases in law and in equity arising under this Constitution, the laws of the United States and treaties made, or which shall be made under their authority.

Article III U.S. Constitution **AFTER** the change:

Section 2. The judicial power shall extend to all cases in law and in equity arising under this Constitution, the laws of the United States and treaties made, or which shall be made under their authority, **EXCEPT ALL LEGAL DISPUTES CONCERNING THE INTERPRETATION OF A TREATY AND ANY QUESTIONS OF INTERNATIONAL LAW: PROVIDED THAT THIS DECLARATION SHALL NOT APPLY TO DISPUTES WITH REGARD TO MATTERS WHICH ARE ESSENTIALLY WITHIN THE DOMESTIC JURISDICTION OF THE UNITED STATES OF AMERICA AS DETERMINED BY THE UNITED STATES OF AMERICA.**

(Change shown in capitals from Article 36 including the Connally proviso.)

CONCLUSIONS

The treaty change in Article III is invalid and void (*Foster*¹) and so is the Senate Resolution of August 2, 1946, attempting to ratify the UN Treaty (*Reid*³).

Invalid and void also are all the appropriation laws of Congress *enacted pursuant to the treaty* to pay UN assessments against the United States (*Reid*²). Until Congress and the States adopt the change in Article III, acting under Article V, the required amending process of the Constitution, *the United States cannot exercise power under the UN international agreement without observing constitutional prohibitions*. This is the law already declared by the Supreme Court⁵:

It would be manifestly contrary to the objectives of those who created the Constitution ... let alone alien to our entire constitutional history and tradition to construe Article VI (the Supremacy clause) *as permitting the United States to exercise power under an international agreement without observing constitution prohibitions*. In effect, *such construction would permit amendment of that document in a manner not sanctioned by Article V*.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "J.J. Boesel". The signature is fluid and cursive, with the first name "J.J." and last name "Boesel" clearly distinguishable.

J.J. Boesel, Retired Judge

Columbus OH 43220

() [REDACTED]

IN THE SUPREME COURT OF THE UNITED STATES OF AMERICA

STATE OF OKLAHOMA, ex rel

CASE NO. _____

ATTORNEY GENERAL

RELATOR

VS.

MOTION OF OKLAHOMA

UNITED STATES

FOR LEAVE TO FILE

UNITED NATIONS

COMPLAINT IN RE A TREATY

U.S. TREASURER

(Sup Ct Rule 17)

RESPONDENTS

OKLAHOMA, A SOVEREIGN STATE MOVES THE COURT FOR LEAVE TO FILE A COMPLAINT AGAINST THE RESPONDENTS, A COMPLAINT CLAIMING THE UNITED NATIONS TREATY AND LAWS PASSED PURSUANT THERETO, ARE UNCONSTITUTIONAL ON FIVE INDEPENDENT GROUNDS. THIS MOTION IS MADE UNDER ARTICLE III, SECTION 2, U.S. CONSTITUTION GIVING THIS COURT ORIGINAL JURISDICTION OVER THE COMPLAINT IN RE A TREATY.

“The judicial power shall extend to all cases, in Law and Equity, arising under this Constitution, the Law of the United States and Treaties made, or which shall be made under their authority”

“In all cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be a Party, the Supreme Court shall have original jurisdiction.”

OKLAHOMA ATTORNEY GENERAL

IN THE SUPREME COURT OF THE UNITED STATES OF AMERICA
STATE OF OKLAHOMA, EX REL ATTORNEY GENERAL

RELATOR

CASE NO. _____

VS.

UNITED STATES
UNITED NATIONS
TREASURER OF UNITED STATES

OKLAHOMA'S BRIEF
IN SUPPORT
OF MOTION FOR LEAVE TO
FILE COMPLAINT IN RE A TREATY

RESPONDENTS

REID v. COVERT, 354 US1 (1957) HAS DECLARED THE LAW OF TREATIES TO
INCLUDE THESE THREE RULES:

1. "The prohibitions of the Constitution were intended to apply to all branches of the National Government and they cannot be nullified by the Executive, or by the Executive and Senate combined."
2. "It would be manifestly contrary to the objectives of those who created the Constitution ... let alone alien to our constitutional history and tradition to construe Article VI (the Supremacy clause) as permitting the United States to exercise power under an international agreement, without observing constitutional prohibitions. In effect, such construction would permit amendment of that document in a manner not sanctioned by Article V."
3. "... there is nothing in this language (Article VI U.S. Constitution) which intimates that *treaties and laws passed pursuant to them* do not have to comply with the Constitution" (emphasis added).

