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Constitutional Problems of the International Labor Organization

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CONSTITUTIONAL PROBLEMS OF THE INTERNATIONAL LABOR ORGANIZATION

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The endeavors to establish a workable international organization, following the two World Wars, have focused attention on vital problems of common concern. Simultaneously, problems of constitutional law in foreign relations, especially the treaty-making power, have become of increasing importance. The International Labor Organization, established as an agency of the League of Nations in 1919, was joined by the United States in 1934. It is now the agency of the United Nations which deals with the international aspects of labor problems, and consists of 60 members.[1] The purpose of the I. L. O. is to "seek by international action to improve labor conditions, raise living standards, and promote economic and social stability."[2] The fundamental principles, summarized in 1944 at the annual General Conference, are that:

1. Labor is not a commodity.
2. Freedom of expression and of association are essential to sustained progress.
3. Poverty anywhere constitutes a danger to prosperity everywhere.
4. The war against want requires to be carried out with unrelenting vigor within each nation, and by continuous and concerted international effort in which the representatives of workers and employers, enjoying equal status with those of Governments, join with them in free discussion and democratic decision with a view to the promotion of the common welfare.

The United States has taken an active but not a controlling role in the activities of the International Labor Organization. We have ratified six (of which four are in force) of the 98 Conventions adopted by the I.L.O. up to the present time. The amended Constitution of the I.L.O. was accepted by the United States in 1946, becoming effective in 1948. The present Director-General, appointed by the Governing Body of the I.L.O., is Mr. David A. Morse, a former Under-Secretary of Labor of the United States.

However, there has been strong opposition to the participation of the

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1. Afghanistan, Albania, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Bulgaria, Burma, Canada, Ceylon, Chile, China, Colombia, Costa Rica, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Finland, France, Greece, Guatemala, Haiti, Hungary, Iceland, India, Iran, Iraq, Ireland, Israeli, Italy, Lebanon, Liberia(Luxembourg, Mexico, Netherlands, New Zealand, Norway, Pakistan, Panama, Philippines, Peru, Poland, Portugal, Siam, Sweden, Switzerland, Syria, Turkey, Union of South Africa, United Kingdom, United States, Uruguay, and Venezuela.
2. DEP'T STATE PUB. NO. 3323 at 81 (1948).

United States in the International Labor Organization, and it has increased since the acceptance of the amended Constitution imposing new duties on such members as the United States.[3] If the critics have sound arguments against our international labor activity, the United States should take steps to withdraw from the Organization; but if the criticism is unwarranted, the program should be supported by government, labor, and management.

I

The first argument against the constitutionality of participation by the United States is that labor matters are not a proper subject for international action. The numerous references in the Constitution of the United States to foreign affairs[4] are not all-inclusive nor self-explanatory; so that the development of constitutional law in this, as in other fields, has been by interpretation.

The proper subject-matter, or scope, of the treaty-making power is not defined anywhere in the Constitution, and only general statements of the nature of the power are to be found in Supreme Court decisions. It has been said that, inasmuch as the power is granted in general terms, the treaty-making power "was designed to include all those subjects, which, in the ordinary intercourse of nations, had usually been made subjects of negotiation. . . ."[6] Similar assertions have been made in other Supreme Court opinions.[7] Still, no one claims that the power can apply to any topic regardless of the result, for the Court has declared that:[8]

> The treaty power, as expressed in the Constitution, is in terms unlimited except by those restraints which are found in that instrument against the action of the government or its departments, or those arising from the nature of the government itself and that of the States. It would not be contended that it extends so far as to authorize what the Constitution forbids, or a change in the character of the government or in that of one of the States, or a cession of any portion of the territory of the latter, without its consent.

