REAUTHORIZATION OF TEMPORARY ASSISTANCE TO NEEDY FAMILIES

Mr. REED. Madam President, I rise to discuss the necessity to provide broader flexibility to States in their effort to reward work, lift people out of poverty, and benefit children. As we contemplate the reauthorization of the Temporary Assistance to Needy Families, TANF, program, we have to ask ourselves: On what basis do we want to judge the success of welfare reform?

Will we focus only on the reduction of case loads and increases in work participation, without regard to whether the wage levels raise families out of poverty and children are better off? Or, do we want to build a system that truly breaks the cycle of poverty and supports the long-term economic well-being of welfare recipients and results in a better future for children?

We need to move to the next generation of welfare reform. Our goal should be to reduce poverty, reward work, and ensure the well-being of children.

Much of the debate on welfare policy revolves around the issue of work, but how do we reward work? During the past two decades states have experimented with new approaches to cash welfare assistance for low-income families. These initiatives have included mandatory employment services, earnings supplements, and time limits on welfare receipt.

How do we know which strategies work best? A federally-funded evaluation of welfare-to-work experiments by Manpower Demonstration Research Corporation, MDRC, provides a wealth of information on the effect of these strategies on employment and income, as well as child well-being. This rigorous random-assignment research lays a strong foundation for legislative deliberations about the reauthorization of TANF.

Although most of these initiatives increased the employment rate among welfare recipients, programs that included only mandatory employment services usually left families no better off financially than they would have been without the programs.

The only programs that both increased work and made families financially better off were those that provided earnings supplements to low-wage workers. These programs also increased job retention and produced a range of positive effects for children, including better school performance and fewer behavioral and emotional problems for elementary school-age children. One income-raising program also significantly reduced domestic violence and family breakup.

Earnings supplements are easily provided to working recipients by allowing them to keep more of their benefits. For example, some States have not cut or eliminated a family's assistance on a dollar-for-dollar basis when the family enters employment.

However, under current law, States are restricted in how they can use their TANF block grant funds to help working families, because any month in which Federal funds are used to provide ''assistance'' to a working family counts against the Federal time limit on assistance.

Some States, including my state of Rhode Island, Illinois, Delaware, Maryland, and Pennsylvania, operate programs using State money to help low-income working families. In Rhode Island, our Family Independence Program, FIP, provides a State earnings supplement as a work support and does not count it as ''assistance'' if a parent is working at least 30 hours per week.

Using this FIP wage supplement, families have funds to buy basic necessities.

Knowing that their income will not plummet after some artificial time limit is an incentive to find a job. Providing stable income helps parents stay attached to the workforce and rewards work.

For example, a mother with two children, who works 30 hours per week and earns the average starting wage of about $7.80 per hour in Rhode Island, receives a supplemental FIP payment of $132 per month. This brings her total income to about $1,044 per month. Even with this supplement even with her work, that $1,000 per month is still only 83 percent of the Federal poverty level.

With a supplement and with work these women are still not making income relative to the poverty level.

If Rhode Island did not use state dollars for the wage supplement, when a mother reached her 5-year time limit and the FIP payment stopped, she would lose 13 percent of her total income.

Using State funds offers broader flexibility for States to support families that meet work requirements and yet remain eligible for earnings supplements because of low wages. However, with State budgets being severely constrained, the ability to sustain this work support for low-income families is in jeopardy.

Further, as a State equity issue, all States should have the flexibility to use their Federal TANF funds to help low-income working families without restrictions—for the simple reason that it works.

Sadly, the income-enhancing effects of wage supplements and the positive effects on children are undermined by current restrictions on the use of TANF funds and definitions of what counts as ''assistance.''

Income gains disappear after families reach their time limits. The rigidity of the current system that counts wage subsidies as ''assistance'' conflicts with the success of supplemental cash payments, which rewards work.

If we want to reward work and help children, we must give States the flexibility and the option to provide continuing assistance to working families using Federal TANF dollars, ensuring that these supplements are not considered ''assistance'' under this program.

