THE DITCHLEY FOUNDATION

The 52nd Annual Lecture
Saturday 9 July 2016

'The Court and the World'

Delivered by The Honorable Stephen Breyer,
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Justice Breyer has served as Associate Justice of the U.S. Supreme Court since 1994, following nomination by President Bill Clinton. His distinguished career began as a law clerk for Associate Justice Arthur J. Goldberg of the U.S. Supreme Court during the 1964 Term. From 1965 to 1967 he worked in the U.S. Department of Justice as a special assistant to the Assistant U.S. Attorney for Antitrust, Donald F. Turner. On returning to Washington in 1973, he took on a role as an assistant special prosecutor in the Watergate investigation. He stayed on for the following two years as special counsel to the Administrative Practices Subcommittee of the Senate Judiciary Committee.

In 1979 he served for two years as chief counsel of the Senate Judiciary Committee. In 1980 President Jimmy Carter appointed him to the U.S. Court of Appeals for the First Circuit and in 1990 he became its Chief Judge. From 1985-1989, he also served as a member of the U.S. Sentencing Commission, the bipartisan and independent agency set up to reduce sentencing disparities and promote transparency and proportionality in sentencing. In 1990, he became a member of the Judicial Conference of the United States, the national policy-making body for the federal courts.

Simultaneously, Justice Breyer has pursued an academic career beginning in 1967 at Harvard Law School, where he taught until 1994. He also taught at the Harvard University Kennedy School of Government from 1977-1980.

Justice Breyer is an acclaimed writer and his latest book, "The Court and the World", published in October last year, provides the title for this lecture.

In preparing for this lecture, I thought, "How should I really go into that today?" because there isn't one person here who isn't preoccupied with Brexit. I certainly am and so is everyone else. So my first thought was, "I wonder how that will go over. Is there a connection?" The more I thought about it, the more I thought, "Yes, there is." What?

Well, we're not part of the EU and that comes as a surprise to some in Washington, but nonetheless, we're not. The problems as you will see them are not so different. They're not going to go away or change radically; if we have them, you have them and so do a lot of other countries. I want to talk about some of those countries. Also if I'm really honest about it, one of the reasons I wrote my book on "The Court and the World" was because there are some in our country whose basic view—I can understand it, although I don't necessarily share it—is that, if I take out our constitution, and I start talking about foreign law or how what goes on beyond our shores affects us, they'll say, "But don't you understand, this is an American constitution."

I say, "Of course it's an American constitution." And I would like to show you how the values that are embodied in this constitution, which are really not so different from the

values embodied in many documents in Britain, can be best applied and kept by knowing what's going on beyond our borders. I'm not saying you have a problem like that, but it is possible. So possibly from the point of view of motive, from the point of view of example, it's not so different from what's going on here now as at first one might think.

What am I talking about? What examples? I've been on the Court for a while, more than twenty years, and I have seen things change in this direction. Twenty years ago, if I had been asked, "How many cases out of the seventy or eighty that you hear during the year do you really have to know something about foreign law or foreign practices or something beyond your own borders in order to resolve them properly?" I would have said two or three perhaps. I may be exaggerating a little. I say fifteen or twenty percent now, and that's probably understating it. I mean it's like that.

Where has this come from? Well, you know those very general words: "globalisation," "interdependence," "shrinking world," and any other cliché you'd like to use. When I hear those words, and we all hear them, you less perhaps than me, I think of the Charter House of Parma as a good example. The Charter House of Parma is a great novel. The hero, Fabrice del Dongo, is wandering around as a soldier on the field of Waterloo. Bullets are flying around everywhere, horses going back and forth, Napoleon charging this way and that way. Del Dongo thinks to himself, "You know, Waterloo, something very important is happening here. I wish I knew what it was."

