

107TH CONGRESS
1ST SESSION

H. CON. RES. 23

Expressing the sense of the Congress that President George W. Bush should declare to all nations that the United States does not intend to assent to or ratify the International Criminal Court Treaty, also referred to as the Rome Statute of the International Criminal Court, and the signature of former President Clinton to that treaty should not be construed otherwise.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 8, 2001

Mr. PAUL (for himself, Mr. GOODE, Mr. JONES of North Carolina, Mr. BARTLETT of Maryland, and Mr. DUNCAN) submitted the following concurrent resolution; which was referred to the Committee on International Relations

CONCURRENT RESOLUTION

Expressing the sense of the Congress that President George W. Bush should declare to all nations that the United States does not intend to assent to or ratify the International Criminal Court Treaty, also referred to as the Rome Statute of the International Criminal Court, and the signature of former President Clinton to that treaty should not be construed otherwise.

Whereas the International Criminal Court Treaty would establish the International Criminal Court as an international authority with power to threaten the ability of

the United States to engage in military action to provide for its national defense;

Whereas former President Clinton's designee signed the International Criminal Court Treaty on December 31, 2000;

Whereas the term "crimes of aggression", as used in the treaty, is not specifically defined and therefore would, by design and effect, require the United States to receive prior United Nations Security Council approval and International Criminal Court confirmation before engaging in military action, thereby putting United States military officers in jeopardy of an International Criminal Court prosecution;

Whereas the International Criminal Court Treaty creates the possibility that United States civilians, like United States military personnel, could be brought before a court that bypasses the United States Government;

Whereas the people of the United States are self-governing, and they have a constitutional right to be tried in accordance with the laws that their elected representatives enact and to be judged by their peers and no others;

Whereas the treaty would subject United States individuals who appear before the International Criminal Court to trial and punishment without the rights and protections that the United States Constitution guarantees, including trial by a jury of one's peers, protection from double jeopardy, the right to know the evidence brought against one, the right to confront one's accusers, and the right to a speedy trial;

Whereas the Supreme Court stated in *Missouri v. Holland*, 252 U.S. 416, 433 (1920), *Reid v. Covert*, 354 U.S. 1

(1957), and *DeGeofrey v. Riggs*, 133 U.S. 258, 267 (1890) that the United States Government may not enter into a treaty that contravenes prohibitory words in the United States Constitution because the treaty power does not authorize what the Constitution forbids;

Whereas the 1969 Vienna Convention on the Law of Treaties provides that a party is not bound to a treaty unless it has consented to be bound;

Whereas the International Criminal Court Treaty breaks substantially with accepted norms of international law because it extends its jurisdiction even to the nationals of countries that do not sign and ratify the treaty;

Whereas the International Criminal Court would be empowered unilaterally to investigate, try, and punish certain crimes, contrary to the current international norm of affording countries the primary responsibility for punishing these crimes;

Whereas approval of the International Criminal Court Treaty is in fundamental conflict with the constitutional oaths of the President and Senators, because the United States Constitution clearly provides that “[a]ll legislative powers shall be vested in a Congress of the United States”, and vested powers cannot be transferred;

Whereas each of the 4 types of offenses over which the International Criminal Court may obtain jurisdiction is within the legislative and judicial authority of the United States;

Whereas the International Criminal Court Treaty creates a supranational court that would exercise the judicial power constitutionally reserved only to the United States and thus is in direct violation of the United States Constitution;

Whereas in order to make a treaty, the United States Constitution requires the President to obtain the advice and consent of the Senate and the concurrence of the Senate by a $\frac{2}{3}$ vote; and

Whereas former President Clinton signed the International Criminal Court Treaty but expressed his intention not to submit the treaty to the Senate, thereby rendering his act procedurally inadequate and unconstitutional: Now, therefore, be it

1 *Resolved by the House of Representatives (the Senate*
 2 *concurring),* That it is the sense of Congress that—

3 (1) the International Criminal Court Treaty,
 4 also referred to as the Rome Statute of the Inter-
 5 national Criminal Court, undermines United States
 6 sovereignty and security, conflicts with the United
 7 States Constitution, contradicts customs of inter-
 8 national law, and violates the inalienable rights of
 9 self-government, individual liberty, and popular sov-
 10 ereignty; and

11 (2) President George W. Bush should declare to
 12 all nations that the United States does not intend to
 13 assent to or ratify the treaty and the signature of
 14 former President Clinton to the treaty should not be
 15 construed otherwise.

○