earlier, one I held long before my election to the Court. This was only one of several episodes in which my positive approach was manifested. That is the truth.

I hope that these clarifications will put an end to a campaign of misconceptions and distortions which have bedeviled the issues involved. Readers of the 1987 publication (referred to earlier) who study the statistical tables appended to it will, I am sure, soon discover not only that such figures lend little credibility to fears that some judges may imbalance the Court's decisions by voting on predetermined lines according to the political alignment of their countries of origin, but also that prediction based upon guesswork is no proper guide (*cf.* particularly p. 131; moreover there is an error on p. 130, one of my votes being wrongly described. I maintained the view that Iran had an obligation to make reparations). The case in question proves it beyond any doubt. During my service on the Court I voted in favor of 19 of 20 judgments delivered by it. A record that has not been surpassed.

MANFRED LACHS

TO THE EDITOR IN CHIEF:

June 29, 1989

I am writing in reference to the recent Contemporary Practice entry, "Peaceful Settlement of Disputes: United States-Chile: Invocation of Disputes Treaty" (83 *AJIL* 352 (1989)). Although I am reluctant to engage in a point-by-point discussion of the entry, I must correct several errors for the record.

The Republic of Chile has, for over 10 years, cooperated fully with the United States' efforts to prosecute the killers of Ambassador Orlando Letelier and Ms. Ronni Moffitt, and continues to cooperate today. In contrast, one of the United States' first actions in this affair was to assert jurisdiction over Chile in the civil suit *Letelier v. Republic of Chile* (488 F.Supp. 665 (D.D.C. 1980)), despite Chile's objections and in contravention of international law.

Chile has consistently maintained that the U.S. assertion of civil jurisdiction over Chile in the *Letelier* case was illegal and in violation of Chile's sovereignty. It has been Chile's longstanding position that the jurisdictional issue must be resolved by international adjudication. To that end, Chile has repeatedly proposed that the United States and Chile submit the issue to an international forum to determine whether the United States' assertion of jurisdiction in the civil suit was indeed illegal.

Yet the Contemporary Practice entry makes absolutely no mention of the jurisdictional dispute or of Chile's efforts to submit it to international adjudication. Rather, the entry declares that "having exhausted diplomatic means to obtain the cooperation of the Government of Chile," the United States invoked the so-called Bryan Treaty.

This omission is very unfortunate, particularly since Chile has proposed international adjudication by diplomatic note no less than eight times. In fact, Chile advanced such a proposal *before* the district court made its jurisdictional finding and therefore well before the court found the damages upon which the United States' espousal claim is primarily based. Given Chile's efforts to resolve the fundamental jurisdictional question, it is truly

unjust for the entry to imply that Chile has refused to cooperate. Nor on this record is it reasonable to maintain that all diplomatic means have been exhausted, especially when the United States has failed to respond to Chile's proposal on eight different occasions. In any event, there are other diplomatic means besides the mere exchange of notes.

Notwithstanding Chile's dismay over the U.S. assertion of civil jurisdiction in the *Letelier* suit, Chile has nonetheless made every effort to cooperate with the United States criminal prosecution of the killers. But the Contemporary Practice entry neglects to mention these efforts, thereby implying that Chile's cooperation in the U.S. criminal prosecution has been lacking.

The record reveals that this is most emphatically not the case. First, Chile took the extraordinary step of permitting U.S. prosecutors and FBI agents to enter Chile to carry out their investigation.

Second, the Contemporary Practice entry states that the United States "had sought since September 20, 1978, the extradition" of certain Chilean officials, thereby implying that those efforts were fruitless due to Chile's lack of cooperation. Again, this implication is unfair and inaccurate. The entry does not disclose that the Chilean Government immediately submitted the U.S. extradition request to the Supreme Court of Chile, the ultimate arbiter of such matters under Chilean law; the Chilean executive has no role in such matters. More importantly, Chilean law prohibits the use of plea-bargained testimony, upon which the U.S. extradition request was fundamentally based. Based on these binding legal considerations, the Chilean Supreme Court refused the U.S. request. The United States has not challenged the Court's conclusions.

Incidentally, it should be noted, even though the Chilean Supreme Court did not rely on this point, that the extradition treaty between the two nations does not require the extradition of nationals. In fact, in *Valentine v. United States ex rel. Neidecker* (299 U.S. 5 (1936)), the United States Supreme Court itself held in construing identical language that an extradition treaty will not support the extradition of U.S. nationals unless that power is expressly given. Here it was not.

Finally, the entry neglects to indicate that Chile cooperated to the extent permissible under Chilean law with the recent letters rogatory from the U.S. district court.

The Republic of Chile deplores the murders of Ambassador Letelier and Ms. Moffitt, and will continue—consistent with Chilean law—to cooperate with the United States in bringing their killers to justice. Indeed, given the very significant questions surrounding the Bryan Treaty, Chile has proposed to the State Department that Chile and the United States enter into a joint study of its availability as a dispute resolution mechanism.

OCTAVIO ERRÁZURIZ
Ambassador of Chile

TO THE EDITOR IN CHIEF:

August 11, 1989

In an Editorial Comment in the July 1989 issue of the *Journal* (pp. 519–27), Michael Reisman demonstrates quite convincingly that the United States violated its international obligations when it effectively prevented