If the Senate were to permit TANF funds to be used in this flexible way, families would continue to be subject to all other Federal and State TANF requirements, including work and universal engagement requirements. But States would have flexibility in deciding whether to exercise the option and for how long to exercise this option. This provision has no cost; it would simply give States more flexibility in using existing Federal TANF funds to support low-income working families.

Earnings supplements have a proven record for boosting work and ''making work pay.'' These programs reward those who do the right thing by getting jobs and it results in better outcomes for children.

I urge my colleagues to work with me during the upcoming debate on the welfare reauthorization bill to ensure the inclusion of this broader flexibility for States.

I again thank the Senator from Utah for his kindness and graciousness. I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

INTERNATIONAL CRIMINAL COURT

Mr. BENNETT. Madam President, 1 month ago today on July 1, 2002, the International Criminal Court was formally brought into existence. There has been objection to the International Criminal Court in America and, indeed, there has been a great deal of angst among our friends and allies around the world over the fact that President Bush removed America's signature from the treaty that created the International Criminal Court.

I have read some of the press around this controversy with great interest. I have been particularly struck by the fact that Chris Patton of the European Parliament, who is probably as good a friend as America has anywhere in Europe, has, in the American newspapers, expressed his great concern about our failure to endorse the International Criminal Court and to fully support it.

I cannot speak for the administration. I cannot speak for my colleagues in the Senate, but I can speak for myself, and I think Chris Patton and the others throughout the world who have expressed concern with our actions on this issue have the right to understand why some Americans are opposed to the International Criminal Court. I intend to lay out today the reasons why I, as one Senator, am opposed to the International Criminal Court in an effort to help our friends around the world understand some of the difficulties that many Americans have and to make it clear that my opposition to the International Criminal Court is not a knee-jerk response as some European newspapers may expect.

First, I should make it clear for those who may be listening or who might read the speech afterwards what the International Criminal Court is because I find that many of my constituents have no idea what it is. So very

quickly, Madam President, I will lay out what it is we are talking about here.

The International Criminal Court is a permanent international judicial institution that was organized and established by countries around the world for the purpose of redressing the most serious crimes in the international community. And here we are talking about those crimes that historically have lent themselves to war crimes tribunals—genocide, crimes against humanity, and war crimes. Those are the crimes considered to be so horrific that nations and leaders of nations can be held responsible for their commission.

The International Criminal Court is similar in purpose to the World War II tribunals that were convened after the end of that conflict. We know of the Nuremberg trials and the trials related to the Japanese war criminals. The International Criminal Court was created as a permanent tribunal of that kind. It is comparable to two tribunals that are currently in operation: The International Criminal Tribunal for Former Yugoslavia, and the International Criminal Tribunal for Rwanda.

In both cases, those two bodies are moving forward to identify the individuals who committed crimes against humanity, or war crimes, and take action against them in an effort to establish an international norm of behavior and make it possible to hold people accountable for how they behaved in conflicts.

Currently, over 75 countries have ratified or otherwise accepted the statute that created the International Criminal Court. That statute said when 60 countries had ratified, it would become effective. It is effective as of July 1. It is located in The Hague.

So with that background, let me outline why I am opposed to America's ratification and support of the International Criminal Court as it currently stands. I will begin by saying why I am not taking this position.

I am not taking this position because I believe America should not enter into international agreements. I know there are some who say we should not have any international agreements at all. That position is foolish, in my view. We have to enter into international agreements in the world in which we now live. Indeed, one could argue it is to America's benefit to do so.

There has been controversy, for example, about the World Trade Organization, the WTO. I have constituents who complain about America membership in the WTO saying it is terrible that we are under this international agreement. I tell them that the WTO was America's idea and that the WTO makes it possible for Americans to do business around the world. If we did not have this kind of mechanism to sort through the disagreements on trade issues, America would not be able to export, America's economy would be damaged, and Americans would be put out of work. It is a good thing for the United States to be part of the WTO. So my opposition to the International Criminal Court is not because I am automatically opposed to international agreements.