We may not admit to that feeling, but sometimes we have it. So I thought it might be useful to carve out one small bit of this world, the one that I know best, the work of the Supreme Court of the United States, and show you by rather concrete example—I'll give four or five—what it means to say that we can't do our job without knowing more of what's going on outside the United States of America. That is what I mean by problems continuing to exist, so substitute the name of the country for any one you wish to choose.

But let me show you with four or five examples, and important ones. I'll start with an important one where there are very few cases in the US, and there are very few cases in the UK.

Let's start with the problem of security and basic civil liberties. This document, this constitution, gives in Article One, and in Article Two, the power to look after our security interest to the President of the United States, the Congress of the United States, and not to the judges. Ah, but the judges have the power to look after basic civil liberties. That's the first ten amendments and others throughout, about fundamental individual freedom. What happens when they conflict? What happens when the security advisors tell us that we cannot in fact lead exactly the same lives from the point of view of civil liberty that we've lived before?

At that point, the judges have to get involved. Now if you look at the United States, and I think it's coming in Europe more, and in England more, we will probably have the last word on something like that. That's another story; we can go into that in questions if you want. Just take my word for it now. We have to get involved, but although we have to get involved, when you look through the case law on the subject, you see what Justice Jackson said many years ago about the inherent power of the President to look after security matters, and the court's review of that.

He said, "Trying to understand the cases on this subject, there are only a handful and when you look at them, when you look at what the founders thought, well, it's like Joseph trying to interpret the dreams of Pharaoh." Why? Because both here and in the United States, I would say—I'm sure there are some that would disagree—but I would say that the governing rule is Cicero. What did Cicero say 2000 years ago?

I had a great translation for it: I thought he said, “When the cannons roar, the laws fall silent.” That’s pretty good. Then somebody pointed out that Romans didn’t have cannons, so that sort of wrecked that theory. But in any case, you understand the point: In time of war, stay out of it. War and national security crises are not for the judges. Our Court pretty much lived up to that. You can go back and look at the American Civil War and Abraham Lincoln. I mean it was a terrible war, we can understand his point of view, but he put tens of thousands of Americans in prison, many who were not in the armed forces of the South.

The Secretary of State at the time called in the British Ambassador and he said, “You see that bell? I can ring it once and any person I want in New York will be put in prison. I can ring it again and anyone I like in Indiana will be imprisoned. Tell me,” he said, “Does the Queen of England have such power?” Now, the courts got involved in all this after the war was over. Then it’s easier to say, “They did the wrong thing,” but at the time, such involvements were few and far between.

Go to the First World War, you will see Woodrow Wilson suppressing speech here, there, and everywhere. A few cases get up to the Supreme Court and they typically hold not for the defendant, but for the government. You can go to World War Two: 70,000 American citizens of Japanese origin were taken from their homes in San Francisco and sent to camps in the east of California and inner mountain states, against their will. American citizens! What was the rationale for that? Well, the Brits didn’t do that, they went case by case, but still the great opinion written in Britain at that time was written by Lord Atkins, where he thought civil liberties were being run over. He said in that opinion “What are we fighting for, if we’re not fighting for this kind of liberty?”

Take the case of Fred Korematsu, a feisty guy, a friend of my next door neighbour in Cambridge. I met him once. The friend’s father used to work for the American Civil Liberties Union and represented him. My father used to play poker with him, but in any case, they were certain they’d win. Fred Korematsu said they were certain they’d win. He said, “There is no justification for doing this.” The lawyers in the Justice Department looked into it and they went through all these instances of supposed sabotage and signalling to the enemy and so forth and they called in the Federal Communications Commission and they said, “Well, what about these 783 instances of signalling to Japanese submarines offshore?”

