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John Norton Moore, Chairman

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The Secret War in Central America

The American Society of International Law in its quarterly *Journal* (January 1986, Vol. 80, No. 1) has printed a lengthy article by John Norton Moore entitled "The Secret War in Central America." The article, which runs 86 pages, is, we are told, the longest ever printed by the *Journal*. It deals basically with the concept of legality, as applied on the one hand to the Sandinista regime in Nicaragua, and, on the other hand, to American support for the Contra opposition to the Sandinistas.

Mr. Moore's essay starts out with the statement:

The core principle of modern world order is that aggressive attack is prohibited in international relations and that necessary and proportional force may be used in response to such an attack.

Mr. Moore's central finding is that the Sandinista regime is a product of aggressive attack masquerading as self-defense and that because of this it is the duty of the world community to assist those who are resisting the Sandinistas.

We reproduce below several of the key paragraphs from the conclusion of the article.

Strengthening World Order

The secret war in Central America illustrates the danger to world order—and to the legal order itself—posed by the assaults of radical regimes. . . . That war is conducted through assistance in organizing Marxist-Leninist controlled insurgencies; the financing of such insurgencies; the provision and transshipment to them of arms and ammunition; training the insurgents; assistance in command and control, intelligence, military and logistics activities; and extensive political support. It also includes terrorist attacks and subversive activities preliminary to and supportive of an all-out covert attack.

Arrayed in support of this secret war is a diverse conglomeration of radical regimes and insurgent move-

ments from the Soviet Union and Soviet bloc nations such as East Germany, Bulgaria, Czechoslovakia, Cuba, Vietnam, Ethiopia and North Korea, to Libya, Iraq, Iran and the PLO.

The strategy of covert and combined political-military attack that undergirds this secret war is a particularly grave threat to world order. By denying the attack, the aggressors create doubts as to its existence; and by shielding the attack with a cloud of propaganda and misinformation, they focus world attention on alleged (and sometimes real) shortcomings of the victimized state and the permissibility of defensive response. The result is a politically "invisible attack" that avoids the normal political and legal condemnation of aggressive

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Senate Approves Genocide Treaty After 37 Years of Debate

Thirty-seven years after it was submitted to the Senate for approval, the International Convention on the Prevention and Punishment of the Crime of Genocide was approved February 19 by an 83-11 Senate vote.

The ABA-backed treaty, unanimously approved by the U.N. General Assembly in 1948 following the World War II Holocaust, outlaws "acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such."

Final Senate advice and consent, with the continuing leadership of Senate Majority Leader Robert J. Dole (R-Kan.), came 18 months after President Reagan's strong formal endorsement. With the Senate vote, the U.S. has taken a major step toward joining the 96 nations that are parties to the convention, which was the longest pending treaty in Senate history.

The ABA's vigorous support for the ratification was singled out by Senator William Proxmire (D-Wis.) and

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Editor: William C. Mott. Associate Editor: David Martin. Standing Committee on Law and National Security,
ABA, 750 North Lake Shore Drive, Chicago, Ill. 60611

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Dissident Congressmen Challenge President in Federal Courts

A small group of congressmen have over the past few years frequently challenged the president's foreign policies in the courts when they could not get appropriate action in the Congress. The Congress as a whole has not accused President Reagan of violating the Constitution, acts of Congress (e.g., the War Powers Act), or joined in such suits with regard to his foreign policy actions. The judicial challenges by dissident congressmen have concerned Grenada, Central America, South Africa, and other foreign policy concerns.

In one of the best articulated statements of congressional and presidential powers, and their convergency and divergency, Judge David N. Edelstein clearly set out the constitutional limitations of all three branches of our government. That case, *Greenham Women Against Cruise Missiles et al v. Reagan*, 591 F. Supp. 1332 (DC S.D.N.Y. 1984), concerned, as its title indicates, an attempt to prevent judicially the emplacement in England of cruise missiles by the United States.

The plaintiffs, a group of British women living within a 100-mile radius of a USAF base at Greenham Common, England (50 miles west of London), a United States citizen living in London, and two United States congressmen, Ron Dellums and Ted Weiss, sought to prevent the emplacement on the bases of violation of the fifth and ninth amendments, tortious injury, and, in the case of the members of Congress, a violation of the constitutional right of the Congress to declare war and provide for the general defense and welfare.

Judge Edelstein's opinion stated pertinently:

The courts are simply incapable of determining the effect of the missile deployment on world peace. Plaintiffs ask this court to find that since the cruise missiles can be used in a "first use" situation, the risk that the United States will in fact initiate a limited nuclear war increases terribly; and that even if the United States does not initiate a nuclear exchange, this new capability for "first use" will likely provoke a preemptive nuclear strike by the Soviet Union. In contrast, the government takes the position that the deployment of cruise missiles promotes peace by providing a more adequate and needed defense for Western Europe thereby deterring the Soviet Union from initiating war and by motivating the Soviet Union to negotiate arms reduction seriously. "History will tell [which] assessment [is] correct, but without the benefit of such extended hindsight [the courts] are powerless to know." *DaCosta v. Laird*, *supra*, 471 F.2d at 1155.