Also, it is not because I want, as some European journalists suggest, American dominance around the world; that America is so haughty and so proud that we cannot honor any kind of international law. I am enough of a student of history to know that any superpower that tries to dominate the world through their own power ultimately falls. The Romans found they could not maintain a worldwide empire. The Ottomans found they could not maintain the far-flung empire that existed all the way from Spain to the borders of India. More recently the British, with the viceroy in India and troops around the world, discovered they could not do it either.

I do not think the International Criminal Court is a bad idea because I want America to take some kind of hyper-power position of dominance around the world. I think America's record throughout history is very good on this issue. We should remember that Americans, when they win wars, do not occupy territory. When we won the Second World War, we not only liberated the Dutch, the French, and the Belgians, we also liberated the Germans. They are freer today than they were under the Nazis. They have more human rights and more individual property rights than they ever had prior to the war.

America leaves behind, as we now are demonstrating in Afghanistan, a legacy of freedom and food, and that legacy will continue. So the suggestion that opposition to the International Criminal Court stems from some kind of empire impulse on the part of Americans is something I reject.

Finally, I do not reject the International Criminal Court because I want Americans to dismiss the importance of international law. After all, the United Nations, which heavily influences the development of international law, was an American idea and is located on American soil and has been supported by American appropriations. Most United Nations functions around the world involve American troops. So I reject many of the journalistic arguments that supposedly explain why I oppose the International Criminal Court. I do not think they are appropriate.

So why do I object to the International Criminal Court? I need to go back a little bit in history, and I hope my colleagues will indulge me as I go into America's history to lay the predicate for the position I am taking. We in America adopted as our first state paper a document we call the Declaration of Independence. It is perhaps the most important state paper we have ever adopted.

In the Declaration of Independence, we lay down certain principles which the Continental Congress believed were beyond debate; that is, self-evident truths. One of these self-evident truths held that individual rights do not come from government. The phrase in the Declaration of Independence is ''endowed by their Creator with certain unalienable rights.'' The purpose of government is set forth in that document. The purpose of government is to secure these rights, deriving its just powers from the consent of the governed.

These are sacred words to Americans, and they come, as I say, from our first state document, and I believe still our most powerful.

The reason they are so sacred is because we are the only nation in the world that is founded on an idea. Every other nation throughout the world is founded on a tribe. People are bound together by a common ethnic history. That may have been our beginning, but it is not the nation we now have.

If I may go back to an example very close to Utah and talk about the Olympics. If one watched the Olympics on television and saw the athletes coming from the various countries around the world, one can almost always identify where the athlete is from by his or her name or the ethnic look that he or she brings to the television. But that cannot be done with Americans. The American Olympians are named Kuan and Lapinski, Louganis and Blair, Jordan and Byrd. They are Black, they are White, they are Asian in ethnic background. They come from all over the world.

In America, we do not have a common tribal base. All that holds us together as a nation is a dedication to the ideas set forth in the Declaration of Independence, the ideas that our rights come from God and that the purpose of government is to secure those rights, not grant them in the first place.

That is demonstrated by the fact that those of us in this Chamber, unlike any other parliamentarians or officeholders around the world, do not take an oath to uphold and defend the country or the people. Our oath is to uphold and defend the Constitution that was drafted to incorporate the core idea of this Nation. We have a sworn oath recorded in Heaven, to use Lincoln's phrase, to uphold and defend the Constitution against all enemies. So we have a unique attitude about rights, about law, and about our responsibilities to a document and an idea that undergirds that document.

Let me speak a little more American history, and any of our European friends who might ultimately read this speech might, I would hope, find this somewhat interesting. I think there is something of a parallel between the adoption of the Constitution and the discussions that are going on around the world right now.

The 13 States that made up the United States of America in the first place were united against a common

enemy during the Revolutionary War. But when the war was over, they began to quarrel among themselves. They each printed their own money. There were tariff barriers between States. There were all kinds of arguments about what law would apply from one State to the other, somewhat like the confusion that goes on around the world today.