The FCC said, “Not one, not one. They were the result of individuals who didn’t know how to work the machines.” The lawyers wouldn’t sign the brief. They wouldn’t sign the brief. I thought, “Well, probably, the Supreme Court, when it heard the case, didn’t read the footnotes in the brief too carefully.” They had signed the brief eventually. They got Herbert J. Wexler, a brilliant law professor. He wrote a footnote that no one could understand, but if you read it very carefully you’d see. Charlie Horsky, who was a friend of Roosevelt, argued the case of the Japanese American Defence League and told the judges, “Read that footnote. If you don’t understand it, you read it twice.” They’d read it, but it was still six to three for the government—six to three.

Now, why? I found in Felix Frankfurter’s memoirs his description of the conference after that case was argued. The majority were civil libertarians: it was Hugo Black, it was Douglas, and it was Frankfurter. It was all the people who later brought us *Brown vs. Board of Education* and desegregated the country. They were on the side of the government and Black started that conference by saying, “Somebody has to run this war, either we do or the President. We can’t and therefore he must.” Six to three, you see.

Well, then what happened? Well, two things bring us up to date and then you will see the problem. In the Korean War, the Court decided the Steel Seizure Case. The Steel Seizure Case was the power of the President to seize the steel mills so the steel keeps going, so the soldiers in Korea will have steel, so they can have guns, so they won’t be killed. The

Court said he didn't have the power to do it—a very interesting case. I read it and I say, well, this is an opinion that's written against Roosevelt. It's much easier to write an opinion against Roosevelt if you're on the United States Supreme Court after Roosevelt is dead, because by then Truman was President and he wasn't popular. But they said, "No, there comes a point where the President and the Congress have gone too far."

To bring us right up to date, then four cases arise out of Guantanamo. Guantanamo is where they put the enemy combatants from Afghanistan, those who the armed forces have classified as enemy combatants. Some of them say, "We weren't enemy combatants. We're just innocent farmers." "Well, why did you have a bazooka?" "Well, all farmers in Afghanistan have a bazooka." But in any case you see it's a disputed matter and some want to get to court and say the President lacks the power. Congress passes a law that says none of these people can go to court. The statute says not one of them can get into a court. Our Court, five to four, in a case called *Boumediene*, says that is unconstitutional. There we are. They can get to court and now some but not all are gone from Guantanamo.

The interesting thing to me about that is Sandra O'Connor's words in one of the four cases where she says, "The constitution does not write a blank cheque to the President, not even in time of war." I agree with that. What is the alternative, Korematsu? All right, no blank cheque, but it will take you two minutes from the time you hear me say that to begin to think, "Very well, no blank cheque, what kind of a cheque does it write?"

Now perhaps you will begin to see why no one liked our decision in those Guantanamo cases. One group thought, "What are you doing interfering with the President?" The other group thought, "Why aren't you more specific? Why do you just speak in these generalities and say they can get into court, but not that you have to release them or they can't use hearsay?" The answer to all those details is of course we don't know, and the answer to why we get into it at all is, "What's the alternative? Do you want Korematsu?"

I have summarised it and simplified this, but I want you to see where we are. We do meet with British judges from time to time. We met last year and we're meeting again this year. We discuss these matters and I would say they're not so much more certain about what to do than we are. Nor would you be if you were in my job. I have to end up with something that is almost trite. I have to say, "If you want us to take this job on," and I do think we should take it on, because I don't like the alternatives, "Very well, how do we find out enough about Nashville security? Are we just supposed to listen to whatever the government says? We're not defence experts."

By the way, how do we find out what other countries do? We're not the only country in the world, you know, that has civil liberties. We're not the only country in the world that has problems of terrorism and security. And so looking forward, that's the kind of problem that we will, in my opinion, face more and more, and so will you here, absolutely you will. You then try to work it out, not believing (I hope) that judges have the magic solution, because they don't. The best they can do is to read what they're told to read.