Undoubtedly it can be said that the President and Congress cannot "know" with an absolute

degree of certainty the effects of missile deployment. But it is precisely because the ultimate effects are not altogether knowable that conjecture and predictions about them are best left to the political branches of government. Questions that are infinitely more complicated than those posed by the question "how many angels can dance on the head of a pin?" are not ready for ready answers. Questions like how to ensure peace, how to promote prosperity, what is a fair utilization and distribution of economic resources are examples of questions that must be decided by the fair, sound, seasoned and mature judgments of men and women responsive to the common good. The power to make these determinations is therefore appropriately allocated to the political branches. . . .

The language of then Circuit Judge Warren E. Burger is very much in point here:

That appellants now resort to the courts on a vague and disoriented theory that judicial power can supply a quick and pervasive remedy for one of mankind's great problems is no reason why we as judges should regard ourselves as some kind of Guardian Elders ordained to review the political judgments of elected representatives of the people. In framing policies relating to the great issues of national defense and security, the people are and must be, in a sense, at the mercy of their elected representatives. But the basic and important corollary is that the people may remove their elected representatives as they cannot dismiss United States Judges. This elementary fact about the nature of our system, which seems to have escaped notice occasionally must make manifest to judges that we are neither gods nor godlike, but judicial officers with narrow and limited authority. Our entire System of Government would suffer incalculable mischief should judges attempt to interpose the judicial will above that of the Congress and President, even were we so bold as to assume that we can make a better decision on such issues.

The case was appealed and the United States Court of Appeals of the Second Circuit (84-6290, February 8, 1985), in a brief decision, upheld the lower court's decision.

The case is remarkable for what may be a record number of persons and organizations on whose behalf amicus briefs were filed (196 in all). The mere listing of those organizations consumed seven times the space required for the appellate court's affirmation.

Larry Williams

Morry Leibman Honored by Friends On 75th Birthday

On February 18, almost 300 friends and acquaintances of Morry Leibman came together for an 8 a.m. breakfast at the Mayflower Hotel in Washington, D.C., to pay tribute to him on the occasion of his 75th birthday. The breakfast was under the joint sponsorship of the ABA Standing Committee on Law and National Security, the Center for Strategic and International Studies, Freedoms Foundation, and the National Strategy Information Center. Among the notables present were William J. Casey, director of Central Intelligence; Justice Lewis Powell; Secretary of the Army John O. Marsh; General Richard Stilwell; Attorney General Edwin Meese; former national security adviser Robert "Bud" McFarlane; Alexander Haig, former secretary of state; Judge William H. Webster, director of the Federal Bureau of Investigation; and many others.

Justice Powell, speaking on behalf of the Standing Committee at this extraordinary birthday breakfast, related some of the 35 years of history that accounted for the benign and unifying influence that Morry Leibman had exerted on all sectors of the community concerned with problems of national security and defense. Justice Powell had been the author of the resolution adopted by the ABA House of Delegates in February 1961 that authorized the establishment of the committee's predecessor organization, the Special Committee on Education in the Contrast Between Liberty Under Law and Communism. He said that he had been motivated to propose the resolution creating the committee "as a result of observations on a visit to the Soviet Union with a small committee representing the ABA." The committee members returned to the United States deeply depressed by the oppressive atmosphere they found in Moscow—and Justice Powell's resolution creating the committee was a product of that depression.

Justice Powell spoke at length about the many positions of public trust that Morry Leibman had occupied during a long and active life. Apart from serving on several presidential commissions, he noted that Leibman had served on the boards of a number of organizations including the National Strategy Information Center, the Georgetown Center for Strategic and International Studies and the Freedoms Foundation. He also served as chairman of the Standing Committee from 1962 to 1967 and from 1975 to 1982.

In concluding his remarks, Justice Powell mentioned "the two greatest honors bestowed on Morry: the Medal of Freedom by President Reagan and the willingness of Mary to marry him."

Among other speakers who paid tribute to Morry were Admiral William C. Mott, vice president of the National Strategy Information Center; Amos Jordan, president, Center for Strategic and International

Studies; Daniel McMichael of the Scaife Family Charitable Trusts; Robert Miller, president of Freedoms Foundation; and John Norton Moore, chairman of the Standing Committee on Law and National Security, who served as moderator. Mr. Moore also spoke about the continuing dangers that confront the free world and which demand the existence of organizations such as the Standing Committee. His remarks are printed below.

Morry Leibman accepted the many tributes that had been addressed to him with characteristic modesty giving much or most of the credit to others—but it was obvious that he was deeply touched with the display of affection which had been accorded him.