Labor matters have long been the subject of international agreement, without question of propriety, both between other nations and between the United States and other countries. In 1882 and 1897, France and Belgium concluded agreements to protect migratory workers. France and Italy, in 1904, agreed to regulate migratory workers' pensions, workmen's compensation for accidents, unemployment payments, protection of minors in industry, and to publish annual reports on the application of laws relating to the work of women and children. From 1904 to 1913 there were

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3. DEP'T OF LABOR, WORLD LABOR STANDARDS 6 (1949).
4. U. S. CONST. Art. I, § 8, cl. 3, cl. 10, cl. 11, cl. 16, Art. I, § 10, cl. 1, cl. 3, Art. II, § 2, cl. 1, cl. 2, Art. II, § 3, Art. III, § 2, cl. 1, Art. VI, cl. 2.
6. Holmes v. Jennison, 14 Pet. 538, 569 (U.S. 1840).
7. Geofroy v. Riggs, 133 U.S. 258 (1890); *In re* Ross, 140 U.S. 453 (1891); Santovincenzo v. Egan, 284 U. S. 30 (1931).
8. Geofroy v. Riggs, *supra* note 7, at 267.

numerous compacts, by various European nations, concerning accident insurance. Conferences on labor problems, attended by representatives from many countries, were held in Berne, Switzerland, in 1906 and 1913;[9] and in 1919 the International Labor Organization was established.

Treaties made by the United States concerning labor problems include workmen's compensation[10] and the work of travelling salesmen,[11] as well as a variety of other matters which can be considered as labor topics.[12] Around 1800, treaties with France[13] and with Great Britain[14] regulated the rights of fishermen in certain geographical areas. Further, international agreements have covered a wide range in the protection of industrial property and of inventions, patents, trade-marks, designs and industrial methods, and in the regulation of technical details in international wireless telegraphy.

In carrying out the purpose of setting labor standards on an international plane, past General Conferences of the I. L. O. have dealt with such labor matters as: hours of work in industry, road transport, commerce, offices, and coal mines; night work for women and young people; minimum age in industry and agriculture; the right of association in agriculture, and freedom of association in general; workmen's compensation; forced labor; old-age insurance in industry and agriculture; recruiting of indigenous workers; migration for employment; labor inspections; and conditions of work at sea.

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9. 2 SHOTWELL, ORIGINS OF THE INTERNATIONAL LABOR ORGANIZATION 10-12 (1934).

10. Treaty with Italy, 1871, § 3, as amended in 1913; Treaty with Servia, 1881, Art. XI; Treaty with Norway, 1928, Art. II; Treaty with Liberia, 1938, Art. II.

11. Treaty with Guatemala, 1918; Treaty with Uruguay, 1918; Treaty with Panama, 1919; Treaty with El Salvador, 1919; Treaty with Paraguay, 1919; Treaty with Venezuela, 1919; Treaty with Peru, 1923.

12. Treaty of Amity, Commerce and Navigation with Mexico, 1831, Art. VII ("All merchants . . . and other citizens of the United States of America shall have full liberty in the United Mexican States to direct . . . their own affairs . . . nor shall they be obliged to employ for the aforesaid purposes any other persons than those employed by Mexicans, nor to pay them higher salaries or remuneration than such as are in like cases paid by Mexicans . . . ."), Art. X (exemption from military service for the other nation); Treaty of Friendship, Commerce and Navigation with Argentina, 1853, Art. X (exemption from military or naval service); Treaty of Commerce and Navigation with Italy, 1871, Art. III (exemption from military and naval service); Treaty of Trade, Consuls, and Emigration with China, 1868, Art. VIII (in construction of railroads and telegraphic installations in China, China will secure suitable engineers designated by the United States and will protect them and their property and pay a reasonable compensation for their services); Treaty of Immigration with China, 1880, Art. II, Art. III (protection of Chinese laborers in the United States, according to the "most favored nation" clause); Treaty of Commerce and Navigation with Japan, 1858, Art. X (Japan has the right to hire, in the United States, naval and military men, artisans of all kinds, and mariners to enter into its service); Tariff Convention with Japan, 1866, Art. X (Japanese subjects may be employed in any capacity aboard vessels of any nation having a treaty with Japan).