That to me means we ought to find out—I'm glad we're meeting with the British judges—what do they do here? What do they do in Israel where they have problems like this? I know a little bit about that. If you have to bring somebody into detention, the army has to explain why and has to explain why they can't have a lawyer. "They say you can't have a lawyer. Why not?" "He'll say, 'Tell my mother hello,' and that means, 'Blow up the café.'" "You mean you want us to hold him without a lawyer?" "Only temporarily." "Come back next week and tell us why still, and then come back two days later, and come back one day later after that, and then six hours, and keep telling us why you can't give him this lawyer again." You see the idea? That's an approach.

What you have as an approach is that the lawyer for the client can't meet with the client. There's a second lawyer who meets with the client, and the first lawyer meets with that lawyer and then sees the national security matters that they may not want the client to see. Does that work? Well, your courts are in the middle of that one. There are quite a few other systems.

My only point here is that the world is such that we have to know something about it, unless of course you want judges ignorant of the subject to try to resolve the correct equilibrium between security needs, which can be absolutely real, and the problems of civil liberty. I'm giving you a sketch of that.

Let's look to commerce. That's more obvious. Cases in commerce are coming up regularly, all over the place. For example, one involved a plaintiff from Ecuador, a vitamin distributor. The defendant, a vitamin manufacturer from Holland, is part of a cartel that raises the price of vitamins. A lawsuit is brought in New York under American law. Why? Well, it's possible that vitamin prices were so high that this poor distributor couldn't afford them, so he got too weak and couldn't get further east, and so he ended up in New York. That is one possible explanation.

There is another, which is called treble damages under American antitrust law. Of course they want to sue in New York. The damages and the attorney's fees are high. Well, we have briefs in those cases, briefs filed by the EU, briefs filed by Britain, briefs filed by Canada, by Japan, from all over the world. Working the answer out in these cases means interpreting an American statute, which does speak about this. Anyone who can understand what it says gets a double medal, because it's fourteen times more difficult than the statute I just talked about in the other case.

Well, what's the answer? Now, what was interesting to me was to discover that there is already a sheath of documents like this that represent the working arrangements between the anti-cartel authorities in the EU and the antitrust division of the United States Justice Department.

A few years ago, when I was starting out in the Department, we had the same kind of thing. There were meetings with the people in the UK from Monopolies Commission, like Professor Yamey. He was great. He knew all about resale price maintenance. There were also French and Japanese equivalents. I mean the documents were the key, because those were the working arrangements. I don't think we could have decided that case intelligently unless the EU, the UK and a large number of other countries had given us briefs that gave us the information which was, in my opinion, necessary to get those different systems of the different nations in the antitrust area working harmoniously together.

It's the same thing with securities. Buyer: Australian. Seller: Australian company. Stock exchange: Australian. And that Australian company has bought an American company in Florida, where, say the Australian plaintiffs, they paid too much for it: "It was fraud and that fraud took place in Florida. We want to sue in New York." They all love to sue in New York, even though it's not that pleasant of a climate or anything. But nonetheless, can they do it? Answer, we said: "No. Sue in Australia."

Why? I don't think we would have come to that conclusion twenty or thirty years ago. I think it would have been a different conclusion because it was a different world, but we saw right in front us in that case, briefs again. Briefs filed by countries all over the world, including the UK, where they were telling us, "If you decide it this other way, you're going to really muck up our own system for dealing with fraud, so don't do it." What you see is a Court trying to use that information to try to work out a system of securities fraud regulation that will work together harmoniously. The word that we use is "comity," and the wonderful

thing about “comity” is that it sounds terrifically technical and no one knows what it means, but basically today, it means trying to work out these things together.

We had a copyright case: A student from Thailand is studying at Cornell and his textbooks, identical in English, are sold in Bangkok at about half the price, a much lower price. He gets a bright idea and says to his parents, “Send me a few,” and they sent more than a few. He was making quite a lot of money out of this thing. The publisher got very annoyed and brought a lawsuit. Can he do it or not?

