

“Imagine a World without International Law”

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Ladies and Gentlemen:

It is a pleasure and an honor to have been asked once again to address students of the Western Hemisphere Institute for Security Cooperation during Democracy and Human Rights Week. The importance of the agenda of this annual event is growing with each passing year. And the challenges posed by the need to promote democracy and to respect human rights loom ever larger, for you as soldiers, and for us all as citizens.

My friends, international law is under assault. The threats come from many directions. They are serious, in that they put into jeopardy not just the details but the fundamental assumptions of the international legal system. Among these is the premise that all nations, and all of those who act in their names, are the subjects of a regime of law that does not depend on the policy decisions of any individual country. Today there are those, including men and women in positions of government power, who would defend the proposition that international law does not exist, or, worse, that it is just a branch of international politics. The international law of human rights, born only in the second half of the twentieth century, is especially vulnerable to these assaults. Is it really international? And, more importantly, is it really law?

My topic this year is “Imagine a World without International Law.” What would be our rights, and our obligations, in such a world? And is there any real prospect that we might someday find ourselves living in a world without international law?

I propose to present to you an extended analogy. I am going to ask, and I hope to answer, the question of what happens to a society whose rule of law has for some reason fallen away. Then I will invite you to leap with me from a discussion of domestic legal systems to a consideration of the regime of international law. I will ask whether a world without law would be subject to the same developments as a city or state that has devolved into a condition of lawlessness.

That the role of the law and its practitioners is vital in preserving rights and democracy should provoke no controversy. Everyone who has grown up in the United States in the last few decades is familiar with what has become one of the most famous brief lines from the greatest poet of our English language, William Shakespeare. It may strike you as odd for me, of all people, to take these words as my starting point, but I will explain in a moment why I am doing so. They come from the play Henry VI, Part Two:

The first thing we do, let's kill all the lawyers.

That line is certain to get a laugh, and sometimes applause. Sometimes, even, a standing ovation. But what is less well-known is its context in Shakespeare's play, which makes the whole thing far less amusing. I hate to undermine the work of so many fine comedians, but

this is important. And if anyone wants other lawyer jokes to substitute for this one, I know lots of them.

Jack Cade, Dick Butcher, and their two accomplices were failures at all they attempted. They were incompetent as tradesmen, they were illiterate and lazy, and they could not succeed even as thieves. Their hope of improving their unhappy lives, such as it was, lay only in the possibility that the order of things could be overturned, not to establish justice or a new social structure, but so that they could steal without penalty.

Here is Jack Cade's platform, as Shakespeare wrote it. Let me suggest that the interpreters not attempt to render this into Spanish, since I will translate it myself in a moment into contemporary English:

There shall be in England seven halfpenny loaves sold for a penny; the three-hooped pot shall have ten hoops; and I will make it a felony to drink small beer. All the realm shall be in common, and in Cheapside shall my palfrey go to grass. [A palfrey is a pony, so this is like saying that my horse will be allowed to nibble the fairways on the Fort Benning Golf Course.] And when I am king – as king I will be – there shall be no money; all shall eat and drink on my score; and I will apparel them all in one livery, that they may agree like brothers, and worship me their lord.

It is in response to this that Cade's friend Dick Butcher replies, "The first thing we do, let's kill all the lawyers." And Cade goes on:

Nay, that I mean to do. Is not this a lamentable thing, that of the skin of an innocent lamb should be made parchment? that parchment, once scribbled o'er, should undo a man? Some say the bee stings; but I say 'tis the bee's wax, for I did but once seal to a thing, and I was never mine own man since.

What are these guys really saying? Here is my translation. Cade wants to create a system in which no one has the economic or political power to challenge his word as final. He wants to determine everything that will affect the lives of people: he will say who gets to buy what and for how much, and he will have the right to take over the private property of individuals, or the public property that we all share, just because that is what he wants to do. At the end of the day, what he seeks is to be worshiped as the supreme ruler, with no one able to question or to challenge him. His ambition is to be the Decider.

Cade's complaint against the law and lawyers is that they will not let him lie and cheat. There are rules that say that a written commitment, once signed, must be honored. Lawyers will see to it that such rules are enforced, and he hates that. He wants to be able to break his promises with complete freedom.