13. Treaty of Amity and Commerce with France, 1778, Art. IX (fishing rights of subjects of France and the United States in the territory of each nation), Art. X (right of subjects of France to fish on the Newfoundland banks).

14. Definitive Treaty of Peace with Great Britain, 1783, Art. III (subjects of the United States were given fishing rights on the Grand Banks and all other Newfoundland banks, and right to cure and dry fish in unsettled bays of Nova Scotia, Magdalen Islands, and Labrador); Convention Respecting Fisheries, Boundary, and Restoration of Slaves with Great Britain, 1818, Art. I.

Therefore, it can be said that labor matters have been the subject of international agreement for a long time, and are properly the subject of treaties. In obedience to the Constitution, labor problems should be regarded the same as all other topics of the treaty power—including migratory birds.[15] The test of the scope of the treaty-making power is whether the effective operation of the Federal or State Governments would be impeded or destroyed,[16] not the nature of the subject-matter of the agreement.

A treaty may be self-operative or executory, and the criterion for determining which it is does not depend on the subject-matter. Rather, reference must be had to the precise language of each treaty. Ratification of a self-operative treaty causes the happening of what is decreed by the words, so that it is effective as law without other action; but if the terms of the treaty alone do not bring about the conditions to which the parties agreed, then implementing legislation is necessary for the treaty to become effective as law.[17]

By express provision of the Constitution; a treaty made under the authority of the United States, when executed, becomes part of the supreme law of the land[18] on an equal footing with an act of Congress. Accordingly, if a statutory law of the United States is in conflict with a self-operative treaty, the one later in time is prior in right.[19] The clear and explicit provisions of a constitutional act of Congress must be upheld, even though contravening an express stipulation of a prior treaty, whether it is self-operative or executory and implemented by an act of Congress. Thus, should a treaty supersede a statute of the United States, Congress can in turn enact a law to override the treaty. And, of course, a valid treaty or an act of Congress is superior to State law.[20] Again, in obedience to the Constitution, labor treaties, including those which in the I.L.O. procedure are called "Conventions," should be treated the same as treaties concerning other subjects.

Finally, the grant of the treaty-making power[21] has been construed, regardless of the subject-matter, to give to the President the sole power for the negotiation of treaties; even though a reasonable interpretation would be that the President must act with the advice and guidance of the Senate. Consent to ratification is now the only province of the Senate; but research indicates that there have been numerous instances in which the President has made an agreement with a foreign nation without ever obtaining an

15. Missouri v. Holland, 252 U.S. 416 (1920).
16. Geofroy v. Riggs, *supra* note 7.
17. 5 HACKWORTH, DIGEST 177-185 (1943); AM. J. INT'L L., SUPP. PT. III, 787-799 (1935).
18. U. S. CONST. Art. VI, cl. 2.
19. Rainey v. United States, 232 U.S. 310 (1914); Horner v. United States, 143 U.S. 570 (1892); Whitney v. Robertson, 124 U.S. 190 (1888); United States v. Lariviere, 108 U.S. 491 (1887).
20. Hauenstein v. Lynham, 100 U.S. 483 (1879); Ware v. Hylton, 3 Dall. 199 (U.S. 1796).
21. U. S. CONST. Art. II, § 2, cl. 2.

affirmative vote of the Senate. The President may choose to consider the compact as an executive agreement, and call for its adoption by a joint resolution of Congress which requires only a majority of both the House of Representatives and the Senate.