Again, it depends on a technical provision in an American statute that is pretty incomprehensible. I go into my office and find a file of papers from lawyers from all over the world, from Asia, not just Thailand either, Japan, Netherlands, UK—the UK and Netherlands are great because the governments filed briefs in each of those cases saying to do one thing and then groups of lawyers followed from the same countries saying, “Do the opposite, our government doesn’t know what they’re talking about. That’s normal in our country.”

But we had briefs from all over and I couldn’t figure out why this was such a big deal, frankly, until I got down into that pile and one of the briefs told me, “You know, copyright today is not just a matter of books and music and film and so forth.” It said, “Today automobiles are copyrighted.” What? “Software can be copyrighted in many places. By the way, go into any store you want, and you will see labels, they’re all copyrighted, or almost all. By the time you get finished with your holding, you are going to affect 3.2 trillion dollars’ worth of commerce.” Even today, 3.2 trillion dollars is a lot of money.

I’m trying to give you a picture of what life is like in cases like that. Go back to human rights, and a great case: Dolly Filártiga from Paraguay in the ‘70s goes to New York, and there in New York she discovers the Paraguayan man who tortured her brother to death in Paraguay. She also finds a statute passed in the 1790s that says, “An alien can bring a law suit in a federal court in the United States and receive damages from a breach of the law of nations.”

What were they thinking of? Probably pirates or in part pirates, because I guess it used to be the rule in the 1790s that if you found a pirate, wherever you found him, you could hang him and on the way if you hold him upside down and money falls out, you give it to the victims. This statute more or less replicated that. And she said, “Who are today’s pirates? Certainly torturers,” and the court said, “Yes, that’s right.” She left and she said, “I came to the United States hoping to look that torturer in the eye and I came away with so much more.” She wasn’t thinking of money, she’d gotten what she wanted, but of a judgement there.

Soon after that, more and more cases are brought, because human rights violations take place all over the world. Now what? How do we confine this statute, or how do you interpret this statute? Who are today’s pirates? That is harder than you’ll think at first. It’s harder than you think for a few reasons having to do with the international aspects of this kind of a statute. I mean, law of nations: What exactly is that and who is to decide? Remember—and here I do retreat to America, this problem is American—that Madison said that this document here, the US constitution, is a charter of power given by liberty, not as in 18th century Europe, a charter of liberty given by power.

Now, what he meant is that if you look at France, particularly in the 18th century, or Britain too to a degree, maybe a little bit before the 18th century, or most of the countries of Europe, what you’ll describe is legal authority or sovereignty or legal power which starts at the centre. Now, they might give their citizens liberties like the right to vote, but the source is the Senate. The source of the federal power in the United States is not the Senate. The source is liberty. The individual, the person, starts free and if he has not in this document

delegated the power to the central government, the centre doesn't have it. You see the difference in attitude?

If you think that's just in old-fashioned history, try talking to a few of the people I've talked to. You don't have to probe too deep until you start hearing, "Well, this is an American constitution." But more than that: "I know who the President is. I know who the senators are. But who are all those people over in the International Court of Justice? Who are these judges over in Europe or even in Asia? Who voted for them? What have they got to do with me?" You say, "Hmm, be careful with that attitude," but you can understand it.

In the US we have 10,000 judges elected, but that's another problem. The federal judges are not elected, they're appointed by the President. "But still, I voted for the President and the Senate confirmed that individual and so there is a connection there, but who voted for the people who are writing this international law, whatever that might be? They're professors, nobody voted for them." You see.

Now my point is there's a difficulty in interpreting this statute, which we must interpret. Some of the cases talk about slavery and the defendants say, "We didn't engage in slavery. Our working conditions were tough, but that is a matter of labour law. We didn't engage in destroying the environment, we just threw the odd bit of rat poison up the tree," or whatever. But most countries have systems for drawing that line, which depend upon experts in labour law, or experts in environmental law, not judges in New York.

