

HOUSE JOINT RESOLUTION 369

By Bell

A RESOLUTION urging the United States Senate to reject the United Nations Convention on the Rights of the Child.

WHEREAS, the right of the parents to direct the upbringing and education of their children is a fundamental right protected by the Constitutions of the United States and the state of Tennessee; and

WHEREAS, our nation has long pursued the path of relying first and foremost on parents to meet the real and necessary needs of children; and

WHEREAS, the United States Supreme Court in *Wisconsin v. Yoder* (1972) has held that this primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition; and

WHEREAS, children are best served by the continued practice of requiring proper proof of harm before the government intervenes in the family to override parental decisions in any sphere of the child's upbringing; and

WHEREAS, certain members of the United States Senate have called upon the Secretary of State and the President to forward to them the United Nations Convention on the Rights of the Child for ratification; and

WHEREAS, Article VI of the Constitution of the United States provides that treaties that are ratified by the United States Senate become a part of the "supreme law of the land" and that state laws and constitutions are subservient to such treaties; and

WHEREAS, virtually all law that applies to children and families in Tennessee is state law; and

WHEREAS, by virtue of the federal Supremacy Clause all Tennessee law regarding children would be overridden if there is a conflict with this treaty, if ratified; and

WHEREAS, the Congress of the United States would acquire primary jurisdiction to legislate to meet our nation's legal obligation to comply with the treaty if ratified, thereby shifting from Tennessee and her sister states to the Congress of the United States powers not formerly delegated which are currently reserved to the states under the Tenth Amendment to the U.S. Constitution; and

WHEREAS, the treaty is subject to the general rule of international law that "custom" is binding law in many circumstances, rendering the text of a treaty as an unreliable guide to its future meaning; and

WHEREAS, the United Nations Committee on the Rights of the Child at periodic intervals publishes "General Comments" which are substantive additions to the obligations of state parties already under the Convention; and

WHEREAS, the United Nations Committee on the Rights of the Child makes regular determinations of the meaning and the application of the treaty, and would hold these interpretations to be binding on the Congress of the United States and the courts of the United States when interpreting and enforcing the treaty; and

WHEREAS, this represents a wholesale abandonment of the ultimate sovereignty of the United States on matters within the scope of the treaty; and

WHEREAS, this abandonment violates the core principle of our self-government: to wit, only American legislatures and the people themselves have the moral authority to make law for America; and

WHEREAS, the substance of the treaty, as interpreted and applied by this official United Nations tribunal:

- (1) Bans all corporal punishment, including reasonable spanking by parents;
- (2) Gives the government review authority of a broad scope of parental decisions without the necessity of proving that the parents are unfit or have harmed the child;
- (3) Allows children and government to override reasonable and ordinary decisions concerning the religious upbringing of the child;

(4) Allows the government the ability to review any parental decision concerning the education of a child, even if that decision fully complies with the law of Tennessee;

(5) Requires a level of socialized spending programs for the supposed needs of children (which in too many cases simply employ more government workers) that would bankrupt any American state; and

(6) Grants to children a legally enforceable right to leisure and many other particular "rights" that are contrary to American traditions and common sense; now, therefore,

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE ONE HUNDRED SIXTH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, THE SENATE CONCURRING, that the State of Tennessee hereby condemns the United Nations Convention on the Rights of the Child.

BE IT FURTHER RESOLVED, that the State of Tennessee urges the United States Senate to reject such treaty's ratification.

BE IT FURTHER RESOLVED, that the Chief Clerk of the House is directed to transmit a certified copy of this resolution to each member of the United States Senate.