Remarks by John Norton Moore

Those of us who have served on the Standing Committee are not neutral. We see around us an historic struggle for the future of man between totalitarianism and democracy. We remember Churchill's famous phrase that World War II with its 40 million dead was "the unnecessary war" because the democracies could act together only too late to deter totalitarian aggression. In our country, President Roosevelt's famous quarantine speech, in the year of my birth, fell on ears that sought security in isolationism. Four years later the horrors of World War II were brought to the shores of America. We who are committed to democracy and human freedom increasingly understand the core clash of ideas and the seminal role of law in seeking to avoid repetition of this sad history.

Today, for those who will look, there are again ominous trends. These include:

- an unprecedented military buildup by our principal adversaries in virtually every category of military power from the central strategic front to development of new biological agents in violation of solemn arms control commitments;
- a growing network of totalitarian regimes and political organizations united in opposition to democracy and the West and waging sustained low intensity warfare against the West;
- a massive political and disinformation campaign to persuade the targeted West that it is the *attacker* rather than the *attacked*. In a real sense the resulting confusion is destroying the international immune system against aggressive attack and directing it toward the defensive response;
- an increasing politicization and breakdown of international institutions under the radical assault, from the United Nations and the OAS to the World Court, with a concomitant drift to international anarchy; and
- a popular retreat from responsibility in a mistaken moral isolationism that oversimplifies both realities and choices. How many debaters have you heard who avoid appraisal of the behavior of other

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Leibman Honored on 75th Birthday

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nations and the harsh realities of context by glibly announcing that as Americans their only responsibility is to assess the actions of their own government?

For those who would seek to remind the West of these dangers—as this committee has—our society has powerful psychological barriers to the message.

- Democracies, being genuinely responsive to the wishes of the people, *are* peace loving and they have a powerful tendency to mirror image in ascribing *similar* feelings to all states;
- all the great psychologists have shown the powerful effect of the defense mechanism of denial in re-treating from a world not altogether to our liking; and
- particularly as the contemporary threat is effectively posed through covert attack rather than armies on the march, the gap between national intelligence information and popular understanding lends itself to controversy, inaction, and the fallacy of the evenhanded cop out.

All of us have felt the sting of these barriers to truth in a market mythology that dismisses the message as “controversial” or “hard line.” These tendencies to shoot or ignore the messenger are not new. It was, after all, Neville Chamberlain, not Winston Churchill, who was awarded the Nobel Peace Prize. And more recently it was Le Duc Tho who was awarded the same prize shortly before North Vietnam openly invaded South Vietnam with 14 regular divisions in violation of the very Paris Accords for which the award was jointly made.

Though the task of realistic messenger is daunting—the stakes are no less than democracy, human freedom and the avoidance of war. You can rest assured that the ABA committee will continue to follow its conscience whoever the chairman. In the words of Mark Twain, “Always do right—this will gratify some people and astonish the rest.”

Conference on International Terrorism: The Threat to Industry

By the Editor

This conference, held in Washington, D.C., in October under the auspices of SRI International, was attended in its entirety by your editor. It was a remarkable experience. It differed from some of the theoretical disquisitions about terrorism which have been reviewed in this *Report* in the past in that it outlined case histories of terrorist activities in Spain, Switzerland, Northern

Ireland and Israel, and then told in the plain blunt words of representatives of those countries what happened—what was done about it—and what still needed to be done there and here in the United States.

Northern Ireland, for instance, was represented by Sir John Hermon, its chief constable, who, after detailing some of the more disastrous terrorist attacks on business in his country, gave the chilling result in these words:

In March 1983, the Northern Ireland Development Board, set up to develop industry, revealed that 60 percent of British, German and American businessmen who were questioned said that they considered the risks of investing in Northern Ireland too great. Indeed, Northern Ireland was placed 19th on a list of 20 Western European countries assessed as to their attractiveness as locations for industrial plants.

Sir John then went on to explain how terrorism against industrial targets can and must be countered.

Similar, and even more chilling scenarios were presented for Spain, Israel and Lebanon. It remained for Mr. Warren Metzner of Exxon to translate what had happened in those countries into what American business can expect. Said he:

As you have heard this morning, overall it looks like business will continue to be a target favored by terrorists worldwide. We can expect to be the target in at least one third of all actions. We also know to expect bombings, facility attacks, assassinations, attempted extortions, abductions, sabotage and piracy, all these things to continue at about the same level as they do today.

Whatever their cause, the probability that outrages of this type will be directed at personnel and property of American business is real, it is steadily increasing, it is becoming ever more violent and it just cannot be ignored. It is clear that no company has been able to provide complete security for its personnel, property and assets and it probably never will. There are, however, a variety of measures that can be employed to minimize the dangers of the devastating effects of terrorism.

He then proceeded to outline the steps prudent companies should take.

Other speakers concentrated on remedial steps that should be taken to counter terrorist attacks. Reuben Eytan, late of the Israeli Corps of Engineers and now head of an architectural and engineering firm, gave details on how to harden sites to limit damage. Bernard Stewart, organizer of the conference and SRI senior systems analyst, described how to protect *people* threatened by terrorist acts, both before and after the act.