What about South Africa, which filed a paper in a New York court, in a case that said apartheid was against the Law of Nations and this company contributed to it. The defendant, South Africa, filed a document saying, "Stay out of it. We have our own system called 'Truth and Reconciliation' for dealing with the effects of apartheid and the last people we want in this are a few federal judges in New York." How is the federal judge supposed to treat that piece of paper? Is the state department to have free reign to tell him what to do? It's rather difficult.

If you get through those, you'd better remember something else—and judges know this and lawyers know it—it's called precedent. We say, "It's fine to bring a law suit against this horrific thing which the alien did abroad to this other alien," and pretty soon other countries say, "Well, we can do the same thing." And before you know it, they decide the obvious defendant is Henry Kissinger. He's the one who is sued in all these cases. And the country says, "We don't want that."

My point here is that when we're deciding the meaning of a statute such as the one I gave you, all these other problems come up. More and more, in my opinion, judges throughout the world, when they have similar circumstances, have to figure out or try to figure out what the generalised effect in other countries will be through the principle that they announce in their opinions. The reason they have to do that is there is no Supreme Court of the world that can iron these things out.

Take another easier case. We've had three or four cases involving treaties about abducting children. I think three cases in two years; that's a lot for a single treaty. We only have seventy-five cases or so a year. They involved abducting children. They're often difficult to interpret. On one side you have a group of people who spend their lives trying to prevent children from being abducted, an absolutely worthy cause. On the other side you have people who spend their lives trying to prevent women being abused and that is one of the reasons they say that children were abducted; a worthy cause as well. They're both trying to tell us how to interpret this statute, but in opposite directions.

That is the world. But here is a good question to ask. There are treaties all over the place and of course we interpret treaties. Of course, when we do interpret treaties, we have to

pay attention, and nobody denies this, to what other countries and what other courts are saying about the proper interpretation of the same treaty. My friend Professor Cassese in Italy had his fourteen law students looking up the answer to this question.

How many organisations do you think there are—call them treaty-based or executive agreement-based or something else-based—where they have the authority—some kind of treaty or document, a bureaucracy or administrators from several countries, and they make rules and those rules in practice bind more than one nation? Have you got the picture? Do you understand what I'm talking about? At a multinational organisation, like the UN or the International Trade Organisation, there's a staff, they make rules and those rules in practice bind more than one nation. They bind Britain, they bind the US, they bind others; they bind more than one. Think of the number. I mean, the WTO is obviously one, as is the UN in many respects. How many think there are more than 100? How many think there are more than 500, more than 1000, more than 2000? All right, there are more than 2000. There are more than 2000 and we, the United States, belong to about 800.

I got my legal assistants to look them all up. I mean, there are things you've never heard of. There are some you have heard of: Blue Fin Whale Commission, International Civil Aviation Authority, nothing wrong with those, fine. International Olive Oil Council, I'm not sure everybody's heard of that, but they're all over the place. What is the status of those rules?

In Basle we have banking meetings and the banks come to meet, and whom do they meet with? They meet with regulators from our Securities Exchange Commission, regulators from other parts of the world. And what do they do? They figure out what the right rules would be. Who promulgates the rules? Well, they go back to their own country and promulgate them, and then they say to the people who are affected by them, "Come in and comment." "What do you mean, come in and comment? You already decided this over in Basle." I'm just giving you a quick state of the art. They're all over the place.

What is the organisation that has probably just affected you fifty times in the last hour and you won't even think of it? ICANN. It regulates the Internet and domain names. Do you know what it is? It's a private corporation incorporated in Los Angeles, California. So these organisations are all over the place. They have all kinds of statuses, but do they have legal effect? When, where, it depends. All the Civil Aviation Authority can do is tell you, "No, you can't fly," that's a pretty good effect. So what is their status?

Now this is a question you have had legally in the EU. We have Germany, we have Italy, we have Austria, and each of the supreme courts of those three countries has said that the European court in Luxembourg does not have legal authority. It does not have legal authority to tell them what to do in respect to everything. There have been reservations. They haven't yet found one that was binding, but they've said they have reservations.

