

107TH CONGRESS
2D SESSION

H. R. 4169

To provide that the International Criminal Court is not valid with respect to the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 11, 2002

Mr. PAUL (for himself, Mr. BARR of Georgia, Mr. HOSTETTLER, Mr. PETRI, Mr. GOODE, Mr. WAMP, Mr. BARTLETT of Maryland, Mr. NORWOOD, Mr. KERNS, Mr. FLAKE, Mr. CRANE, Mr. KINGSTON, Mr. MANZULLO, Mr. DUNCAN, Mr. SCHAFFER, Mr. WELDON of Florida, Mr. SESSIONS, Mr. ROHRABACHER, and Mr. TANCREDO) introduced the following bill; which was referred to the Committee on International Relations

A BILL

To provide that the International Criminal Court is not valid with respect to the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “American
5 Servicemember and Citizen Protection Act of 2002”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

1 (1) In December 1997, the General Assembly of
2 the United Nations called for the convening of a dip-
3 lomatic conference in Rome, Italy, from June 15
4 through July 17, 1998, to adopt a Convention on
5 the Establishment of an International Criminal
6 Court.

7 (2) Pursuant to this call, the United Nations
8 Diplomatic Conference of Plenipotentiaries on the
9 Establishment of an International Criminal Court
10 convened in Rome, Italy, and on July 17, 1998, pro-
11 posed the Statute of the International Criminal
12 Court for “ratification, acceptance, or approval” by
13 the member states of the United Nations.

14 (3) According to article 127 of the Statute of
15 the International Criminal Court, the Statute of the
16 International Criminal Court shall take effect upon
17 the “ratification, acceptance, or approval” of 60
18 member states.

19 (4) As of April 1, 2002, 57 member states have
20 ratified, accepted, or approved the Statute of the
21 International Criminal Court.

22 (5) According to articles 12 and 25 of the Stat-
23 ute of the International Criminal Court, the jurisdic-
24 tion of the International Criminal Court shall extend
25 to individual United States citizens even if the

1 United States does not “ratify, accept, or approve”
2 the Statute of the International Criminal Court.

3 (6) As of April 1, 2002, the United States Sen-
4 ate has not ratified the Statute of the International
5 Criminal Court, and although a designee of former
6 President William J. Clinton has signed that statute
7 on behalf of the United States, President George W.
8 Bush has indicated that he will not submit the Stat-
9 ute of the International Criminal Court to the
10 United States Senate, as provided for in article II,
11 section 2 of the Constitution of the United States.

12 (7) According to article VI of the Constitution
13 of the United States, the Statute of the Inter-
14 national Criminal Court, bearing only the signature
15 of a person authorized by the President of the
16 United States, cannot be the supreme law of the
17 land because the statute, since it has not been rati-
18 fied by the United States Senate pursuant to article
19 II, section 2 of the Constitution, has not been
20 “made under the authority of the United States”.

21 (8) According to the 1969 Vienna Convention
22 on the Law of Treaties, no nation may be bound by
23 a treaty to which that nation has not consented;
24 therefore the United States, which has not consented
25 to the Statute of the International Criminal Court in

1 the manner prescribed by the Constitution of the
2 United States, cannot be bound by the Statute of
3 the International Criminal Court even if 60 coun-
4 tries ratify, accept, or approve it.

5 (9) The Statute of the International Criminal
6 Court is an ultra vires act, wholly unauthorized by
7 the Charter of the United Nations, since it was en-
8 acted by a Conference of Diplomats convened by the
9 United Nations General Assembly in contravention
10 of the powers of the United Nations Security Coun-
11 cil which, under the Charter of the United Nations,
12 alone has primary responsibility for the maintenance
13 of international peace and security.

14 (10) The Statute of the International Criminal
15 Court also contravenes the principle of government
16 only by the consent of the governed that is enshrined
17 in the American national charter, the Declaration of
18 Independence, because the International Criminal
19 Court claims jurisdiction over citizens of the United
20 States without their consent or without the consent
21 of the United States Government.

22 (11) The Statute of the International Criminal
23 Court also contravenes the principles of separation
24 of powers, federalism, and trial by jury that are
25 guaranteed by the Constitution of the United States,

1 because the International Criminal Court has been
2 endowed with legislative, executive, and judicial pow-
3 ers and with criminal jurisdiction without regard to
4 the jurisdiction of the United States and the several
5 States.

6 (12) The International Criminal Court, by de-
7 sign and effect, is an illegitimate court, established
8 contrary to the provisions of the Charter of the
9 United Nations, the American Declaration of Inde-
10 pendence, and the Constitution of the United States,
11 and as such, puts United States citizens in jeopardy
12 of unlawful and unconstitutional criminal prosecu-
13 tion, with members of the United States Armed
14 Forces placed especially at risk of politically moti-
15 vated arrests, prosecutions, fines, and imprisonments
16 for acts engaged in for the protection of the sov-
17 ereignty and independence of the United States.

18 (13) United States citizens generally, and mem-
19 bers of the United States Armed Forces in par-
20 ticular, deserve the full protection of the Constitu-
21 tion of the United States—the very body of law the
22 members of the Armed Forces risk life and limb to
23 protect.

1 **SEC. 3. RESCISSION OF SIGNATURE.**

2 The President of the United States should formally
3 rescind the signature approving the Statute of the Inter-
4 national Criminal Court made on behalf of the United
5 States and should take such steps as are necessary to pre-
6 vent the establishment of the International Criminal
7 Court.

8 **SEC. 4. PROHIBITION OF FUNDS.**

9 No funds appropriated or otherwise made available
10 by the United States Government for any purpose may
11 be used in any manner for the establishment or operation
12 of the International Criminal Court.

13 **SEC. 5. PROTECTION OF MEMBERS OF THE UNITED STATES**
14 **ARMED FORCES AND UNITED STATES CITI-**
15 **ZENS AND NATIONALS.**

16 (a) **ACTIONS AGAINST MEMBERS OF THE ARMED**
17 **FORCES.**—Any action taken by or on behalf of the Inter-
18 national Criminal Court against any member of the
19 United States Armed Forces shall be considered to be an
20 act of aggression against the United States.

21 (b) **ACTIONS AGAINST UNITED STATES CITIZENS OR**
22 **NATIONALS.**—Any action taken by or on behalf of the
23 International Criminal Court against any individual who
24 is a citizen or national of the United States shall be con-
25 sidered to be an offense against the law of nations.

1 **SEC. 6. PENALTIES.**

2 Any person who knowingly violates section 4 shall be
3 fined not more than \$50,000, or imprisoned not more than
4 5 years, or both.

○