So why do Cade and Butcher want to kill all the lawyers? Because it is the lawyers who will oppose their scheme. It is the lawyers who will stand and defend those who would be the conspirators' victims. It is the lawyers who will ensure that promises duly made be kept, that order for the common good be respected, and that neither Cade nor any other man in England will be worshipped as the people's lord.

Shakespeare was telling us that so long as lawyers are on the job, and the rule of law is respected, Cade's scheme cannot succeed. The law, not any demagogue, will reign supreme. A condemnation of lawyers? No: Shakespeare's is the highest praise. Not for lawyers as individuals, of course, but for the role that lawyers, and the law, play in society, in ensuring that the rules that protect even the least among us are honored, and that if they are not, there will be consequences.

What I propose to do now is to consider the fate of a society that finds its rule of law to be destroyed. This can happen, and in history it has happened, on a number of occasions, and for a number of reasons. What follows when there are no lawyers and judges, and no institutions, to make or to enforce the rules?

A nation without law, of course, devolves into chaos. Every person acts in a way best designed to defend her or his own interests, with no requirement that anyone try to preserve order, to protect those not able to protect themselves, or to promote the concerns of society as a whole. No one can predict the outcome of any transaction, except that the stronger party will derive the greater benefit. There can be no regulated exchanges of goods or services. There is no basis for community action of any kind. The ability to marshal and to use force rules the day.

There can, in other words, be no freedom in such a society, with a single exception: the person whose ability to exercise power is supreme over all others is free to do as he or she wishes. Out of respect for this audience, I am going to call this person "El Jefe." Everyone else is denied any measure of liberty and independence, and exists in the shadow of El Jefe, subject to his whims, and living only as he may graciously permit. But, of course, El Jefe himself also lacks an important element of freedom. That is, he can never relax. He can never be confident that he will not have to put down a rebellion. He can never be free from the concern that there is someone, somewhere, plotting to take his place. And even if he is sure that he is stronger than every other individual, he cannot be sure that others will not group together, combining their powers, to overthrow him. El Jefe can never rely securely on the loyalty of the people he needs to maintain his position.

This textbook case of anarchy is unstable, and it cannot continue for long. After awhile, El Jefe will demand that our lawless society develop rules, because he needs them to preserve his domination (and to get a good night's sleep!). So he must see to it that a system of rules is imposed on the society, which will not challenge his plans, but which will provide a measure of order and control that actually exceeds his individual powers.

He will use three devices to do this. He will create a system of rewards for those who do what he wants. He will provide for punishments for those who threaten him. And he will also have to convene a body of people willing to enforce the new rules, offering them special incentives to serve his interests, rather than their own. The rules will provide for protection of the enforcers, but not so much protection that they themselves become a potential threat to El Jefe.

The system of rules put in place by El Jefe to promote his own agenda will work only if people can be coerced to do things they would not otherwise do, and to refrain from doing things they otherwise would do, because such behavior is required (or prohibited) by the rules. In defense of his own power, comfort, and advantage, El Jefe has no interest in protecting any members of society who cannot individually or in combination challenge that power. Nor does he care about achieving benefits to be enjoyed by the whole (or any

substantial portion) of society. And so if subjects of the rules in fact obey them, they will do so not because of any belief in the system of rules, or out of commitment to the state, but only out of fear of the kind of violence of which El Jefe and his enforcers have a monopoly.

It requires a moral vision – something wholly absent from El Jefe’s world view – to provide any reason for caring about other people. But such a vision is a critical component of the shared philosophy of our enlightened age. It is the very essence of what makes our democratic societies worth the sacrifices that we – and especially that you, who take up arms at such risks to yourselves to keep us all free – routinely endure. We do not have a place for El Jefe in our societies because, in our collective views, government not only must be effective, it must be legitimate. People have no stake in their government, and no reason beyond self-interest for obeying its rules, unless it is ultimately answerable to the people, who can be confident that it must in all cases recognize their basic rights. That, of course, is where the law and lawyers play their part.

In El Jefe’s society, dissent would have no protected status: there would be no value to El Jefe in encouraging expressions of ideas that might promote an alternative view of how society should be organized. Neither he nor those who enforce his rules would have any interest in freedom of speech, of religion, or of assembly. Indeed, on the contrary: these freedoms would pose a direct threat to the continuation of El Jefe’s power.

Such a society would never draw the loyalty of women and men of character, willing to sacrifice lives or fortunes to defend it. And mercenaries do not make reliable soldiers. History provides many examples of societies with no greater foundation than this. Ruled ultimately by force, and with no promise of progress except in defending the status quo, those societies have, without exception, failed the tests posed by history.

