

REPORT OF THE SECTION OF
INTERNATIONAL LAW AND PRACTICE

RECOMMENDATION*

Be It Resolved, That the American Bar Association:

1. Confirms its support of the principles of international law which will call upon all parties to resolve disputes through peaceful means, including the arbitral process;
2. Confirms its support of implementation of the Algiers Accords, including the continued functioning of the Iran-United States Claims Tribunal (the "Tribunal") in an impartial and independent manner to resolve promptly and peacefully the claims placed within its jurisdiction;
3. Condemns the unprovoked attack on Judge Nils Mangard of the Tribunal on September 3, 1984, as contrary to the fundamental principle of peaceful settlement of international disputes and as wholly alien to the rule of law; and
4. In accordance with Goal VIII of the American Bar Association, calls upon other national and international organizations comprising members of the legal profession, to take appropriate action to affirm these essential principles and to condemn the attack on Judge Mangard.

Report

On September 3, 1984, Iranian arbitrators Kashani and Shafeiei of the Iran-United States Claims Tribunal physically assaulted third nation arbitrator Mangard in the Tribunal headquarters in the Hague. The circumstances surrounding the attack, as reported in the international press and confirmed by those present, are vivid and leave no questions as to the intent of Messrs. Kashani and Shafeiei. At approximately 9:30 a.m., Messrs. Kashani and Shafeiei waited in the entry hall of the Tribunal for the arrival of Mr. Mangard. As Mr. Mangard descended the Tribunal stairs on his way to a scheduled meeting, Messrs. Kashani and Shafeiei began shouting at Mr. Mangard. When Mr. Mangard came within reach of Mr. Kashani, Mr. Kashani grabbed Mr. Mangard by the necktie and began

twisting the necktie and shaking Mr. Mangard. Messrs. Kashani and Shafeiei continued shouting and pushing Mr. Mangard toward the door of the Tribunal. Other witnesses report seeing Mr. Shafeiei beating Mr. Mangard's back. After the intervention of several bystanders, Mr. Mangard was separated from his attackers and remained safely cloistered until the arrival of police. As Mr. Mangard eventually withdrew from the premises under police escort, Messrs. Kashani and Shafeiei continued shouting and threatening Mr. Mangard.

Immediately following the assault, efforts were made to determine whether Messrs. Kashani and Shafeiei would apologize and agree to conduct themselves properly and consistently with their office as arbitrators. They refused to apologize and refused to promise to refrain from further violence. In fact, they stated clearly that they intended to continue to bar Mr. Mangard from the Tribunal, by force if necessary. Most surprising

*The recommendation was approved. See page 326.

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he House of Delegates.

—At this writing, the Sec-
uests for the filing of ABA
riae pending before the Ex-
tee of the ABA Board of
in v. Nelson (the Haitian de-
NAACP Legal Defense and
v. Define (regarding a Presi-
Order seeking to disquali-
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ler the Combined Federal

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mittees created this year
mittee on South Africa
mittee on International
nd the Committee on the

AVID ELLWANGER
Chairman

is a remark attributed to Mr. Kashani that "if Mangard ever dares to enter the Tribunal chamber again either his corpse or my corpse will leave it rolling down the stairs."

As a result of this incident, on September 9, 1984, the Honorable Gunnar Lagergren, the president of the Tribunal, issued an order postponing all Tribunal proceedings for a period of nine days. Further postponements have since occurred and it is apparent that this incident threatens to paralyze the effectiveness of the Tribunal. President Lagergren characterized the attacks as "utterly alien to the spirit of arbitration" and the "very antithesis of the peaceful settlement of disputes."

This act, and the resulting impediments it has placed upon the Tribunal, should be of great concern to all those concerned with the peaceful resolution of disputes. On September 14, 1984, the United States government filed a formal challenge to the conduct of arbitrators Kashani and Shafeiei and moved for their removal.

The conduct described above is totally in-

consistent with the precepts of peaceful settlement of disputes and the rule of law, goals to which the American Bar Association has long been committed and which were most recently formally endorsed in the adoption by the House of Delegates of Goal VIII at the Annual Meeting in Chicago in August 1984.

It is the recommendation of the Section of International Law and Practice that, consistent with prior actions, the Association condemn the above-described incident, reaffirm its support of the Tribunal as a proper forum for the peaceful settlement of disputes which has been established in accordance with international law and whose actions should be supported, and call upon other bar associations, both national and international, to take appropriate similar action to condemn the unacceptable conduct of the Iranian arbitrators and support the rule of law.

MONT P. HOYT

Chairman