SPEECH BY LORD BINGHAM

Ladies and Gentlemen the Academicians

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It is with regret that I am obliged to trouble this prestigious ceremony, by speaking in my native language. Unfortunately the lack of knowledge of your language does not give me any other option than to ask for your indulgence regarding this.

May I preface my remarks by paying tribute to the Onassis Foundation for its vision and generosity in establishing an international Prize in Law. To all who believe that respect for the law is a condition of good government at home, and peace, understanding and cooperation among the nations on the international plane, I feel sure that the Onassis Prize will be an inspiration, a challenge and a welcome reminder of our Hellenistic heritage. I am profoundly grateful to be the first recipient of this Prize.

For that high honour my thanks are due to the Institut de France, and its committee of selection. I shall not weary this distinguished audience with professions of my unworthiness to be so honoured, nor

even cavil at the great generosity of Sir Basil's eulogy, mindful of La Rochefoucauld's observation that to disclaim praise is simply to invite its repetition. I therefore content myself by expressing the confident hope that every successive recipient of this Prize will be more distinguished and more deserving than the one before.

I qualified as an advocate just over half a century ago, and I count myself exceedingly fortunate to have practised the law, as advocate and judge, during the period which has elapsed since then. For we have seen a gradual but steady change of legal culture, a change which may in retrospect be seen as even more significant than it now appears. There has been, not only in the United Kingdom but in many (if not all) countries elsewhere, a widening of horizons, an increased willingness to learn from others, a conscious wish to collaborate.

Fifty years ago, English law was largely set in a mould which was inward-looking and nationalist. The courts were of course called on to interpret and apply Acts of the British Parliament, and this they did by seeking to distil the meaning of what Parliament had enacted, applying rules of interpretation more literal than would have been applied in most other parts of Europe. The judges also applied, and

cautiously developed, the common law. While they would on occasion make reference to, and even rely on, the effect of decisions made in the United States, Canada, Australia, New Zealand and South Africa – countries regarded as deriving much of their law from Britain – no allusion was ever made to the rich and varied civil law traditions of the leading European countries. The French and German Civil Codes were, generally speaking, an unopened book.

Questions of international law, whether deriving from international customary law or from treaties, came on occasion before the courts. But they did so rarely, and the courts tended to be as respectful of their own precedents as of international authority. A similarly blinkered approach was adopted towards the protection of human rights. Although lacking any equivalent of the Declaration des Droits de l'Homme et du Citoyen of 1789, the British were proud of the protections afforded to their people by the common law, and disinclined to believe that they had anything of value to learn from the practice or example of others.

Among the catalysts of change have been, notably, the accession of all the leading western European states (except Switzerland and Norway) to the European Community, a marked

increase in the number, and enlargement of the scope, of international conventions, the rapid development of an international law of human rights and the work of distinguished comparative lawyers such as Sir Basil himself. In all these contexts the lawyers and judges of one country have been and are exposed to the thinking and decisions of lawyers and judges in other countries. They meet, they discuss, they become involved in the same cases, they grapple with the same problems; and in so doing they find hitherto unsuspected virtues in other systems of law and hitherto unsuspected weaknesses in their own.

It remains true that most cases in national courts are decided by applying domestic law. But cases arise in which the answer yielded to a problem by domestic law appears unjust or in which domestic law appears to give no clear answer. In such situations judges have shown an increased willingness to study and learn from the reasoning and decisions of respected courts elsewhere which have wrestled with the same problem, whatever the legal tradition to which they belong, recognising that judicial wisdom – like distinction in any other branch of science or art – is not segregated within national boundaries. Similarly, when interpreting international conventions, in multifarious fields as diverse as the recognition of refugees, child abduction and

torture, the task of national courts is not to ascertain the meaning of the instrument according to national rules but to search for the collaborative aim of those who framed and acceded to it, taking into account – although not invariably accepting – the meaning which other courts and learned authorities have given to it. The international law of human rights, boldly foreshadowed in the Universal Declaration of 1948 and since given practical effect in local conventions around the world, perhaps most notably the European Convention, has led almost every country, however strong its general respect for human rights, to acknowledge, with the poet Horace, that on occasion *bonus dormitat Homerus*.

There are doubtless those who regret any dilution of the pure milk of national jurisprudence and resist any crack in the wall of the national legal fortress. I am not of their number. Nor, I infer, are the Onassis Foundation and the Institut. Judges are of course duty-bound to apply the national laws to which they are subject. But if without doing violence to such laws, they can draw on the wisdom and experience of others elsewhere in confronting the same problem, this seems to me in every way desirable. In enables the law to fulfil its potential as a bridge and not a barrier, a symbol of what unites rather

than divides us. It is in that firm belief that I gratefully accept this most prestigious Prize.