A declaration of the law of Treaties by this Court, made over a hundred years ago states,

"A treaty cannot change the Constitution or be held valid if it be in violation of that document." *Foster v. Neilson* (1829) 2 Pet 314.

THE FIVE INDEPENDENT GROUNDS FOR FINDING THE UNITED NATIONS
TREATY AND LAWS PASSED PURSUANT TO THE TREATY
UNCONSTITUTIONAL ARE:

1. The first defective amendment to the Constitution brought about by the Treaty is found in Article 36 of the Treaty. There it is stated ... "that the International Court of Justice shall have jurisdiction over all cases involving the interpretation of a Treaty. This changes and amends Article III, Section 2 of the Constitution which gives the Federal judiciary judicial power over ... Treaties made, or which shall be made, under their authority"
2. The second defective amendment was placed in effect by the United Nations General Assembly resolution made in pursuance of the Treaty, setting up a United Nations Income Tax, with the apparent consent of the Senate subcommittee on the UN Charter (Senate Document 87). This violates the Sixteenth Amendment which gives to Congress only the power to tax income, and provides for no delegation of this taxing power to the United Nations or any person or corporation, international or otherwise. It has already been held that the United Nations is not a State, and hence has no inherent power to tax. *U.S. v. Melekh*, D.C.N.Y., 190 F.Supp. (1960).
3. The third defective amendment was put in place by the Act of Congress, called the International Organizations Immunities Act, passed pursuant to the Treaty. This Act gives immunities from suit to all UN employees and foreign ambassadors, other public ministers and consults on missions to the United Nations, unless they waive their immunity.

This immunities law violates and amends Article III, Section 2 of the Constitution which says,

"In all cases involving ambassadors, other public ministers and consuls, and cases in which a State shall be a Party, the Supreme Court shall have original jurisdiction."

No immunities are found in this original jurisdiction of the Court, nor anywhere else in the Constitution. This violates *Marbury v. Madison*, 1 Cranch 137 (1803), which had this same original jurisdiction of the Court conferred by the Constitution.

4. The fourth defective amendment was put in place by Article 43 of the Treaty, which says,

"All members of the United Nations ... undertake to make available to the Security Council ... *ON ITS CALL* (emphasis added) armed forces, assistance and facilities." This Article transfers to the Security Council of the United Nations the war power given to Congress by Article 1, Section 8, U.S. Constitution. Nowhere in the Constitution is any authority given to the National Government or specifically the Congress to delegate its war powers.

5. The fifth defective Amendment was brought about by President Clinton when he recently turned over control of American troops to the United Nations by his Presidential order. Nowhere in the Constitution is the President given the authority to delegate his powers as Commander-in-Chief to any foreign agency. Violates Article II, Section 2, U.S. Constitution.

"CASE OR CONTROVERSY" REQUIREMENT MET UNDER ARTICLE V, U.S. CONSTITUTION

These five defective amendments violating the Constitution have been placed in effect under color of law are now being enforced by the National Government outside the limits of the Constitution. All "amended" the Constitution in a manner not sanctioned by Article V, as the *Reid v. Cover* (supra) case held in Oklahoma, on the of fifty Sovereign States, has a Constitutional right under Article V, to pass upon, ratify or reject these five amendments.

Oklahoma, under Article V, hereby rejects all of these proposed "amendments" proposed as described above in this brief.

Oklahoma asserts its constitutional right under Article V to reject and object to these five amendments. This Amending Article V creates in Oklahoma its constitutional right to raise this "case or controversy" with the United States, the United Nations and the U.S. Treasurer, all involved in funding the United Nations.

This Court recently held in the case of *NY v. US*, 112 S.Ct. 2408 (1992) that, "Where Congress exceeds its authority relative to the States, departure from the Constitutional plan cannot be ratified by 'consent' of State Officials."

This case is authority for the proposition that the States, under the Tenth Amendment are not bound by the "consent" of the former State officials who have failed to object previously, to the National Government's "departure from the Constitutional plan." Oklahoma is therefore not bound to "consent" to these five unlawful defective Constitutional amendments, but is free to raise this "case or controversy" under Article V

with the Respondents, as directed by the Oklahoma House of Representatives Resolution No. 1047.

“CASE OR CONTROVERSY” MET UNDER ARTICLE VI, U.S. CONSTITUTION

Research of this Court’s decisions shows the clause in Article VI (the Supremacy Clause), as follows:

“... and all Treaties made, or which shall be made under the Authority of the United States, shall be the Supreme Law of the Land, and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding” (emphasis added),

has never been construed by this Court. When it is a Treaty ... “made under the authority of the United States, and when is it not”?