So I say, "What are we going to do?" If we say that Congress can give all these organisations whatever authority they want, is that the option? Suppose we say no, then how do people today solve problems like security, like environment, like health, like commerce, on and on, because the whole last forty-five minutes has been to try to describe to you what those problems are in some depth, in one court, general enough so you can get it, but deep enough so that you see it's a big problem.

That is the world today. Indeed, if you say Congress has no power to do whatever they want, how do we deal with them? What happened to Article One of this constitution that said, "The Congress of the United States shall have the power to legislate"? That's one we haven't had to decide yet.

Now have I given you a picture? I've been telling the people who say, "But it's an American constitution," that if you read a little further, they will see that if we say, "Goodbye world," it's going to affect us anyway. These problems are not arising out of somebody's philosophy. They're not arising out of the attitude of some judge. They're not arising because he's a liberal judge or a conservative judge or any other kind of a judge. They are brought upon us by the nature of today's world. That is what it's about.

It seems to me that the best way to preserve our American values is to participate in what will be an effort, maybe problem by problem, maybe by groups, maybe through all kinds of different kinds of organisations—there isn't only one way, but there are ways of doing better at this, rather than less well—to find out what's happening abroad and to understand more about the nature of the problem. That is how we solve our problems. That is how we solve our problems under law. That is the point I want these people to understand.

If I'm talking to the young, I say, "I hope that you still remember what you learned in school." My wife has been trying to teach my grandchildren, and has offered them twenty dollars if they can memorise Lincoln's Gettysburg address. He starts that address by saying, "Four score and seven years ago, our fathers brought forth upon this country a new nation, conceived in liberty and dedicated to the proposition that all men are created equal." Why, '87, that brings us back not to the Constitution but to the Declaration of Independence, and it's in that document that it says all men are created equal. "We are now engaged in a great war to decide whether that nation, or any nation, so conceived and so dedicated can long endure."

So what is he talking about? I got my law clerks to look this up. It's George Washington's letter to Catherine McCoy and it has one sentence of which those attorneys were thinking. They're thinking that the government they created in 1789 is the last great experiment for promoting human happiness by reasonable combat in civil society. "Experiment" is the key word. In 1789, there was nothing like it. So it was going to depend upon democracy.

That is why Lincoln wants to fight that war in part; he doesn't want the place to fall apart, because if it falls apart, that experiment failed. That is what I wanted to tell the high school students in America: you're part of that experiment, because it isn't over. You say, "What is it an experiment in?" It's that technical stuff I was talking about, taking that technical, boring detail, and if you think it's boring when you hear it in forty minutes, try in a period of forty days! But take it and try to work out different solutions through the rule of law.

The French writer who appeals to my generation most is Albert Camus. What he says at the end of the play, my God, that resonates. It has resonated with me since I was in college. He's written about the plague in Oran and how they react—he's really talking about the Nazis in France—and he says, "Why did I tell this story?" He says, "I told this story because I wanted people to know what they lived through. I also want to write about doctors, because doctors are people who just do good without thinking about it. They don't have a theory; they just do it. But most of all, I wanted to say this because the germ of that plague never dies. It goes into remission. It lurks inside of human beings. It lurks there, one day to emerge for the unfortunate destruction or the education of mankind once again to send its rats forth into a once happy city."

That's it. That's the alternative to the rule of law. I say to the judges and the law students but really all of us: We're there because we don't want that alternative. We would like the alternative that will go under the boring name "rule of law". There are many, many ways to skin that cat, many, many ways to bring about a society that can in fact do a little better in dealing with these problems that are now worldwide.

I guess the whole point of this is to say any effort to do such a thing in today's world has to be cooperative. It has to involve you, it has to involve us, and it has to involve many other nations as well. Thank you.