

**House International Relations Committee**  
**March 5, 2002**

*Excerpts*

REP. KENNEDY: Thank you, Mr. Chairman. Mr. Secretary, welcome, and thank you for the job that you are doing on behalf of our country. You are representing our country very well, and I am proud that you are our secretary.

I'd like to bring up a question that I brought up last time when you were before this committee and that had to do with the International War Crimes Tribunal. As you know, last time we spoke about it -- and I know of our differences on it -- there are over 52 countries that have ratified the International Criminal Court. And it was at that time you said the administration's position would be to support the ad hoc courts that are already in existence. But yet in your budget you actually have lower -- you have cut basically funding for the ad hoc tribunals in former Yugoslavia and Rwanda. So I'd ask you what other multilateral venue do we have to bring this issue of criminal justice to light in an international setting, if we don't support the ICC and we don't support the ad hoc?

And let me just say one final thing, that I think that what the message that has been going around in the Congress, about how we can't get entangled with the ICC, because we might end up becoming, you know, victims -- our young men and women might be held accountable under the ICC statute. But is it not true that we are going to be under the ICC statute, whether we ratify it or not, and that if that's the case, wouldn't it make sense to join it, because if we did then we would be able to access the area of complementarity, and be able to have first right to try our own troops before they would ever be called before an ICC? So in essence we'd have more protections for our troops if we ratified it than if we don't, which is kind of a funny way of thinking about it, wrapping your head around the idea that by joining it you actually have more independence than by not joining it. And so I'd ask you to comment on that as well.

SEC. POWELL: Yes, we still believe that the ICC does not serve our interests, and it has some deleterious effects with respect to our ability to conduct our operations around the world, and might put at risk some of the constitutional protections that we expect our soldiers to have, and our soldiers expect to have. President Clinton believed this also at the time he signed the treaty or the agreement, because in his signing statement he as much said that, that he did not intend to send it up for ratification. And this administration does not intend to send it up for ratification as well.

With respect to the various international tribunals, we do support them. My ambassador for war crimes tribunal, Ambassador Pierre Prosper, testified before Congress last week that some of these tribunals will be going out of service, timeframe 2007-2008, and their work load is decreasing overtime.

So I don't know what the specific numbers are with respect to specific

cuts in either one of the -- in any of the tribunals.

REP. KENNEDY: Four million for Rwanda; 2.5 for Yugoslavia.

SEC. POWELL: I'd have to get for the record why those specific cuts are in there, but I suspect it doesn't reflect -- I know it doesn't reflect a lack of support for these tribunals. But it may reflect the declining workload. But I don't know. I'd like to give that to you for the record. We just feel our soldiers are better protected not as a signatory to the ICC. And we recognize that it will go into effect once it's ratified by 60 countries. And when it goes into effect, it is with the force of international law. And therefore all persons are subject to it.

REP. KENNEDY: Right.

SEC. POWELL: And we would have to then condition where we send our Soldiers and under what circumstances we send them overseas, as a function of what dangers they might be put under with respect to the ICC. The United States is different. We are unique --

REP. KENNEDY: No, I understand --

SEC. POWELL: And I think we have a certain obligation to our young men and women in uniform --

REP. KENNEDY: And that's why we have the theory of complementarity built into the treaty. And I know that was worked out through much work by the United States delegation. The whole purpose of that was that then we would retain the power to try our own troops under our own court-martial system, our own justice system, rather than have them immediately go through the ICC. So it actually is the opposite. If we want to protect our troops, we had better ratify it, because then we'd maintain our first right of refusal, if you will, for trying these.

SEC. POWELL: That's not the judgment that this administration or the previous administration came to. I don't believe we have gotten the level of protection, even with complementarity, that I believe our young men and women are entitled to.