Director of Central Intelligence, William Casey, in a

luncheon speech reviewed terrorism—worldwide, its causes and effects. (See November 1985 issue of *Intelligence Report*.) Arnaud de Borchgrave, editor-in-chief of *The Washington Times*, presented his indictment of the way our media downplay, underreport and misreport terrorist incidents. Said he: “The lack of an institutional memory coupled with what I would call a ‘no enemies on the left’ bias is a major problem.”

The chairman of the Standing Committee on Law and National Security, John Norton Moore, was the final speaker and ratified much of what Mr. de Borchgrave had said about the tactics and strategy of terrorist attacks on Americans. He then stated the law of the case in these words.

Now, if we were to look for a moment to the relevance of law in all of this struggle, I think it is exactly as Bill Casey said. Law is only a small part of this picture but it does, I think, provide some insights that need to be vigorously explored and it should be used as a tool to enable us to more vigorously respond to this very serious secret war directed against the democracies.

Basically, law does three things in this response. First, it sets a basic framework as to how the international community regards the use of force in international life and what is regarded as permissible. Secondly, it sets a framework for the prosecution and extradition of those engaged in individual terrorist acts and, lastly, it sets a framework for much of the ongoing efforts that we make under national law to deal effectively with terrorism.

This conference was aimed primarily at businessmen to encourage them to set up a proprietary terrorist early warning system and to establish a risk assessment program. It is my hope that the report on the conference will shortly be published and will be available to the business community.

Book Review

By the Editor

Stalin—And the Shaping of the Soviet Union by Alex de Jonge. William Morrow and Company, New York, \$19.95.

A remarkable new biography of Stalin has been published by Morrow and Company. The author, Alex de Jonge, grew up with the Russian language and this is reflected in the 800 footnotes, many of which are keyed to Russian sources. The exhaustive nature of the research that went into the writing of the book is apparent from the fact that nearly 300 reference titles are listed in the bibliography. The index is superb.

In his book, author de Jonge helps to explain many historical facts that have hitherto been shrouded in mystery. For example, he cites Soviet stockpiles of raw materials as one of the prime reasons Hitler agreed to the strong non-aggression pact of 1938. He quotes Gustav Hilgar, von Ribbentrop’s interpreter, as stating Hitler never believed Stalin could be bound by a scrap of paper but he was driven in the short term to have access to Soviet stockpiles of chromium, platinum, grain and petroleum.

The author follows Stalin from his birth in 1879 (according to the best evidence he was the illegitimate son of a famous Russian explorer, Nikolai Przhevsky, and a maid servant in a large house in Tiflis) to his death at the peak of his power during the anti-Semitic hysteria which accompanied the show trial of the Jewish doctors in March 1953. His foster father was a shoemaker named Beso Djugashvili, hence Stalin’s acquired name Iosif (Joseph) Vissarionovich Djugashvili. “His childhood was characterized by violent hatred of his father, who used to beat him when drunk, allegedly prompting the child to defend himself with a knife.”

Did he love his mother? “No,” says the author. “There is no evidence that Stalin ever loved anyone. . . . He would refer to his mother ‘as that old whore.’ ”

One of Stalin’s church school contemporaries in Gori, one Iremashvili, wrote a book while he was in exile in Berlin in 1932 in which he described Stalin in these chilling words: “He had an unbalanced, unrestrained and passionate character when he decided to go for something or achieve something. He loved nature but he never ever loved a living being. He was incapable of feeling pity for man or beast. . . . I never knew him to cry.”

Such were the early years of the man who was to become the greatest mass murderer in history. It is estimated that the Stalin terror over the years exacted the lives of some 20 million victims, including virtually the entire Central Committee that had made the Bolshevik revolution. His purge of the Red Army in 1937 cost the lives of up to 50 percent of the officer corps including three of the five Red Army marshals and 13 of the 15 army commanders.

Perhaps the closest family to Stalin, with whom he often stayed between prison terms, were the Alliluyevs. In de Jonge’s words: “Alliluyev had two daughters. One, Nadezhda, was aged three when Stalin first met her. Sixteen years later he would marry her. [Svetlana was their daughter.] Twelve years after that she would shoot herself [or was murdered by Stalin—take your choice]. The other daughter, Anna, was aged eight. Forty-four years later Stalin would put her in jail.” So much for his treatment of the only family he ever had!

His relations with Lenin were, to say the least, rocky, especially towards Lenin’s end. Lenin, apparently, distrusted Stalin, and would not have designated him as his heir. There were even rumors that he had been

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poisoned by Stalin. However, Lenin died, whether by poison or stroke. The Bolshevik leaders, Zinoviev, Kamenev, Bukharin and Kalinin, accompanied by Stalin, rode out in sleighs to view the body. In time Stalin would have every member of that group except Kalinin shot!

One of the most instructive chapters in the book is de Jonge's description of the way Stalin handled his allies, Churchill and Roosevelt. Each of the allies vied with the other to be best friends of Stalin, or "Uncle Joe" as Roosevelt called him. This gave "Stalin, who never had the slightest wish to be friends with anybody, a wonderful opportunity to manipulate his allies and make them dance to his tune."