You may have noticed that I have not referred to El Jefe’s system as a rule of law. And it is not, I submit, a rule of law, because it lacks one key element, which characterizes legal systems in democratic societies. That is, El Jefe has not provided that he himself is subject to the rules. There is something that strikes us as fundamentally unjust in the insistence that the weak comply with the rules or incur the leader’s wrath, while he himself stands above them. He has not created a process for review by independent neutrals – judges – empowered to strike down official actions that do not satisfy the test of conformity to the rules, or, more importantly, conformity to the principles that underlie the rules, and inspire the commitment of the people as a whole. And this too fails the test of legitimacy.

El Jefe’s regime does not deserve the honor of being called a system of law until that gap is filled. But were he to agree to be bound by his own rules, his dominance would immediately come crashing to an end. If his promises too were binding, and his decisions too subject to the review of people disinterested in the outcome, the irrationality of his programs in light of the greater good, and their failure to serve the people, would be their undoing.

It is no wonder that the first target of those who would be dictators is always the independent judiciary. Even if El Jefe can dominate the political power of the day, judges whose tenure does not depend on that political power are a critical check and balance to prevent that dominance from destroying democracy. Where political leaders can act without regard to the judiciary, which is to say without regard to the rule of law, there is neither democracy nor rights, because there can be no means to defend either.

A dictator needs to be the source, not a subject, of the law. But in a democracy, the government itself must be subject to the rules that the people create.

What emerges, then, in the absence of law, is the destruction of community, and the organized abuse of the weak by the strong. What emerges is a breeding ground for fundamentalisms, for which blind faith, not reason, is the basis, and in which orthodoxy is more important than accountability. This is dangerous, because the state will have no choice but to impose its will by force. Otherwise, it risks losing the order that holds society together.

Jack Cade's dreams were not of the rule of law, because in his ideal universe, he was above the law. A democracy cannot accept that. One of the great men I have been privileged to meet in my life, Kingman Brewster, Jr., President of Yale University when I was a student there in the 1960s, and later U.S. Ambassador to the United Kingdom, defined democracy and the rule of law as a system in which leaders are required to provide explanations for their actions, which are then subject to the scrutiny of reason.

I think that is an excellent definition. One of its consequences is that it allows us to test for the existence of a rule of law by asking whether El Jefe must explain himself, and thus is subject to the rules. If he is not, then there is no law. And there is no democracy.

What does all of this have to do with international law, and especially the international law of human rights in 2006? There are several fundamental differences between domestic legal regimes and the system of international law. One, obviously, is that the latter lacks the traditional branches of government. There is neither a legislature nor an executive: no one is charged with the responsibility for making laws, and no individual or institution is mandated to enforce them. And there is no court which is empowered to interpret the law, in a manner that all are bound in advance to accept. International law operates on the basis of the consent of states, whether express (in the case of treaties) or implied (as in customary law). In that sense, it is a more democratic system than domestic law could ever be, since every member of international society has a role in the creation of the rules that will govern that society. But it is also necessarily weaker, since its powers to coerce in each and every case are subject to the renewed approval of the states that comprise the international order.

These differences underscore for the international regime the possibility, and the danger, of the emergence of El Jefe. It is possible for one state so to dominate international society – by monopolizing military power, economic advantage, and cultural influence – to allow it to act as if it were the source, but not a subject, of the law. And that prospect has the same dangers for international society as the emergence of El Jefe poses for an individual state. That is, if a dominant power can deny that the rules apply to it, that power raises questions about the legitimacy of the international legal system as a whole, and suggests that the reason for weaker states to obey the rules is not that they are the law, but that failure to obey will incur punishment at the hands of El Jefe and his enforcers.

In our day, the United States of America is without question the dominant force in the world, whether measured by military superiority, economic success, or the worldwide expansion of our culture. We must be especially vigilant, therefore, that the United States not assume the role of El Jefe, in denying the validity of the international legal system that applies to all. For that is the way of chaos and instability and suspicion, encouraging ideologies that find their answers not in human reason but in the will of an unknowable force that makes irrational demands.