The term "resolution" is used only once in the Constitution,[22] and in modern legislative practice there are three types. A simple resolution deals with matters within the exclusive jurisdiction of either the House or the Senate; while concurrent resolutions are used for non-legislative action by both bodies. A joint resolution has been habitually made a method of legislation, having the force and effect of law, and following a procedure "identical with that on bills, with the exception of joint resolutions proposing amendments to the Constitution."[23]

In the international relations of the United States, a joint resolution has occasionally been used with an executive agreement. For example, a treaty was made with Texas for its annexation to the Union, but upon the failure of the Senate to ratify the treaty the same result was achieved by a joint resolution of Congress and a Proclamation by the President. At other times a joint resolution was used without ratification by the Senate. The United States joined the International Labor Organization by that method, and accepted the amended I.L.O. Constitution in the same way. The question is, then, whether this country is bound to the I.L.O.

The Supreme Court has recognized that an international obligation can be created without a two-thirds vote of the Senate. In the *Altman* case,[24] Congressional action empowering the President to make reciprocal tax arrangements was held to be proper, and "while it may be true that this commercial agreement . . . was not a treaty possessing the dignity of one requiring ratification by the Senate of the United States, it was an international compact"[25] which had a binding effect on the nations involved. That principle was reiterated in the *Belmont* case,[26] with the additional declaration that State laws do not affect the external powers of the United States. Thus an executive agreement by the President, without action by the Senate or by any other body, became part of the supreme law. And, in the *Curtiss-Wright* case[27] the Court stated that the power of the Chief Executive over foreign affairs cannot be measured by the same standards as are applicable to internal matters, since the origins of the external and domestic powers were different. On that basis the contention was rejected that a joint resolution of Congress had unconstitutionally delegated legislative power to the President. The joint resolution required a finding by the Chief Executive that a Presidential Proclamation, forbidding the sale

22. U.S. CONST. Art. 1, § 7, cl. 3.
23. ENACTMENT OF A LAW 290 *et seq.* (U.S. Gov't Printing Off. 1907); see 4 HIND'S PRECEDENTS 290 *et seq.* (U.S. Gov't Printing Off. 1907).
24. Altman v. United States, 224 U.S. 583 (1912).
25. *Id.* at 601.
26. United States v. Belmont, 301 U.S. 324 (1937).
27. United States v. Curtiss-Wright Export Corp., 299 U.S. 304 (1936).

of arms in this country to certain nations engaged in war, would aid in establishing peace. From those cases it appears certain that the President can bind the United States by an executive agreement, without the formality of ratification by the Senate.[28]

The limitation on the power of Congress in international affairs depends upon Article I of the Constitution. There are given the powers to regulate commerce with foreign nations, to define and punish piracies and felonies on the high seas and offenses against the law of nations, and to make all laws necessary and proper to carry out the enumerated powers.[29] Still, "It is not indispensable to the existence of any power claimed for the Federal Government that it can be found specified in the words of the Constitution, or clearly and directly traceable to some one of the specified powers. Its existence may be deduced fairly from more than one of the substantive powers expressly defined, or from them all combined."[30] Even earlier the statement was made that the "necessary and proper" clause did not restrict the power to indispensably necessary, but rather to reasonably necessary.[31]

Therefore, it seems clear that Congress may act, by bill or resolution, in accordance with the enumerated powers supplemented by a reasonably "necessary and proper" power. The President, inasmuch as he has the leadership in international affairs, can make an agreement, which would be as binding as a treaty ratified by the Senate, if Congress concurs by a joint resolution. This presupposes, of course, that Congress is acting within the scope of the powers delegated to it by Article I of the Constitution.

II

The second argument against participation by the United States in the International Labor Organization is that it is an attempt to accomplish through international action what cannot constitutionally be accomplished at the national level. To answer that, one must look at the Constitution of the I.L.O. to determine what are the obligations imposed on members of the Organization.