It was Stalin's conviction that professions of friendship by the Western nations were to be seized upon as signs of weakness that could be exploited to Soviet advantage. Churchill and Roosevelt were both misled, although both had around them advisers who understood the duplicity of the Soviet leader. De Jonge's massive research into British sources (he taught at Oxford) led him to examine Foreign Office records and the works of such actors on the scene as Sir Gifford Martel, the British Military Attache in Moscow, and Lord Alanbrooke, who accompanied Churchill to Moscow in 1942. Alanbrooke expressed his distaste for the fawning attitude of the foreign minister, Anthony Eden, and of Churchill's approach to Stalin in these words: "We have bowed and scraped to them, done all we could for them and never asked them for a single fact or figure in return. As a result they despise us and have no use for us except what they can get out of us." Unfortunately, says the author, Churchill returned to London with "the delusion that he had gone some way toward winning Stalin's personal friendship."

Churchill managed three private one-on-one meetings with Stalin, much to the chagrin and envy of Roosevelt. Not that Roosevelt didn't try to meet with Stalin *without* Churchill. One of the most revealing letters to expose the rivalry to become Stalin's friend was carried to Moscow by Ambassador Joe Davies on May 5, 1943. Said Roosevelt to Stalin:

I want to get away from the difficulties of large Staff conferences or the red tape of diplomatic conversations. Therefore, the simplest and most practical method that I can think of would be an informal and completely simple visit for a few days between you and me. . . . it is my belief you and I ought to meet this summer. . . . where to meet? Africa is almost out of the question in summer and Khartoum is *British* territory. Iceland I do not like because for both you and me it involves rather difficult flights and, in addition, *would make it, quite*

frankly, difficult not to invite Prime Minister Churchill at the same time." (Emphasis added.)

Nice try, but it didn't work. The first time Roosevelt was to meet with Stalin was at Teheran, where according to one-time secretary of labor Frances Perkins—as quoted by de Jonge—"Roosevelt made it clear that one of his motives for going was to get himself liked by Stalin."

According to the author, "When considering the Teheran Conference, one cannot help feeling that Stalin controlled affairs from the start." And he says of the subsequent Yalta Conference, "Yalta now appears a one-sided affair in which Stalin got what he wanted."

Disillusion did begin to set in with both Churchill and Roosevelt after Yalta. As de Jonge describes it, "The Soviet failure to abide by the spirit of the Yalta Agreement was already beginning to make Churchill despair and had even caused the dying Roosevelt to have doubts."

But, even to the end Roosevelt in his last telegram to Churchill, an hour before his death, expressed the view that, "I would minimize the general Soviet problem as much as possible because those problems, in one form or another, seem to arise every day, and most of them straighten out . . ."

This is an important book and for anyone with a desire to understand the foundations of Soviet society and the underpinnings of the communist system and the methods of negotiation they use, it is must reading. It has many lessons for the present.

Fellows Annual Award Presented To Leibman

Once a year The Fellows of the American Bar Foundation come together to honor a member of their profession by presenting a "Fifty-Year Award." The ceremony this year took place on February 8 at the Hyatt Regency Hotel in Baltimore during the midyear meeting of the ABA. The recipient—no one was greatly surprised—was Morry Leibman, former chairman of the Bar Association's Standing Committee on Law and National Security.

The by-laws of The Fellows stipulate the presentation annually of the award to the lawyer who

. . . has been engaged in the active practice of the law for a period of more than 50 years, during all of which time he has manifested adherence to the highest principles and traditions of the legal profession and of service to the public in the community in which he lives.

On behalf of The Fellows, Newton N. Minow, former chairman of the Federal Communications Commission, paid his law partner the following tribute:

As I look forward, it seems only appropriate that on his seventy-fifth birthday, February 8, 1986, Morry should receive the richly deserved Fifty-Year Award from The Fellows of the American Bar Foundation. Morry gives unstintingly of himself to the law, to his fellow lawyers, and to the search for justice. His constant devotion to freedom, to equality, to the democratic process, and to the United States of America spans five decades of service to the law. And as Browning wrote, we pray "the best is yet to be." . . .

As we salute Morry, we wish our profession could have fifty more Morrys and also fifty more years of Morry's devoted service to the ideals of the law.

Responding to this and other tributes, Morry—not about to retire after 50 years—made the following statement of rededication:

The journey to this platform began exactly 29 years and 8 days ago, on February 16, 1957, when I was the guest of Lewis Powell and Bill Mott at the first annual meeting of The Fellows in Chicago. Powell and Mott urged the participation of The Fellows in the world struggle for liberty and the protection against threats to our free society. To me, that was the beginning of the study of law and national security. My journey continued because of the help of many leaders of the bar. The presidents of the association, beginning with Whitney North Seymour, were most supportive.