I personally believe that this is a real danger. And to determine whether it is likely to happen, I would use the same test I suggested earlier to determine whether El Jefe's rules do or do not amount to a system of law. That is, I would ask the question: Does the United States concede that international law requires it to explain its actions, and on occasion to do what it would rather not do, or to refrain from doing that which it would like to do?

I have to admit that I cannot state the answer to this question with certainty. And I find the need to make this admission to be frightening. It seems to me that this country has adopted a consistent policy of exceptionalism, which suggests that the law must be obeyed by others because it is the law, but it will be obeyed by the United States only when we determine in our discretion that it is in our interest to do so. Otherwise, not only will we reserve the right to act not in accordance with the law, but we will act, unilaterally if necessary, to impede the evolution of the law, and even to deny that the law exists.

Here at the Western Hemisphere Institute, the curriculum includes, as you all know, a healthy dose of human rights law, as well as international humanitarian law, and what the Institute calls "democratic sustainment," which includes the subjection of the military to civilian authority in democratic societies. This Human Rights and Democracy Week is an important vehicle to promote discussion and study of these and similar legal issues.

I can testify from personal knowledge that these subjects are taught well at WHINSEC. Your instructors are skilled in imparting knowledge, in answering questions, and in provoking serious thought and discussion. They teach the human rights and democracy agenda that has always been part of the national interest of the United States.

But human rights and the law of war must be grounded in international law that is law in the true sense of that word, not a mere set of rules that nations may observe or ignore as they please. If we cannot be certain that the Geneva Conventions or the Pact of San Jose are law, then the question of why – or even whether! – soldiers must observe those treaty regimes cannot be answered clearly. If we cannot be certain that the International Criminal Court is legitimate, then that organized system to punish crimes against humanity, endorsed by nearly all of the developed world, will be a failure. If we cannot be sure that the provisions of the United Nations Charter forbidding armed attack on sovereign members of that organization are legally binding, then the vision of each generation since World War II – that aggressive war can be limited by legal means – will never be achieved.

Yet here are some sad truths. No country in time of armed conflict has, since 1949, ever denied the applicability of the Geneva Conventions . . . except the United States. No major Western country has withheld its endorsement from the International Criminal Court . . . except the United States. And while other countries have engaged in invasions and occupations since World War II without sanction in advance from the United Nations, no country has asserted that it had the legal right to do so . . . except the United States. These are facts, not in real dispute. They are well documented. The question open to discussion is what they mean.

Two years ago, I spoke from this platform during Human Rights and Democracy Week and asked whether the United States still has the moral authority to insist that other countries obey international law. What motivated that talk were the then-recent revelations from Abu Ghraib that American soldiers had engaged in the most flagrant sorts of human rights abuses. Everyone agrees that serious violations of the law of war have been committed in Iraq, although there remain substantial disagreements about how widespread they are, and how

high up the chain of command it is fair to assign responsibility. Since then, as we all know, the drumbeat of these charges against individual troops has grown more insistent. We have all read in the last month alone of U.S. Marines accused of massacring unarmed civilians, and of U.S. soldiers charged with raping – raping! – Iraqi women, and murdering them and members of their families.

Every civilized person must agree that there can be no excuse for rapes and murders, whether they take place in Haditha or in Detroit or in Caracas. It is a disappointment, but not a surprise, that bad people still manage to win the privilege of wearing the uniform of their country's armed services and go on to commit these terrible acts. And you know that that uniform provides no defense, and no immunity, to charges of criminal misconduct.

Obviously, however, it would be simply absurd to assign any kind of responsibility even for the worst acts of this or that United States soldier to the military generally, or to those who serve in it. No one can sensibly draw any conclusions about the U.S. Army or the Marine Corps as an institution from the acts of a few of its troops, so long as that is what they were: renegade acts by undisciplined individuals. Their commanding officers may deserve condemnation, in such cases, precisely for failing to maintain order and control. If that lack rises to the level of negligence, of course, it may trigger what lawyers call "command responsibility." But even then, liability is limited to small sets of people who acted badly, or who failed to prevent others from acting badly. And it is also true that most of the charges of bad acts are just that – charges – which have not been proved. People accused of crimes, whether or not they are in uniform, are entitled to the presumption of innocence.

