

Congressional Record

Hyde Statement re adoption of Hyde Amendment on January 10, 2002

Mr. HYDE. Mr. Chairman, this amendment is intended to protect the men and women of our Armed Forces from the risk of criminal prosecution by the U.N. International Criminal Court. This is a new court. It has not yet come into existence, but it predictably will, because it is getting ratification from the 60 countries that is necessary, so we should face the fact that this is going to be a reality. Now, once this court is operating, it will claim jurisdiction to prosecute the men and women of our Armed Forces, as well as officials of our government, for alleged war crimes, crimes against humanity, et cetera, even though our country has not and will not ratify the treaty establishing the court. The court is a threat to the sovereignty of our Nation. Its claim of criminal jurisdiction over our citizens directly conflicts with the supremacy clause of our Constitution, and any Americans prosecuted by this court will be without the protections guaranteed them by our Bill of Rights, beginning with the right to trial by jury. For those of us who are committed to protecting our Constitution, and we have heard many such voices during our debate on the terrorism bill just a few weeks ago, the first place to begin is with the International Criminal Court. Terrorists, like the suicide bombers who attacked our Nation on September 11, will not be deterred by the threat that if caught and successfully prosecuted they may be sentenced to life imprisonment, because that is the highest penalty the international court can impose. But U.S. military personnel and their civilian and military commanders will have to worry a great deal about the threat of criminal prosecution by the court. As a result, if the court were in existence today, the U.S. military operations currently underway in Afghanistan would have to be reconfigured in order to avoid the risk of criminal prosecution by the court. It is imperative that we in Congress do everything within our power to ensure that our Nation's ability to respond to terrorists and others who threaten us is not circumscribed by the U.N. court operating in conflict with the Constitution. The purpose of my amendment prohibits the use of funds appropriated in this act to support or assist any activity of the International Criminal Court. I wish the Rules of the House permitted me to offer a broader amendment, because I think it is important to permanently prohibit any form of U.S. support to or cooperation with the International Criminal Court, not just support or cooperation by the Department of Defense, but any government agency in the United States. On September 25, the administration informed us it supports a revised version of the American Servicemembers' Protection Act that a number of us negotiated with the administration. That revised language was based on a bill, H.R. 1794, that was introduced on May 10 of this year by the gentleman from Texas (Mr. DELAY), the gentleman from Pennsylvania (Mr. MURTHA) and myself. The text of that bill was approved by the House as a floor amendment on May 10 by a vote of 282 to 137. I hope that in conference the agreed language that we have worked out with the administration can be submitted with the text of my amendment, because I believe that our agreed language will better protect military personnel from the threat of prosecution by the International Criminal Court. Mr. Chairman, the Constitution protects Americans. To put Americans outside the protection of the Constitution in a court that does not permit jury trials is an abandonment of one of the core indicia of citizenship. It is not a good idea, and I hope my amendment is adopted. Mr. Chairman, I yield back the balance of my time.

Mr. YOUNG of Florida. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. CUNNINGHAM)

Mr. CUNNINGHAM. Mr. Chairman, I ask my colleagues to think seriously. Generally, we say, "Let Hyde be your guide." The United Nations votes against the United States at least 90 percent of the time, even though we pay the lion's share of funding for the United Nations. On many of the key votes, we are vetoed out of the process. I do not think any of us wants our men and women that we ask to go in harm's way in our military, or our intelligence agencies and their members, to be tried in a kangaroo court without the proper jurisdiction. I rise in strong support of the Hyde amendment. I think it is a good amendment and it is good for our men and women both in the service and in our intelligence agencies.

Mr. YOUNG of Florida. Mr. Chairman, I yield myself the balance of my time. I simply rise to thank the gentleman from Illinois for offering this amendment. I think it is something that we should have considered, and we are considering. We are prepared to accept this amendment. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. HYDE). The amendment was agreed to.