

SENATOR SAM ERVIN SAYS



The Senate may be called upon soon to ratify the Genocide Convention, a treaty which was adopted by the General Assembly of the United Nations on December 10, 1948, and which was submitted by President Truman to the Senate for its consideration on June 16, 1949.

Shortly thereafter, the Senate Foreign Relations Committee appointed a subcommittee composed of very able Senators who conducted hearings on the treaty, and reported to

the full committee that the United States should not ratify the treaty in any event unless the Senate adopted four substantial understandings and one substantial declaration. In essence, these reservations sought to clarify some of the vagaries of the treaty that are shrouded in uncertainty. Since this report was made, the Senate Foreign Relations Committee and the Senate itself by inaction have refused to ratify this treaty.

Recently, however, the Senate Foreign Relations Committee has revived the issue of ratification and notwithstanding that there has been a substantial change of circumstances which would make what was unwise in 1950 to be wise in 1970, the treaty may come before the Senate soon.

Basically, the treaty makes genocide a punishable crime under international law. When a nation ratifies the treaty, persons charged with genocide or any of the other acts enumerated in this document would be subject to a criminal trial in

a tribunal in his own nation or a foreign nation. Such a tribunal would have jurisdiction over constitutionally responsible rulers, public officials, and private individuals who are accused of committing genocide or any other acts enumerated in the treaty.

I certainly do not question the good intentions of those who drafted the Genocide Treaty or those who favor its ratification, yet it seems to me that the Senate should not permit itself to be persuaded by the good intentions of the proponents of this treaty to radically alter our entire constitutional system of government at a time when it is manifest that a substantial number of the American people do not wish to expand their international obligations and at a time when the existing laws of the United States and its several States are adequate to punish all of the physical acts of violence denounced by the Genocide Treaty. I am concerned, too, that in ratifying the treaty we shall place Americans on trial at the mercy of foreign tribunals which may not operate under the "due process" safeguards accorded to the accused under our legal system.

Witness what would happen if the Senate should ratify the Genocide Treaty during our present intervention in Southeast Asia. American soldiers fighting under our flag could be tried and punished in a foreign court -- even in courts of our warring enemy -- for killings and wounding of members of the military forces of our warring enemy. Thus, American soldiers and pilots who kill and wound North Vietnamese soldiers or members of the Vietcong might be subject to trial and punishment by a new court established pursuant to this treaty.

Moreover, the ratification of the treaty raises many other serious legal issues about the jurisdiction of our federal and state courts in respect to virtually every alleged homicide. It is interesting to note that the American Bar Association has twice urged the Senate to reject the Genocide Treaty -- once in 1949 and again in 1970.

Strangely enough, the chief reason cited by proponents for the ratification of the treaty is that it will improve our image

in the eyes of Russia and other totalitarian parties to the treaty and that this should be enough. This is dubious logic, but more important, it ignores all of the major considerations which ought to deter the Senate from ratifying this treaty.

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