Yet there is another kind of allegation of misconduct that is not so easily contained in small packages. It has its roots in a systematic confusion that affects nearly all public debate about our campaigns against terrorists. Are we at war, attempting to achieve victory over a defined enemy of our nation? War brings with it a set of legal rules, which must be obeyed. Or are we pursuing criminals, intending to bring them to justice? Justice means not retribution or revenge, but rather a process by which individuals' guilt is tested by a neutral tribunal according to rules known in advance, and their eventual punishment is determined only once it is established that they are in fact and at law guilty of the offenses charged. That is, a demand for justice also presupposes a commitment to the rule of law.

War and the pursuit of criminals both involve men and women in uniform exercising the authority of the state to chase down and apprehend people thought to have committed bad acts. But they are fundamentally different, and are governed by very different sets of legal rules. For political reasons, discussions of the Middle East in the media muddy these differences, and the results encourage confusion over which rules apply, and to whom. At the end of the day, if we do not maintain a strict separation between the criminal laws and the laws of war governing armed conflict, it is inevitable that our Government will find itself repeatedly in violation of both systems of law.

If what happened in the United States on September 11, 2001, was a series of criminal acts of great magnitude, then we have the power and the tools to use the laws of our country to pursue justice. If that is our position, then we must use those tools to catch the criminals, to lock them up, to try them before a neutral jury, and, if they are found guilty, to punish them severely. It makes sense, in this context, to talk about bringing to justice those who murdered thousands of innocent people, and so violated our country. There is no question, of course, that if this is our approach, those accused of criminal offenses also have certain rights, including the right to counsel, the right to a speedy and fair trial, and the right to confront

their accusers. These are rights that are older than the United States Constitution, and we take them very seriously, even when we are dealing with people who have committed truly atrocious acts against our citizens or against our nation.

If, on the other hand, we consider that what happened on that fateful day was an act of war, then again there are certain responses that are permissible, and others that are not. Our goal here is not justice but victory. We are entitled to target the enemy's troops in the field, who are legitimate targets for lethal force. We are not bound to honor any constitutional or similar "rights" of enemy soldiers on the battlefield, because the very nature of war virtually eliminates those rights, so long as active hostilities, consistent with the laws of war, are taking place.

But when we take captives in war, we have certain obligations, which are binding on us under the law of war. They include the obligation not to torture our prisoners, or to permit others to do so. They include the duty to bring before an impartial and regular tribunal anyone who makes a claim to prisoner-of-war status. They prohibit us from putting enemy soldiers on trial for committing acts lawful under the laws of war, although they do allow us to detain prisoners-of-war for the duration of the hostilities even if they have committed no criminal offense.

In my view, the attitude showed by the United States in insisting on being the sole judge of whether and when the Geneva Conventions apply during what we call the Global War on Terrorism comes frighteningly close to the position of our friend (*nuestro amigo*) El Jefe. It is not the only example: the systematic denial of rights to detainees at Abu Ghraib, Bagram, Guantanamo, and the so-called "black sites" of which we are not permitted even to know the locations, suggests that our conduct of this War cannot be reconciled with international norms governing wars. Surely those of you studying international humanitarian law here at this Institute cannot come up with a justification for waterboarding, no matter how hard you try. And the French taught us in Algeria that an army that loses moral legitimacy in the way it fights a war will lose the war.

Yet before we despair about the United States having proved itself an outlaw in this instance, I want to be sure you are all aware of what I, at least, believe to be a very substantial sign of hope. And it comes from the usual place: the place we know we can always look for vindication of the rule of law, and defense of the rights of those who would otherwise have no rights. It comes from the courts, and, in particular, the United States Supreme Court.

I want to tell you about the Supreme Court's landmark decision of two weeks ago, in *Hamdan v. Rumsfeld*. This case is the most important judicial decision concerning the separation of powers and foreign affairs since the Supreme Court told President Truman in 1952 that, even with all of the powers of the Presidency, he did not have the authority to nationalize the steel mills during the Korean War.

Salim Ahmed Hamdan was captured by U.S. forces in Afghanistan in November 2001. Seven months later, he was transported to a military detention facility in Guantanamo Bay, Cuba. It was alleged that Hamdan had been a driver, bodyguard, and personal aide to the master terrorist and criminal, Osama bin Laden, beginning as long ago as February of 1996.