The reality of tonight is that I am here as a symbol of the grace and generosity and guidance of an honorable profession that is dedicated to the preservation of the miracle of the ages—a society of free men and women living under the rule of law.

I can only equate your award with the highest national civilian honor, the Presidential Medal of Freedom. The two are much alike. You stress the highest principles and traditions of the law and service to the community. The president emphasizes civic and humanitarian duties to make America a just society within and a strong and secure nation without. Thus, we truly honor this glorious experiment of a society of law created by free men and women.

Among many interruptions in my journey was the published debate with William Sloane Coffin on civil disobedience in 1972. I reminded him of the words of my dear departed friend and teacher, Father John Courtney Murray, about 20 years ago. "Today, the barbarian is the man who makes open and explicit the rejection of the traditional role of reason and logic in human affairs. The barbarian need not appear in bear

skins with a club in hand. He may wear a Brooks Bros. suit and carry a ballpoint pen. The work of the barbarian is to undermine rational standards of judgment."

He forgot to include Saville Row clothes for Gorbachev. Imagine Father Murray predicting Farrakhan 20 years ago. The struggle for men's and women's minds continues. Western civilization from Mt. Sinai and Galilee and Runnymede and Valley Forge is still an issue at Geneva. It is now called public diplomacy.

We have a special responsibility in this debate. Our journey to preserve our noble cause continues to demand eternal vigilance. Sidney Hook recently urged that we strengthen and reinforce the understanding of the ethos of American political institutions, and upgrade the quality of our civic education. This should be done in conjunction with the preparations for the bicentennial of our Constitution.

So tonight is merely a pause and a moment of renewal and rededication: a time to expand our work in public education. We have the responsibility to make real what were only dreams until 1776.

And who will lead the continuing journey? If not us, who? If not now, when?

George Washington Honor Medal Awarded to John Norton Moore

At the birthday breakfast for Morry Leibman, which we report on elsewhere in this issue, John Norton Moore, chairman of the Standing Committee on Law and National Security, was signally honored by the Freedoms Foundation at Valley Forge by being awarded the George Washington Honor Medal in the individual achievement category. The award was presented by Dr. Robert Miller on behalf of the Freedoms Foundation.

The citation that went with the award read:

John Moore is a lawyer, educator, professor, author, diplomat, and above all, a patriot. He is most unique in the fight for freedom because he recognized and has fulfilled the role of the advocate for liberty on the front line in the battle with the totalitarians. He recognized that the threat against America's freedoms both externally and internally has shifted from military forces to the new world of law, communication, propaganda, and disinformation. He is a leading articulator of the American position in the field of national security and international law.

Charges Against Libya Documented In Terrorism Hearing

In January of this year, the Department of State, to provide backing for its proposed policy of economic sanctions against Libya, distributed a paper entitled "Libya Under Qadhafi: A Pattern of Aggression." The report provided a detailed look at Libyan terrorist activities, direct and indirect, in the Arab world, in sub-Saharan Africa, in the Caribbean and in Southeast Asia, and it concluded with 48 terrorist incidents involving Libyan or Libyan-backed terrorists, extending from 1980 to 1985.

It noted that although the Libyans have been able to score heavily in certain terrorist undertakings, primarily the attack on the Marine barracks in Beirut, Qadhafi's efforts had in many cases been frustrated. Said the State Department report:

Qadhafi has at least twice tried to murder Libyan exiles in Egypt only to have his agents intercepted by Egyptian security. In November 1984, Egypt fooled Qadhafi into believing that his hired agents had assassinated former Libyan Prime Minister Bakoush. After the Libyan press acknowledged Tripoli's responsibility for the murder, Egypt revealed the sting: the four Libyan agents were in custody, and the pictures of the alleged victim were fake.

On February 19, the Senate Subcommittee on Security and Terrorism, under the chairmanship of Senator Jeremiah Denton (R-Ala.), held hearings under the caption "Libyan-Sponsored Terrorism: A Dilemma for Policy Makers." The witnesses included Fred C. Ikle, undersecretary of defense for policy; Robert B. Oakley, director of the State Department's Office for Counter-Terrorism and Emergency Planning; and Dr. Yonah Alexander, a member of the senior research staff at the Center for Strategic and International Studies, Georgetown University.

In opening the hearings, Senator Denton said:

Over the past five years, this subcommittee has held more than 60 hearings on terrorism and related subjects, and those hearings have yielded abundant and conclusive evidence of a network, a global unity in the sources of support, strategy, tactics, and goals of international terrorists. The thrust and power of this network amounts to a new, highly effective form of low intensity warfare, which is being waged by various nation-states to erode the influence and strategic position of the United States and Western democracies, in general, and to enhance the power of the Soviet Union, its client states and allies, in particular.

The shocking hijacking of the Italian cruise

ship, the *Achille Lauro*, TWA flight 847, Egypt-Air 648, and the airport massacres in Rome and Vienna were not isolated incidents. They were only six of the more than roughly 705 terrorist acts that were committed in 1985, at a cost of death or injury to nearly 150 Americans and countless others.