An interesting feature of the I.L.O. is that it does not represent governments alone, but rather combines government, labor, and management. At the General Conferences, held annually, each member is authorized to send four voting representatives, two from government, one from labor, and one from management. The Conferences meet for the purpose of setting labor standards on an international plane, drafting Conventions and Recommendations which may be adopted by a two-thirds vote of the delegates casting ballots.[32] The delegates vote independently rather than in a bloc.[32a]

28. CORWIN, THE CONSTITUTION AND WHAT IT MEANS TODAY 103-106 (1947).
29. U. S. CONST. Art. I, § 8, cl. 3, cl. 10, cl. 16.
30. Legal Tender Cases, 12 Wall. 457, 534 (U.S. 1870).
31. United States v. Fisher, 2 Cranch 358 (U.S. 1805).
32. I.L.O. CONST. Art. XIX, § 2.
32a. I.L.O. CONST. Art. IV, § 1.

Upon adoption by a General Conference, a Convention or a Recommendation does not become binding upon the members as a group, or even upon those members who voted in favor of its adoption. There are procedural obligations, depending upon the status of the members. Membership in the I.L.O. falls into one of two classes, "unitary States" or "federal States." The "federal States" are those, such as the United States, Canada, Australia, and Switzerland, of which the political sub-divisions are Federal and State, provincial or cantonal units. Those members operating under a single governmental mechanism are "unitary States."

Once a Convention has been adopted, two separate and independent steps must be considered by all unitary States. Ratification of the Convention must be sought, and implementing legislation, when necessary, must be requested. For an adopted Recommendation, only one step need be considered, that of seeking implementing legislation unless the law already complies with its terms.[33] A Convention which has been ratified becomes a treaty and a binding contract between nations acting at the international level; while unratified Conventions and Recommendations, not being treaties, have no binding effect upon the members.

There is a different procedural obligation imposed upon the federal States, which are composed of political sub-divisions exercising sovereignty in prescribed areas. Federal States are subject to limitations in the enactment of legislation to give effect to labor treaties, so that they are not subject to an absolute duty to seek ratification of all adopted Conventions.[34] The United States must offer some Conventions to the competent authority for ratification, but that step need not be undertaken with other Conventions. However, in any case implementing legislation must be sought from the competent authority, unless the ratified Convention as a treaty is self-operative, or unless the law already conforms to its terms. For a Recommendation, the obligation of a federal State is the same as that of a unitary State, to seek implementing legislation unless its terms have been fulfilled Implementing legislation may be at the Federal or at the State level, depending on the nature of the subject-matter of the Convention or the Recommendation.

Inasmuch as a federal State does not have an absolute duty to seek ratification of all Conventions, the important problem is to determine when it must do so. Under the *original* I.L.O. Constitution, it was provided that:[35]

> In the case of a federal State, the power of which to enter into conventions on labour matters is subject to limitations, it shall be in the discretion of that Government to treat a draft convention to which such limitations apply as a recommendation only, and the provisions

33. I.L.O. Const. Art. XIX, §§ 5, 6.
34. I.L.O. Const. Art. XIX, § 7.
35. I.L.O. Const. Art. XIX, § 9.

> of this article with respect to recommendations shall apply in such case.

In practice, the United States treated Conventions merely as Recommendations, in most instances. On what basis? Was the power of the United States to enter into labor treaties subject to limitations? I think not. The power to enter into labor treaties is the same as the power to enter into any other kind of treaty. I admit that the right is not absolute, but the rule granting discretion to federal States was intended to apply only to the particular Conventions which would be subject to limitations. I have seen no Conventions of the I.L.O. which approached the prescribed limitations.[36]