The decision was made to try to find a way to impose a single rule of law across all 13 of these States. That is what produced the Constitutional Convention. When the Constitution was written and then submitted to the 13 States for ratification, it said, much like the underlying statute of the International Criminal Court, that it would take effect as soon as three-fourths of the States had ratified it. It did not require unanimous ratification but said that as soon as three-fourths of these States have ratified it, it will take hold and it will apply to all. Now, in the practical world of that time, one State could prevent it from taking hold because if that one State, which was so much more powerful than the others, had not ratified it, the whole thing would have fallen apart. That was the State of Virginia. Another State arguably in that same position would be the State of New York. If Virginia and New York had not ratified, the other 11 could have, and we still would not have had a workable document.

This, if I may be so bold, is somewhat similar to the situation that people are raising with respect to the International Criminal Court. They say 75 nations may ratify it but if the United States doesn't, it will not work. And the United States is outside.

Back to our own history for a moment. Virginia was outside. Virginia was not the first State to ratify, Delaware was, followed by Pennsylvania, followed by Georgia, and so on. But Virginia was holding out. One of the reasons Virginia was holding out was that the man who was arguably the second most powerful politician in Virginia—the No. 1 politician in Virginia was, of course, George Washington—and the second most powerful politician in Virginia, Patrick Henry, multiple times Governor of Virginia, was unalterably opposed to the Constitution. He led the fight against ratification in Virginia on this ground: He said there is no bill of rights in this Constitution. The rights that it seeks to protect for us Americans are not specified. I am not sure that he used the term ''vague'' but he could have because the Constitution, as originally drafted, was very vague about which rights would be preserved.

Now, the leading politician in Virginia seeking ratification, James Madison, and Alexander Hamilton, who did get it ratified in New York, argued with Patrick Henry. Madison and Hamilton said to Patrick Henry: You don't want these rights laid out specifically in this Constitution; you want to leave it vague. If you enumerate them specifically, you will inevitably forget something, and then by not listing that which you forget, you will put that right in peril.

Everybody understands, Madison and Hamilton said, that all of the rights we have are protected by the Constitution as it exists, and to specify them will limit them. You are making a mistake if you demand specificity.

Patrick Henry was having none of that. Patrick Henry stood firm and demanded the defeat of the ratification resolution in the Virginia Legislature. However, he ultimately gave way to the predominant rule of politics in America in the 18th century which is: Anybody who opposes George Washington loses. George Washington, as the president of the constitutional conference, had enough prestige that the Constitution was, indeed, ratified in Virginia but with this political understanding: James Madison said, if you ratify the Constitution, I will run for Congress. I will go into the House of Representatives—which he assumed would be the dominant body of the new government—and I will propose a bill of rights. That promise took enough sting out of Patrick Henry's argument that Patrick Henry lost the fight and Virginia ratified and the Constitution was adopted and we had the new nation.

True to his political promise, Madison went to the House of Representatives, and offered 12 articles of amendment to the Constitution, 11 of which were adopted. The first 10 we now revere as the Bill of Rights. We can now, looking back after two centuries, realize that Patrick Henry was right, that the Bill of Rights is as much a revered part of the idea that holds this country together as anything else that is written in the Declaration of Independence or the rest of the Constitution itself. We hold commemorative ceremonies honoring the adoption of the Bill of Rights.

Now, what does this have to do with the International Criminal Court? At the risk of being overly egotistical, let me try to play Patrick Henry. The International Criminal Court is based on a statute that is vague, so vague that I believe my constitutional rights, those for which Henry, Madison, Hamilton, and Washington and all the rest of them fought, are in peril. When I say that to my European friends, quite frankly, they laugh. Or they say to me, reminiscent of Madison's argument to Hamilton, no, no, no. You misunderstand. The International Criminal Court is not going to threaten your constitutional rights in any way. It is designed to go after the bad guys. It is designed with the same intent as the tribunal for Yugoslavia or the tribunal for Rwanda. It is designed to make sure that we have a permanent tribunal in place.

