A Treaty Is Not Superior To The U.S. Constitution!

Today we are constantly told or taught that a Treaty is superior to the Constitution for the United States of America, and that a Treaty can therefore amend the Constitution and/or destroy our sovereignty. These statements are, and always have been, false!

The founding fathers, who wrote the federal Constitution and the "Bill of Rights", which became the "supreme law of the land" on June 21, 1788 and December 15, 1791, respectively, were very intelligent, learned, experienced, patriotic men.

They prepared the Constitution that would create a new, unique government based in part on the principles stated in the 1776 Declaration of Independence that include:

> …. "all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. **That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the Governed.**"

The "supremacy clause" (Article VI, Clause 2) in the federal Constitution states:

> "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; 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."

Article V of the federal Constitution provides the lengthy, explicit and only ways to lawfully amend the Constitution for the United States of America. These procedures require that either two thirds of the members of both Houses of Congress may propose an Amendment or the Legislatures of two thirds of the several States may call a Convention for proposing an Amendment. In either case chosen, when three fourths of the Legislatures of the States ratify the proposed Amendment or three fourths of the Conventions, called for the purposes of ratifying the Amendment, ratifies it, the Amendment becomes part of the Constitution for the United States of America.

To suggest that the President, by and with the Advice and Consent of two thirds of the Senators present in Congress (Article II, Section 2, Clause 2) can make a Treaty that amends the federal Constitution makes no logical or historical sense. Clearly the framers did not intend for the "supremacy clause" to allow any Treaty that would violate any provision of the Constitution for the United States of America.

In point of fact and as a matter of law, a Treaty must be considered and treated the same way as a statute passed by Congress. For example, Congress can repeal a statute or a Treaty. Just like a statute, a Treaty, or any part of it, cannot violate or conflict with any provision of the federal Constitution. If it does violate the Constitution, the alleged Treaty is null and void from the time that it was allegedly confirmed by the Senate and signed by the President. Further, according to their "oath of office", neither the President nor any Senator has any lawful authority to propose, consider, pass, sign and/or enforce a Treaty that violates or conflicts with the federal Constitution.

The proven primary reason the "supremacy clause" states that "all Treaties made, or which shall be made, under the Authority of the United States" is because the framers wanted to insure that the 1783 "Treaty of Peace" would remain valid under the new Constitution for the United States of America.

To confirm the statements above, consider the following relevant excerpts from a law book, by Justice – Michigan Sup. Ct., Professor and author Thomas M. Cooley, LL.D., titled:

THE GENERAL PRINCIPLES of CONSTITUTIONAL LAW
in the UNITED STATES OF AMERICA
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"Chapter II. Definitions and General Principles." (pages 31 through 33)

"*It is Supreme.* --- By Article VI, it is declared that "The Constitution, and the laws of the United States which shall be made in pursuance thereof, 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, anything in the Constitution and laws of any State to the contrary notwithstanding," * Upon this it is to be observed: ---

1. The Congress of the United States derives its power to legislate from the Constitution, which is the measure of its authority; and any enactment of Congress which is opposed to its provisions, or is not within the grant of powers made by it, is unconstitutional, and therefore no law, and obligatory upon no one. *

2. As between a law of the United State made in pursuance of the Constitution and a treaty made under the authority of the United States, if the two in any of their provisions are found to conflict, the one last in point of time must control. * For the one as well as the other is an act of sovereignty, differing only in form and in the organ or agency through which the sovereign will is declared. Each alike is the law of the land in its adoption, and the last law must repeal everything that is of no higher authority which is found to come in conflict with it. A treaty may therefore supersede a prior act of Congress; * and, on the other hand, an act of Congress may supersede a prior treaty. *

3. A State law must yield to the supreme law, whether expressed in the Constitution of the United States or in any of the laws or treaties, so far as they come in collision, * and whether it be a law in existence when the "supreme law" was adopted, or enacted afterwards. * The same is true of any provision in the constitution of any State which is found to be repugnant to the Constitution of the Union. * And not only must "judges in every State" be bound by such supreme law, but so must the State itself, and every official in all its departments, and every citizen.

4. **The Constitution itself never yields to treaty or enactment**; it neither changes with time, nor does it in theory bend to the force of circumstances. It may be amended according to its own permission; but while it stands, it is "a law for rulers and people, equally in war and in peace, and covers with the shield of its protection all classes of men, at all times and under all circumstances." Its principles cannot, therefore, be set aside in order to meet the supposed necessities of great crises. "No doctrine involving more pernicious consequences was ever invented by the wit of man, than that any of its provisions can be suspended during any of the great exigencies of government. Such a doctrine leads directly to anarchy or despotism, but the theory of necessity on which it is based is false; for the government within the Constitution has all the powers granted to it which are necessary to preserve its existence, as has been happily proved by the results of the great effort to throw off its just authority." * " (bold print added)

Note: * Footnote has been omitted here from the original text in the interest of space and time.

"**And ye shall know the truth, and the truth shall make you free.**" - John 8:32 – KJV