These incidents have revealed, more clearly with each occurrence, the existence of a multinational support system for such terrorist activities. The airport massacres in Rome and Vienna were perpetrated by terrorists of the Abu Nidal faction who were able to cross international borders with the assistance of phony passports reportedly issued by Libya. The Libyan connection was established more firmly by statements made by Libyan leader Qadhafi describing the murders as "heroic" acts and pledging continuing support for such abominations. The U.S. government reported that it had hard evidence that terrorists of the Abu Nidal and other factions were being harbored and trained in Libya.

The purpose of the hearing, Senator Denton said, was to examine what had become a "radical entente" of nation-states including Libya, Syria, Iran, Cuba and North Korea—

which, since the early 1980s, has attempted to coordinate a worldwide strategy designed to expel U.S. military, political and economic presence from key areas of the world. Terrorist acts are but one part of a strategy which plays heavily with politics, media, and psychological warfare. This radical expulsion strategy includes efforts (1) to "decouple" the U.S. from its allies, (2) to force the U.S. to abandon key military and diplomatic outposts, (3) to stretch thin U.S. military forces over the world by coordinating the occurrence of terrorist incidents and other crises simultaneously or in succession in different parts of the world, and (4) to deny the U.S. and other free nations access to trade vital to the survival of the free world's economy. . . .

The Soviet Union supports the entente's operations with military hardware, the arrangements for terrorist training and other assistance, and encourages the core radical countries to focus their hostility more exclusively against the United States.

Senator Denton said that with the exception of our response in the *Achille Lauro* incident, the United States has only on rare occasions demonstrated an ability to prevent or effectively respond to terrorism. He added that it was also a major purpose of his hearing "to determine what factors prevent effective responses by our government."

Ikle Urges Congress to Reconsider Restriction on Law Enforcement Aid

Mr. Ikle in his testimony pointed out that Qadhafi's multi-national terrorist network includes "Palestinians, Iranians, Syrians, Armenians, Germans, Bulgarians, and even Irish"; and the outrages this network have perpetrated extend from the Munich Massacre to the recent massacres at the international airports in Rome and Vienna.

Digressing briefly to deal with the companion phenomenon of European terrorism, Mr. Ikle said the department was very disturbed by the emergence of a phenomenon which had been dubbed "Euroterrorism." "It began in Paris," said Ikle, "with a series of violent attacks. It spread to Belgium, and it gained momentum when German, Basque and Portuguese terrorists carried out bombings of NATO, U.S. and domestic military targets." The prime constituents of the Euroterrorist movement, said Ikle, were the German Red Army Faction and the French Action Directe.

Ikle made a fervent plea to Congress to eliminate an obsolete piece of legislation—Section 660 of the Foreign Assistance Act—which serves to prohibit U.S. training and support for police forces in friendly foreign countries. He noted that the executive branch had asked Congress early last October for \$2.3 million to help the police in El Salvador with communications and other equipment. Even though four U.S. Marines had been murdered in a cold blooded terrorist attack in San Salvador in the month of June, and even though the Communists had announced that U.S. personnel in El Salvador would be considered prime targets, it had taken Congress from October until February to release funds that were clearly needed for the protection of our own citizens.

State Department Officer Describes Scope of Qadhafi Threat

Robert Oakley, who testified next, presented a full-scale rationale for the State Department's Libyan policy. This policy had met with only a tepid response from our European allies—but the State Department has apparently decided that the menace of Qadhafi terrorism has to be met head on if the free world is to maintain both its credibility and its integrity.

He said it was the—

pattern of rapidly growing Middle East terrorism, with greatly increased casualties, more frequent targeting of U.S. citizens and interests, and stronger state support which caused the Reagan administration to draw the line for Qadhafi and Libya's direct involvement in terrorism. Libya is not the only state in the Middle East supporting and using terrorism: Syria and Iran remain very much involved. But over the past six months Libya has become by far the most active

especially against American and European travellers. If it cannot be stopped, others can be expected to follow its lead.

Oakley noted that Qadhafi's terrorist support activities extend all the way from Northern Ireland to the Moro Liberation Front in the Philippines. Indeed, Qadhafi now runs terrorist activities, or assists in their running, in every continent. In the Far East, he is involved with the Kanak Socialist Nationalist Liberation Front in New Caledonia and the Muslim insurgents in Thailand. In Central and South America he has provided training or funding for a large number of revolutionary groups, including Chile's Movement of the Revolutionary Left, Colombia's M-19, and the revolutionary left in El Salvador. He has sent massive assistance to the Sandinistas in Nicaragua via Cuba. Among his Arab neighbors—Egypt, Tunisia, the Sudan, and Chad—Qadhafi's activities are much the same.

"We know of Libyan money in the millions of dollars going to Abu Nidal of Libya," said Oakley. The Abu Nidal group was described in these terms by the State Department report of January 1986:

Abu Nidal has conducted over 60 terrorist attacks during the last eight years—at least 30 of them since the beginning of 1984. Two-thirds of the group's nearly 20 attacks this year have taken place in Western Europe, as innocent bystanders increasingly have become casualties of the group's assaults.