Since it was intended that the discretion rule apply only to those Conventions upon which there was a limitation,[37] under the original I.L.O. Constitution the United States should have treated Conventions as Conventions, with the same obligations as unitary States. In 1919, perhaps labor matters were not considered appropriate for Federal action, and possibly on that ground it was felt that there was a limitation on the power to enter into labor treaties. That is based on a domestic test, as though the Convention were a piece of domestic legislation. Inasmuch as the power to enter into labor Conventions obviously depends upon the treaty power, I do not think the domestic test was the proper one. It has been shown that labor matters were dealt with, prior to 1919, under the treaty power. And, using a domestic test, even though in 1919 constitutional lawyers may have believed that labor matters were not proper subjects for action by the Federal Government, certainly that attitude had changed at some time before 1946. Witness the Federal labor laws of the 1930 decade. Thus, under the old I.L.O. Constitution, the United States was bound to seek ratification of adopted Conventions, having the same obligation as the unitary States. But that is not the way it was handled. In fact, the Joint Resolution which originally authorized the President to accept membership in the I.L.O. stated that:[38]

> . . . special provision has been made in the constitution of the International Labor Organization, by which membership of the United States would not impose or be deemed to impose any obligation or agreement upon the United States to accept the proposals of that body as involving anything more than recommendations for its consideration. . . .

The amendment to the I.L.O. Constitution, with respect to Conventions, was intended to *increase* the obligation of the federal States. I contend that the obligation of the United States is now *less* than before the amendment, or more properly, than what it *should have been* before the change. Article XIX, § 7(a) of the amended Constitution provides that:

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36. See note 8 *supra*.

37. I.L.O. Rep. II (1), Constitutional Questions 40-43, 178-180 (1946); 2 Shotwell, *op. cit. supra* note 9, at 362-363.

38. Lowe, International Protection of Labor LXIX–LXX (1935).

> . . . in respect of Conventions . . . which the federal Government regards as appropriate under its constitutional system for federal action, the obligation of the federal State shall be the same as those of Members which are not federal States.

Section 7(b) states that:

> . . . in respect of Conventions . . . which the federal Government regards as appropriate under its constitutional system, in whole or in part, for action by the constituent States . . . rather than for federal action, the federal Government shall make, in accordance with its Constitution and the Constitutions of the States . . . effective arrangements for the reference of such Conventions . . . to the appropriate federal, State . . . authorities for the enactment of legislation or other action.

There is no harmony in the possible interpretations of the meaning of the federal State obligation under that Article. One is that the treaty-making power is included in the "constitutional system" of the United States, and "appropriate" means "within the power." The treaty-making power is to be included in the constitutional test necessary to determine the appropriateness of the Federal or State action. On the position that labor matters can be the subject of treaties, all I.L.O. Conventions will fall under § 7(a), and ratification will have to be attempted. There is, of course, the argument that labor matters are not a proper subject of treaties, according to which ratification of a Convention should never be attempted.

Another possibility is that the treaty power is not read into the "constitutional system" of § 7. A Convention is to be considered as though it were domestic legislation, and the power of the State and Federal governments is to be analyzed on the basis of our constitutional law as it applies to domestic matters. If the Federal Government has the constitutional power to deal with all aspects of the subject-matter of a Convention, § 7(a) applies, so that ratification of the Convention should be attempted. This line of thought reads the word "completely" into § 7(a). Then, if the Federal Government can deal with part of the subject-matter, and part falls within the power of the States, the Convention falls within § 7(b) and ratification would not be required, but only an attempt to pass implementing legislation at the Federal or the State level or at both levels.

A different line of reasoning is used to claim that ratification depends on the level at which implementation is to be sought. If implementation can be accomplished constitutionally, on the test of domestic legislation, at either the Federal or the State level, the choice of the authority to be exercised will decide whether ratification is attempted. Ratification will be sought for implementation at the Federal level, but not otherwise. This would leave a wide range of discretion to the Federal Government, although it is not as broad as practice indicated it was under the *old* I.L.O. Constitution.

Still another contention is that Art. XIX means that only those portions

of a Convention which are within the Federal power, using a domestic test, shall be offered to the Senate of the United States for advice to ratification. Other parts of the Convention would be handled under § 7(b) of Art. XIX.