My reaction to the assurances that my rights will never be attacked is, I think, in concert with Patrick Henry's reaction to the assurances that he was given by Madison and Hamilton. My concerns are reinforced by some of the things I have heard. For example, I have been told there are groups that want to bring suit in the International Criminal Court against President Bush, charging him with a crime against humanity for his failure to send the Kyoto treaty to the Senate for ratification, that his opposition to the Kyoto treaty constitutes such a gross violation of the opportunities around the world that it is a crime against humanity.

I have inquired whether or not such an action could come before the International Criminal Court and have gone through it with legal scholars. The answer is, yes, such an action could come before the Court, but, of course, it would be laughed out by the prosecutor and the President would never have to go to trial. That does not give me a lot of reassurance, that the case could be brought—but of course the President would not be found guilty.

How can we know, 20 years from now, or 30 years from now, that some future President would be found guilty for making a policy decision that he or she decided was in the best interest of the United States but that the International Criminal Court decided was not in the best interest of the rest of the world, and so it would be defined as a crime against humanity? And given the vague nature of the statute of the International Criminal Court, that is a very real possibility.

Let me give another possibility that comes very much to home. There are those around the world who are insisting that the United States pick a numerical target for foreign aid; that is, we pick a number which would be a percentage of GDP. And they are saying in their rhetoric that the United States is not meeting its responsibility to the underdeveloped world until it meets this arbitrary percentage of GDP in adopting foreign aid.

I am a member of the Foreign Operations Subcommittee of the Appropriations Committee, the subcommittee that determines how much foreign aid we appropriate. Under the language of the International Criminal Court, am I liable for my actions as a Member of the Senate? The language is very specific. Being a member of the parliament does not exempt one from the jurisdiction of the International Criminal Court.

Suppose someone decides that the U.S. failure to meet that artificial number constitutes a crime against humanity and that if we do not raise our foreign aid to that number, all of those who are legislators, most specifically those who are appropriators, can be hauled before the International Criminal Court and prosecuted for our failure to adopt that kind of appropriation.

I do not want to run the risk. When I raise it, once again, with those who are in favor of the International Criminal Court, they laugh it off and say

that is not why it was designed, that is not what it will look at, no, that kind of prosecution will never be brought.

Then when I raise the question: But could it be brought under the language of the statute as it currently exists? They say, Well, yes, it could be. But you know the prosecutor would never go forward with such a case.

Again, at the risk of being immodest, I want to be Patrick Henry on this issue. I want to say we will not proceed—I will not proceed; again, I will not speak for my colleagues—I will not proceed to vote to ratify a treaty on the International Criminal Court until I am satisfied that the language is so absolute that I will not lose any rights I currently have under the U.S. Constitution.

I say to those who say: no, no, this is only going to deal with people like Milosevic. We are never going to see this sort of frivolous activity, and the United States should understand that you have no need to worry whatsoever about this international tribunal. Indeed, the United States helped create safeguards that are already in the International Criminal Court that say if the United States proceeds to prosecute someone who is accused of a war crime, the International Criminal Court will lose its jurisdiction. In other words, if an American serviceman is accused of a war crime, as happened in Vietnam in the village of Mi Lai, and the United States prosecuted that serviceman, as we did under the Uniform Code of Military Justice, then the ICC has no jurisdiction and backs away. So you, who have a great track record of prosecuting war crimes among your own servicemen, need have no worry whatsoever of this international tribunal.

We have two precedents that are now before us that have just come up in the last few months, and I find them disturbing in the face of all of these reassurances. The first one has been written about rather extensively in the Washington Post and the New York Times. It involves a Washington Post reporter who has been subpoenaed. He happens to live in Paris right now. He has been summoned by the tribunal dealing with Yugoslavia to come in and testify. And he said: I don't want to come in and testify. It would have a chilling effect on reporters covering the war if we thought the things we wrote about the war would be subject to the jurisdiction of a war crimes tribunal afterwards.

The Washington Post has taken the position that the reporter is exactly right. It has been written up in the New York Times also, sympathetically.

The reporter's name is Jonathan C. Randal. He is retired from the Post. As I say, he now lives in Paris. The Yugoslavia tribunal has said: You do not have the right to refuse. We are going to require you to come. And he can be arrested by the police in Paris, handed over to the tribunal by the police in France, and he loses his American constitutional rights because the statute creating that tribunal is vague on the area of his rights.