The Oklahoma House of Representatives in Resolution No. 1047 ordered the United States to:

1. “Cease the appropriation of United States funds for any military activity not authorized by Congress;
2. Cease engagement in any military activity under the authority of the United Nations or any world body;
3. Cease the rendering of aid to any activity or engagement under the jurisdiction of the United Nations or any world body; and
4. Cease any support for the establishment of a ‘new world order, or to any form of global government’”

Here is a law of the Oklahoma House of Representatives in direct conflict with the United Nations Treaty. Under this Treaty, the United States Congress just two weeks ago appropriated \$1.2 billion dollars to be paid by the U.S. Treasurer to the United Nations. Oklahoma, a Sovereign State has, as of March 29, 1994, previously ordered the United States Congress to “cease rendering of aid to any activity or engagement under the jurisdiction of the United Nations”

If this United Nations Treaty is ... "made under the authority of the United States," ... then it is the Supreme Law of the Land, and Oklahoma's order to Congress is a nullity under Article VI of the U.S. Constitution.

On the other hand, if this United Nations Treaty is "... made *beyond* the authority of the United States," as the Complaint asserts, then the Treaty is void, and the United States Treasurer has no authority to pay the appropriated \$1.2 billion dollars to the United Nations.

Oklahoma is entitled to have this Court construe the phrase in Article VI ... "treaties made under the authority of the United States." Research of this Court's decisions shows this has never been done.

“CASE OR CONTROVERSY” MET UNDER THE TENTH AMENDMENT

Very little need be said about this “Controversy” with Articles 104 and 105 of the UN Charter, other than to quote them. The direct conflict with Oklahoma’s Sovereign rights under the Tenth Amendment, are clearly violated by the Federal Regulatory program imposed on Oklahoma, a Federal program of unlimited and undefined scope, with full “privileges and immunities” for UN officials and representatives, *with full immunities* from the law of Oklahoma, and “independently” carry out their UN functions and “purposes.” Within the boundaries of Oklahoma.

Article 104 United Nations Charter:

“The Organization shall enjoy in the territory of each of its members such legal capacity as may be necessary for the exercise of its functions and the fulfillment of its purposes.”

Article 105:

1. The Organization shall enjoy in the territory of each of its members such privileges and immunities as are necessary for the fulfillment of its purposes.
2. Representatives of the members of the United Nations and Officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.
3. The General Assembly may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this Article, or may propose Conventions to the Members of the United Nations for this purpose.

This United Nations Federal regulatory program violates Oklahoma’s Sovereignty under the Tenth Amendment to the Constitution, and violate the rule of this Court, as stated in *NY v. US*, 112 S.Ct. 2408 (1992), that the Federal Government may not compel the States to administer a Federal regulatory program. This Federal program was by Act of Congress. This rule applies equally to the two Articles quoted above, where this UNLIMITED IN SCOPE Federal Regulatory program of the UN is imposed on Oklahoma by a treaty signed by the President and ratified by the Senate. For this Court held in *Reid v. Covert*, 354 U.S.1 (1957) that

“The prohibitions of the Constitution were designed to apply to all branches of the National Government and they cannot be nullified by the Executive, or by the Executive and the Senate combined.”

Articles 104 and 105 are unconstitutional because they violate the Tenth Amendment. Finally, they are unconstitutionally vague.

CASE OR CONTROVERSY MET UNDER AMENDMENT XVI U.S. CONSTITUTION

Amendment XVI

“The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, *without apportionment among the SEVERAL States*, and without regard to any census or enumeration” (emphases added).

Under this income tax law, apportionment among the States is prohibited. Oklahoma’s claim is that the Federal Government cannot apportion tax income tax revenues to the United Nations, any more than it can apportion these tax funds to any of the States. Notwithstanding this prohibition, the Federal Government has apportioned income tax funds to the United Nations during the years 1946, 1947, 1948 and 1949 by sending funds to the United Nations which it has used to reimburse its employees the amounts of U.S. Income Tax they paid for these years, as more fully described in Oklahoma’s Third Cause of Action.

Records of the Ohio State and Upper Arlington libraries show that during these four years of 1946, 1947, 1948 and 1949 the Federal Government averaged forty billion dollars per year. The Federal individual and corporate income tax averaged thirty billion dollars per year.

Therefore, three-fourths of the thirty-four million dollars paid to the United Nations for this four year period APPORTIONED Federal Income Tax funds which is in violation of the XVI Amendment, and were unconstitutional and void, and must be recovered from the United Nations treasurer.

These payments also violate the rule of this Court in *NY v US*, 112 S.Ct. 2408 (1992), where it is stated,

“Where Congress exceeds its authority relative to the States, departure from the Constitutional plan cannot be ratified by ‘consent’ of the States.”