Finally, one interpretation of § 7 is that the word "exclusively" should be read into the scope of the Federal power necessary to bring a Convention within the ratification procedure. If the matter, considered as domestic legislation, lies exclusively within the power of the Federal Government, then and only then must ratification be sought. The reason is that the words of § 7(b) become inconsistent with the terms of § 7(a) unless the "exclusive" test is applied to § 7(a). Section 7(b) provides that if the subject-matter is appropriate, *in whole or in part*, for action by the States, ratification is not requisite and only implementation need be attempted; so when the Federal Government can act in part, and the States can act in part, the problem falls under § 7(b). Obviously, if the Federal Government is the only agency with the power to act on the matter of a Convention, the problem is under § 7(a); and if the States only have the power to act, again it is a problem under § 7(b). The difference between this view and the one which reads "completely" into § 7(a) is that, by making the Federal power exclusive, a Convention would come within § 7(b) if the States can act in part even though the Federal Government could act on the whole matter. According to this theory, the power of the Federal Government to deal with the entire subject of a Convention would be an important factor in determining the level at which implementation should be sought.

Therefore, one thing appears clear to me: the amended I.L.O. Constitution leaves no room for a policy determination based upon expediency or politics in defining the action necessary to be taken with a Convention. No answer can be given in advance on the steps to be taken, for each Convention must be individually regarded to determine the obligation of the United States. The "exclusive" view seems the most logical to me, appearing to be most consistent with the spirit of the federal State obligation. For it is the *power to give effect* to labor treaties which controls the obligation of a federal State.[39] If that power is limited, no ratification is necessary. The power of the Federal Government is limited, in giving effect to a Convention, whenever it is not the exclusive authority in the field. The determination of "appropriateness" is a determination of *power*, based upon a domestic finding. What makes the "exclusive" test more convincing than the others is the apparent disparity between § 7(a) and § 7(b) upon applying the other interpretations.

I do not think that membership in the I.L.O. has extended or in any way changed the treaty-making process of the United States. The nature of the subject-matter certainly is within the scope of the foreign relations of the United States, and it appears obvious that the full treaty powers are

39. I.L.O. REP. II (1), CONSTITUTIONAL QUESTIONS 184 (1946).

not being used in handling I.L.O. subjects. Only when the topic of a Convention is regarded as appropriate, by a domestic test, for Federal action, is ratification sought. There is no such limitation on our treaty-making power. Doubtless a treaty can be made and ratified even though the States would be competent to act in the absence of the treaty. Our obligation under the I.L.O. Constitution is less than that; and indeed the United States is bound less than it might have been, since the treaty-making power is broader than our commitments under the I.L.O. The Organization's Constitution binds us only to seek ratification of those Conventions which are appropriate for federal action in accordance with the Constitution of the United States. Thus, there is no basis for the fear that something is being done internationally which cannot be constitutionally accomplished nationally.

If labor matters are a proper subject for international agreement, and it seems apparent that they are, and if the I.L.O. is an effective organization in the international field, and I think that it is, the United States must proceed to fulfill its international labor obligations in order to assure the success of the program. Participation by the United States in the activities of the I.L.O. could be facilitated, (and this is true of all our international activity), by amending the Constitution of the United States to provide an equal role for the House of Representatives in international affairs. There has been repeated use of a device other than the two-thirds vote of the Senate, for ratification of executive agreements; and implementing legislation is required for most treaties, which ordinarily are not self-operative. Since both Houses of Congress must pass the legislation, it appears logical that both should give consent to ratification of the treaty, by a majority of each House.

Government, management, and labor have cooperated in the activities of the International Labor Organization to an appreciable degree in the past, and we can look forward to continued cooperation in the future. That diverse interests are represented in the forum of the Organization is natural and should be encouraged. All sides have an interest in what is happening there, and all of us have a real stake in its activities. Let us work together to insure a vital and vigorous International Labor Organization—it can be an important step in the achievement of a democratic and peaceful world.