There is another incident that has just come up. The same tribunal, which we are told is a precedent for the International Criminal Court, has been asked to indict William Jefferson Clinton and his National Security Adviser, Anthony Lake; and the then-Deputy National Security Adviser, Samuel Berger; and Ambassador Richard Holbrooke; and the U.S. Ambassador to Croatia, Peter Galbraith, all of whom are being accused of complicity in war crimes conducted by a Croatian general who was acting within the framework of American foreign policy at the time.

Here is a case where a President and his advisers make a decision in the best interests of the United States. The President and his advisers are now being investigated to see whether or not they should be called before the tribunal.

The specter of an American President called before an international tribunal for actions as straightforward as President Clinton's actions were in this circumstance is a specter I do not want to see repeated before the International Criminal Court. I do not want any future American President to believe that he or she is in danger of being named as an accomplice in some act of some other individual. We do not know whether or not the International Criminal Court could do that under its present statute. It is so vague that it cannot answer that question. In other words, under the present circumstance, it is not just an American citizen such as the reporter from the Washington Post who might be called in, it is not just a member of the Appropriations Committee who might be called in, there is a precedent being established that the President of the United States might be called in to answer in this international forum for actions he or she took in the best interests of the United States as those interests were defined at the time.

So I come back to my reasons for not wanting to ratify the treaty creating the International Criminal Court. I understand that as he signed it, President Clinton himself said this treaty is not ready for ratification. President Bush took our signature off it in order to make it clear to the world that it was not ready for ratification. I applaud that position—both President Clinton's position that it is not ready to be ratified and President Bush's decision to remove all doubt as to America's position on this point.

But I do want to make it clear, as I tried to do at the beginning, that I am not opposed to the idea of creating some kind of tribunal that can deal with these heinous crimes we see around us in this world that is still not rid of the horrific activities that are called war crimes and crimes against humanity. I am not opposed to America being subject to the rule of international law in an area where America's track record of behavior is so good that I am sure America could handle this without any difficulty. My problem is the vagueness. My problem is the possibility that the International Criminal Court will go far beyond what we think of as war crimes and will invent new ones, like the ones I have described here. My problem is that we do not have a clear outline of rights that will be protected in this Court.

Just as Patrick Henry stood and said, do not ratify the Constitution of the United States until there is a clear bill of rights written into it, and held that position to the point that James Madison finally gave in and gave us the Bill of Rights, I think American legislators should stand and say: Do not ratify the International Criminal Court until there is a bill of rights, until we know exactly that the rights we have under the Constitution, that the Declaration of Independence declares as being ours by God-given sanction, are protected, that Americans will not be called before this Court in a way that would put us in jeopardy of those rights. That is my bottom line with respect to the International Criminal Court.

I believe the United States should stay engaged and involved in discussions about it. I don't think we should turn our backs and walk away and say we will never have anything to do with it or be involved in it. I think by virtue of its observer status, which it still has with respect to the International Criminal Court, the United States should continue to talk to the other countries in the world about this.

But the bottom line should be that when the United States finally does decide to ratify the International Criminal Court, it will be in a regime where no American citizen will lose any of the rights that are currently guaranteed to him or her under the American Constitution.

I believe it can be done. I encourage everyone around the world to focus on that and not say we don't need to talk about that, that this is just for the bad guys, but recognize that if you are building an institution that is going to last for 50, or 100, or 200 years, as our Constitution has, you must be as careful in creating it as the Founders were in creating our Constitution in the first place.

We are the freest nation in the world. We would like the rest of the world to have the same benefits as we do. Let us be very careful as we create an international judicial body to make sure that it maintains that high standard of freedom.

I yield the floor.

TRADE ACT OF 2002

Mr. CORZINE. Madam President, I rise today, sadly, to express my sincere disappointment with the passage of the Trade Act conference report.

It is deeply troubling to me. I will go through a number of the reasons I have