Hamdan has been detained at Gitmo from 2001 until today. He has never been charged with a crime triable by domestic courts. Nor has he ever been accused of violating any recognized law of war. That is, no one has ever said that he personally committed an atrocity, an act of

violence against a civilian, or an improper assault against a person *hors de combat*. Nevertheless, he has been held, for nearly five years, pursuant to various orders of the President of the United States. According to these orders, persons deemed to be “unlawful enemy combatants” may be detained indefinitely at the naval base in Cuba, neither subject to the rules that limit the executive’s power with respect to persons accused of crimes, nor entitled to the protections of the Geneva Conventions, which regulate the treatment not only of prisoners-of-war, but of those who can make a claim to that status.

President Bush has contended that the congressional authorization for the use of force following September 11, and/or his constitutional powers as Commander-in-Chief, permit him this extraordinary right to hold individuals outside both national and international law. He has also claimed that such persons may be tried for unspecified offenses before military commissions, appointed by him and reporting to him, not bound to follow the Uniform Code of Military Justice, and not respecting basic and fundamental principles recognized by all civilized nations as key elements of a fair trial.

This set of claims, I am afraid, is exactly the position that El Jefe would stake out. It is precisely the status above and outside the law to which Jack Cade aspired.

As has happened so many times in the history of this great Republic, the Supreme Court has ridden to the rescue. On June 29, five justices (of the eight participating in the case) ruled that the President does not have the powers he has claimed. Not, at least, without a congressional enactment suggesting that the people’s branch of government has participated in the decision-making. Justice Stevens’s 73-page opinion is a masterpiece of scholarship and of effective advocacy. But it is more than that. It is a defense of our freedoms, and a reaffirmation of the principle that the United States and its president – whoever he or she may be – are in fact subject to the law, both domestic and international. The strong language of the Court’s opinion includes this quotation from James Madison, our fourth President and the author of *The Federalist Papers*: “The accumulation of all powers, legislative, executive, and judicial in the same hands . . . may justly be pronounced the very definition of tyranny.”

The Supreme Court held that military commissions may be used to try persons accused of violations of the laws of war (a set, of course, that does not include Hamdan), but only with permission from Congress, which in this instance was neither sought nor obtained by the President. Not even such commissions, however, could authorize holding someone like Hamdan himself, accused only of an unspecified conspiracy, which is not and has never been an offense against the laws of war. And finally, any military commission must recognize the basic rights of every defendant, including the rights (absent truly exigent circumstances) to be present in court, to hear evidence against him, and to confront his accuser.

Another part of the opinion is, in my view, at least as important as these. The Supreme Court held in *Hamdan* that the Geneva Conventions, or at least common Article 3 of those Conventions, is self-executing. That means that persons detained in time of war, whether between nations or not, have legal rights, which the state is obligated to observe. And in particular, they are entitled not to be subjected to “The passing of sentences . . . without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples.”

In the United States, it has long been recognized by the courts that international law is part of our law, and treaties made under the authority of the Constitution are the equivalent of statutes passed by the Congress and signed into law by the President. Therefore, an individual who can make out her or his claim to the protection of the Conventions, and who has a colorable argument that such protection has been neglected, may seek the help of the courts in asserting it. This is the very meaning of “democratic sustainment,” because it is this that will sustain our system of democracy against those who would destroy it.

From this part of the *Hamdan* decision we can draw this conclusion: according to our highest court, the United States is subject to the law of nations, whose instruments may be used, when necessary, to enforce this country’s compliance with that legal system.

Justice Stevens has, I submit to you, demonstrated through *Hamdan* that there is no immediate prospect of a world without international law. That is not to say, of course, that all nations will obey the law: none of us will live to see that day, if it ever comes. Yet persistent violation of the law does not by itself undermine the rule of law. What would destroy the system of legal rules is the denial of their applicability. And *Hamdan* says that in our country, at least, the regime of legal rules may not be denied. *Hamdan* reminds us that, in a democracy, the law is preeminent over political power. Strength and dominance do not buy immunity from the law, either domestic or international.

Justice Stevens and his colleagues have shown themselves to be the very kinds of lawyers and judges that Jack Cade knew he would have to kill. Democracy and the rule of law, not a two-bit criminal wannabe, were the winners in the *Hamdan* case. And there was also a loser. A big loser. The loser was not, as the press has reported, President Bush or his Administration. The big loser in *Hamdan* was Osama bin Laden. The *Hamdan* decision demonstrates that he has failed, at least so far, in his efforts to terrorize our country into betraying its principles. International law survives in this country, at least for now.

I thank you again for the privilege of speaking with you, and I look forward to hearing your questions.