What Congress is prohibited from doing under this rule, the President and Senate under the UN Treaty are also prohibited from doing, as stated by this Court in *Reid v. Covert*, 354 U.S.1 (1957):

“The prohibitions of the Constitution were intended to apply to all branches of the National Government and they cannot be nullified by the Executive or by the Executive and the Senate combined.”

CASE OR CONTROVERSY MET UNDER ARTICLE IV, SECTION 4 U.S. CONST.

Article IV, Section 4

“The United States shall guarantee to every State in this Union a Republican form of Government, *and shall protect each of them against Invasion*; and on application of the Legislature or of the Executive (when the Legislature cannot be convened) against domestic violence” (emphases added).

Under this section, Oklahoma has the constitutional right to be protected against invasions and the Federal Government is under a corresponding duty to be prepared on request to give Oklahoma this protection. This is a continuing duty resting on the Federal Government and it is presently, under the United Nations Treaty, disabled from performing this duty.

As to the Congress, it is disabled under Article 43 of the UN Treaty for there, as a member of the United Nations, it has agreed to furnish to the UN Security Council ON ITS CALL, “armed forces, assistance and facilities,” as alleged in Oklahoma’s Fifth Cause of Action. For if Canada were to invade Oklahoma suddenly, Congress has lost its ability to respond to its Constitutional duty to “PROTECT” Oklahoma from this invasion.

Further, the Executive has likewise, under his obligation under this section, rendered himself incapable of performing his duty as Commander in Chief, to order U.S. troops to repel this invasion for the reason that the President has issued his Presidential Decision Directive 3 May 1944 (State Department Summary) transferring control over U.S. troops to the United Nations.

These actions of the Congress and the Executive are departures from the Constitutional plan of Article IV, Section 4, and cannot be ratified by consent of the States. As this Court held in *NY v. US*, 112 S.Ct., 2408 (1992),

“Where Congress exceeds its authority relative to the States, departure from the Constitutional plan cannot be ratified by ‘consent’ of the States.”

Finally, the President’s “turn-over” order of the U.S. troops to the United Nations not only is a “departure” from the Constitutional plan of this Article IV, it is a direct violation of the rule of this Court that is found in *Reid v. Covert*, 354 U.S.1 (1957),

“The prohibitions of the Constitution were designed to apply to all branches of the National Government and they cannot be nullified by the Executive or by the Executive and the Senate combined.”

OKLAHOMA ATTORNEY GENERAL

Judge J.J. Boesel is a retired Municipal Judge from Wapakoneta, Ohio and is a graduate of Ohio State University and the University of Michigan Law School. He is a former Professor of Constitutional Law, Capitol University Law School, Columbus, Ohio. Judge Boesel is a retired Army Colonel and served with the 4th Infantry Division during WWII; it was this division that made the assault landing on D-Day at Utah Beach, Normandy.

Introduced by Congressman John Rarick in 1971:

INTERNATIONAL REORGANIZATION RECISION ACT
House of Representatives
To Rescind and Revoke Membership of the United States in the United Nations
by John Rarick, U.S. Representative, 6th Congressional District

HOUSE RESOLUTION 2632:

To rescind and revoke membership of the United States in the United Nations and specialized agencies thereof, and for other purposes. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled -

Section 1. That from and after the effective date of this ACT that ratification by the Senate of the United States on July 28, 1945, of the United Nations Charter, making the United States a member of the United Nations, be, and said ratification hereby is, rescinded, revoked and held for naught; and all ACTS designed and intended to perfect and carry out such membership of the United States in the United Nations are hereby repealed.

Section 2. That from and after the effective date of this ACT, all ACTS and parts of ACTS designed and intended to make the United States a member of the specialized agencies of the United Nations, or of any of them, are hereby repealed, and all executive agreements, international undertakings and understandings however characterized and named, designed and intended to make the United States a member of the specialized agencies of the United Nations are hereby rescinded, revoked and held for naught.

Section 3. That from and after the effective date of this Act and any and all appropriations for defraying the costs of the membership of the United States in the United Nations or in the specialized agencies thereof are hereby rescinded and revoked; and any unexpended and unencumbered balance of any such appropriations shall be recovered into the general fund of the Treasury of the United States.

Section 4. That the International Organizations Act of December 29, 1945 (59 Stat. 669; Title 22, Sections 288 to 2886 U.S.C.) be and is repealed; and any and all Executive Orders extend or granting immunities, benefits and privileges under said ACT of December 29, 1945, are hereby rescinded, revoked and held for naught.

Section 5. This act may be cited as the INTERNATIONAL ORGANIZATIONS RECISION ACT.

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