"After careful deliberation," said Oakley, "the president decided to take unilateral action against Libyan support for terrorism."

He moved to terminate the remaining U.S.-Libyan commercial and financial relations, called upon other countries to join us in sending Qadhafi and other governments the signal. The decision required still further economic sacrifices for the United States which has already given up a multibillion dollar annual business with Libya to make clear our stand against terrorism, but if we had not taken the lead no one else would have done so. Moreover, the moral issue was such that any administration in this country would be bound to act.

Our overall policy is to seek to obtain long-term cooperation of the world community against the use of terrorism for political ends, no matter how worthy one may consider those ends. We have also concluded that while increased security, an essentially defensive action, is important and must be energetically pursued, there is also a need for more offensive, active measures if the spread of terrorism is to be stopped.

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Libyan Terrorism Documented

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Those who say that this type of non-military action will not work against Libya should suspend their judgment until our efforts have had time to be tested, for it is a long-term effort rather than a one-shot affair.

“We Must Force America To Fight on 100 Fronts”

The final witness, Yonah Alexander, an internationally recognized authority on terrorism, gave some concrete examples of the kind of berserk hatred of America that inspires Qadhafi and his army of fanatics. He noted that Qadhafi gloated in these terms over the destruction of the U.S. Marine headquarters in Beirut on October 23, 1983:

The lesson is that America was kicked out of Lebanon when an individual Arab was able to kill 300 Americans. . . . An armed people will never be defeated, but regular armies are unreliable.

He also quoted Qadhafi as saying: “We must force America to fight on 100 fronts all over the earth . . . in Lebanon, in Chad, in Sudan, in El Salvador, in Africa.”

Alexander presented a list of 44 terrorist training camps in Libya, complemented by the nationality of the terrorists being trained in each camp. He noted that there had been 3,232 terrorist attacks against Americans and American property between 1970 and 1985—with the statistics rising dramatically each year. He pointed out that state sponsored terrorism can be a fiendishly effective weapon because “it can be used to affect target countries’ political stability, commercial ties and diplomatic relations in ways which direct military confrontation cannot or will not achieve.”

The Secret War in Central America

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attack and instead diverts that moral energy to condemning the defensive response. In a real sense, the international immune system against aggressive attack becomes misdirected instead to defensive response.

Aggressive attack—particularly in its more frequent contemporary manifestation of secret guerrilla war, terrorism and low intensity conflict—is a grave threat to world order wherever undertaken. That threat is intensified, however, when it is a form of cross-bloc attack in

an area of traditional concern to an opposing alliance system. That is exactly the kind of threat presented by an activist Soviet-bloc intervention in the OAS area.

The remedy for strengthening world order is clear: return to the great vision of the founders of the UN and OAS Charters. Aggressive attack, whether covert or overt, is illegal and must be vigorously condemned by the world community, which must also join in assisting in defense against such attack. At a minimum, it must be understood that an attacked state and those acting on its behalf are entitled to a right of effective defense to end the attack promptly and protect self-determination.

Senate Approves Genocide Treaty

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other advocates as a crucial factor in the treaty’s ultimate approval. The ABA, which had opposed the treaty until 1976, chaired a working group of such national organizations as the American Jewish Committee, the Armenian Assembly of America, B’nai B’rith and Amnesty International to coordinate the effort leading to ratification. Proxmire, the treaty’s staunchest supporter, gave more than 3,000 consecutive daily speeches on the Senate floor calling for ratification.

The treaty as approved contains five understandings, two reservations and one declaration—a package proposed by Senator Jesse Helms (R-N.C.) and Senate Foreign Relations Committee Chairman Richard G. Lugar (R-Ind.) and cosponsored by Senator Orrin G. Hatch (R-Utah). The five understandings clarify definitions in the treaty, while the two reservations require that the U.S. give its consent before any dispute involving the U.S. is submitted to the International Court of Justice and that nothing in the treaty authorizes action by the U.S. that is unconstitutional. The declaration mandates that before the treaty is ratified, implementing legislation be enacted, an action that is expected shortly.

Addition of the eight conditions at the committee level garnered the support of several treaty opponents. Helms, however, voted against the treaty in the final vote.

Senator Steven D. Symms (R-Idaho) proposed that the treaty be amended by the Senate to add political groups to those protected from genocide under the convention; his amendment, which would have had the effect of killing the treaty, was defeated by a 31-62 vote.

After the vote approving ratification, however, the Senate passed a resolution, S. Res. 347, urging the president to notify the U.N. Secretary General of a U.S. desire to amend the treaty to add political groups.

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The views expressed in this publication are not necessarily those of the American Bar Association or the Standing Committee on Law and National Security. Questions or comments should be directed to W.C. Mott, Editor, 217 9th Street, S.E., Washington, D.C. 20003, Tel. 202-543-5445.