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**Subject:** : good stuff

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RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME: 14-DEC-2001 15:01:12.00

SUBJECT: : good stuff

TO: Bradford A. Berenson ( CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [ WHO ] )

READ: UNKNOWN

TO: Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )

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Thought you'd enjoy. The "Omaha beach" line is classic.

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"Higbee, David" <David.Higbee@usdoj.gov>  
12/14/2001 02:20:01 PM

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cc:

Subject: good stuff

Welcome to Europe, Mr. Ashcroft (WSJ)

Editorial

The Wall Street Journal, December 14, 2001

We'll admit to long amusement at the unique moral sensibilities of Europe, especially the French. No doubt Attorney General Ashcroft will get a lot of belly laughs on his four-nation European tour.

Just for a warm-up, French Justice Minister Marylise Lebranchu has offered "counselor protection" to indicted French-Moroccan terrorist Zacarias Moussaoui. As another act of hospitality, the European Parliament declared that it "considers that the U.S. Patriot Act, which discriminates against non-U.S. citizens, and President Bush's executive order on military tribunals are contrary to the principles" of human rights.

Europe needs to understand how most Americans are going to react to this: Something like, we hope your moral grandstanding is enough by itself to take Omaha Beach the next time around.

These worthies are announcing that the fate of a few convicted terrorists is a matter of high principle, while the death of some 3,200 innocent

Americans is not. It's possible to be confused on how seriously Americans take the terror threat if all you do is read the New York Times, though even its arm-chair civil libertarians have begun to calm down as they see that their hyperbole was overwrought.

French connection

Most Americans recognized from the first that the Bush Administration would handle tribunals and other special powers with respect for the rule of law, as (despite occasional mistakes) past wartime American governments have. A better indication of U.S. opinion is no less than Senator Hillary Rodham Clinton, who endorsed military tribunals once she examined the precedents, er, the polls.

The Europeans, though, seem intent on using the issue to score cheap points with their own electorates. Take Minister Lebranchu's intervention in the Moussaoui case. Suspected of being the missing 20th hijacker of September 11, he was charged by the U.S. Justice Department on Tuesday with six counts of conspiracy, four of which carry the death penalty. Her French moral highness responded by offering him diplomatic immunity, as she put it, because "obviously, no person receiving French consular protection can be executed."

As it happens, Moussaoui was indicted in a civilian court, not by a military tribunal, so the Europeans are declaring their refusal to cooperate with the American civil-justice system. First they said they wouldn't extradite terrorists because of the tribunals, then the reason is the death penalty and now they say they are willing to pay terrorist legal fees. Next they'll hire Johnnie Cochran.

Now, Americans also consider the death penalty to be a moral issue; some of us would call it a test of a civilization's seriousness in coping with the evil side of human nature revealed by the World Trade Center mass murders. We'd even add that the French announcement of aid to Moussaoui is an example of the immoral appeasement that has allowed terrorists to run wild for 20 years.

But in the interest of comity and practicality, the U.S. has agreed not to seek the death penalty in some extradition cases. Would that Europe showed comparable accommodation. If the death penalty so offends them, perhaps Parisians would be willing to take the terrorists back after their U.S. conviction and be responsible for their imprisonment. Or, if the French are in a paying mood, maybe they'd reimburse the cost of lifetime incarceration stateside, along with some payments to judges who need the lifetime protection of federal marshals after presiding over terror trials. Just for the legal record, by the way, under the Vienna Convention of 1963, "consular protection" allows the accused person's country of origin to facilitate contacts with authorities, to ensure that he is being correctly treated and is able to receive family visits. It says nothing about preventing justice from being carried out.

Also for the record, Moussaoui was arrested in Minnesota four weeks before September 11 after flight-school instructors became suspicious because the novice trainee wanted to learn to fly jumbo jets. He is alleged to have traveled to al Qaeda camps, and he's been on a French watch list of suspected Islamic terrorists since 1999.

Among his contacts was Ramsi Binalshibh, a Yemeni who investigators think would have been the 20th terrorist had he been able to get a U.S. visa, which he failed to do four times. Mr. Binalshibh wired \$14,000 to Moussaoui a month before September 11, which would have helped pay for the \$6,300 fee at the flight school. The Yemeni also wired money to one of the hijackers. His number was in Mr. Moussaoui's personal address book. It's charming that Europeans are worried about an outbreak of American



fascism, though we'd point out that the real version always seems to pop up on their side of the pond. But confronting the U.S. on this issue will have a lasting and damaging effect on trans-Atlantic ties. Spain has walked point against military tribunals, so it shouldn't expect help bailing out its banks if they go under in Argentina. The Bosnian peacekeepers might very well have to do without the U.S. Army. And forget about a European defense force using U.S. airlift. To adapt the Bush Doctrine to Europe, on bringing terrorists to justice, you're either for us or against us.