Yasir Arafat from addressing the United Nations in New York in 1988. To complete the record, I would like to point out two relevant parts of the factual matrix in addition to those he stressed.

First, the legislative history to section 6 of Public Law 80-357, which contains the so-called security reservation to the UN Headquarters Agreement, suggests that the "reservation" applies even to transit to and from the UN headquarters district. As originally reported out of the Senate Foreign Relations Committee, section 6 did not mention "security," but did reserve the right "completely to control the entrance of aliens into any territory of the United States other than the headquarters district and its immediate vicinity."[1] The House Foreign Affairs Committee decided to go further, and to mention the right to safeguard the security of the United States. It said that its amendment "reserves the right of the United States to safeguard its own security along with the right to control entry of aliens into territory other than the headquarters area."[2]

This legislative history suggests that the House—and ultimately the full Congress—intended the "security reservation" to go further than the reservation dealing with territory other than the headquarters area. The only further place it could go would be the headquarters area itself.

Of course, this does not mean that the United States reserved the right arbitrarily to determine that any individual bound for the headquarters district is a security threat. Agreements, and reservations to agreements (if in fact this was a reservation), must be construed and applied in good faith. As Professor Reisman has pointed out, Yasir Arafat's planned visit to UN headquarters posed no threat to U.S. security under any stretch of the imagination. The "security reservation" simply did not apply to him.

This conclusion is buttressed by the second point I want to mention. Professor Reisman discusses a denial-of-visas incident in 1953, involving representatives of allegedly Communist-dominated organizations, and notes that a compromise was reached between the United States and the United Nations. He concludes that the incident did not provide a precedent for unilateral U.S. determinations regarding individuals who might pose a security threat. His conclusion is strengthened by a memorandum prepared at the time by Henry Cabot Lodge, then the U.S. representative to the United Nations. In it Mr. Lodge said that his own reading of the 1947 Senate and House Reports "leads me to the conclusion that, if this matter goes to the General Assembly as it will if we force this issue, a persuasive case can be made in support of the Secretary-General's position."[3]

FREDERIC L. KIRGIS, JR.
Board of Editors

TO THE EDITOR IN CHIEF:

August 14, 1989

The International Court's Merits Judgment in the *Nicaragua* case condemns as impermissible intervention the act of "financing and supplying

[1] See the Foreign Relations Committee's explanation in S. REP. NO. 559, 80th Cong., 1st Sess. 6 (1947).

[2] H.R. REP. NO. 1093, 80th Cong., 1st Sess. 11 (1947).

[3] Memorandum of May 19, 1953, in 3 FOREIGN RELATIONS OF THE UNITED STATES 1952–1954, at 278.

the contra forces." It contains no exception or exemption for "nonlethal" support.

On the contrary, as Representative Jim Leach, a staunch and longstanding friend and supporter of the rule of law in international affairs, pointed out in an aptly chosen quotation from the Court's Judgment, "if the provision of 'humanitarian assistance' is to escape condemnation as an intervention in the internal affairs of Nicaragua, . . . it must . . ., above all, be given without discrimination to all in need in Nicaragua, not merely to the Contras and their dependents."[1]

That Representative Leach fairly abstracted that quotation will be plain to any reader of paragraphs 239–243 of the Merits Judgment. Although debate on the new 1989 version of the Wright plan, which is all the current bipartisan finance and supply act is, confirmed it to be in law indistinguishable from the bill that Representative Leach thus condemned and then voted against, his words of 1988 were neither repeated nor remembered in 1989—by him or anyone else.

And so, on April 13, 1989, 535 members of Congress voted (with a scattering of dissents on noninternational law grounds) to enact a further violation of the 1986 Merits Judgment. They did not—even Representative Leach—expressly admit that they were participating in a breach of the treaty that violating Article 94 of the United Nations Charter is; nor did any of the media, so far as is known to the writer, at any point on the political spectrum, call attention to what they had done.

The omission, in an Editorial Comment[2] in the pages of a journal of international law, of any reference to that aspect of the accords that a speaker at our Annual Meeting called the result of a "Good Friday Spell," is to be regretted. If the Society is not alert to defend international law, and the obligations imposed or assumed in conformity with it, we can be sure that no one else will.

HOWARD N. MEYER

[1] 134 CONG. REC. H664 (daily ed. Mar. 3, 1988).

[2] Glennon, *The Good Friday Accords: Legislative Veto by Another Name?*, 83 AJIL 544 (1989).