Judge Dennis Davis | Judge Dennis Davis Discusses the Classic Film Judgement at Nuremberg

- [Wendy] It is my great pleasure to welcome back Judge Dennis Davis, who will be discussing the 1961 classic film, "Judgement at Nuremberg." Welcome back, Dennis. It's lovely to see you.

- [Dennis] Lovely to see you too.

- [Wendy] I will now hand over to you, thank you.

- Lovely to see you. Much better weather than we've had.

- I know.

- There's a bit of an echo here, I don't know, if that's because you, okay, right. This film, which I'm going to show you clips of tonight, I'll try to give you a context as to what I'm really on about here. For many years, I've done a series of lectures, both at my own university and both in the United States and Australia, where I've taught a course called Legal Theory Through Film, which I've tried to sort of look at various legal theories through the eyes of films, and at the same time, give students an idea of film theory at the same time.

And one of the films that I've shown over and over again is this 1961 film of Stanley Kramer called "Judgement at Nuremberg," which essentially documents the trial of the Nazi judges which took place in 1947 after the main trials in Nuremberg, albeit that in the film version, the fictionalised version, they make it 1948 for a reason I'll come to. And why I wanted to choose this, why this film seems to me not the only one, but one which is so pertinent to much of the material which we have been canvasing in the courses that we've all enjoyed so much, particularly in Trudy's lectures have been because this particular film raises really profound questions about morality, about who was culpable during Nazi Germany, and maybe even more than that, the role of law and the relationship between law and morality, and the extent to which a judiciary can be complicit or alternatively, can play a constructive role in trying to preserve some form of rights.

And I'm going to argue this evening that this film, even though made in 1961, and even though it is located in the time of the Nazi period, seems to me still to have a lot of relevance today. It's interesting that particular point, because when I showed it to an Australian master's class that I taught year and a half ago, it fascinated me the extent to which they applied what was going on in the world in general, Donald Trump in particular, to the film, and that they were seeing a relevance of the film to their particular lives. These were young master's students that I was teaching at the University of Melbourne.

And when the film was first shown on national television in the United States in 1965, it was shown on ABC Network, 48 million Americans tuned in to see this film, and what was particularly interesting in relation to the notion of to whom the film is addressed and to what it

applies, during the course of the film, the network broke in to announce literally breaking news that there had been a clash between the police and marches at Selma in Alabama. You may remember there was a peaceful march in which the marchers were trying to get from Selma, Alabama through to Montgomery in Alabama, and they were brutally struck by the police, the sheriff, the notorious Jim Clark, who's heard on television saying, "Give these God damn niggers a beating."

That was actually shown in the breaking news as they interrupted the film, and then they went back to the film, and the commentators at the time who spoke about the film said it was extraordinary the extent to which people who were interviewed thereafter who'd seen this film about Nazi Germany suddenly started to think, "My goodness, in our country, given this level of brutality, this extraordinary disregard for human life, these things can happen not just in Germany," and the film therefore, had an application to what was going on in Selma, Alabama at that particular point in time. And the film unquestionably, when it's been shown to South African students, particularly during the apartheid era, had enormous resonance.

It raises, let me start off with a fundamental proposition that legal philosophers have engaged with throughout, well, certainly last 50, 60 years, which was the role of law in evil legal systems, and there's a very famous debate, and I'm not going to go into the intricacies of it, between HLA Hart from the University of Oxford and Lon Fuller from the University of Harvard, about what the role of the German judges, the Nazi judges were at that particular point in time. One of the cases, which to some extent, sees some resonance in the film we're about to see clips of, related to what was called the Grudge Informer case.

This was a case in which a woman decided, extraordinarily, to get rid of her husband, whom she was dissatisfied with, and he came home from the Russian front and started saying a whole range of critical things about Hitler, and she reported him to the authorities, and he was executed on the basis of a law which suggests that it was criminal offence punishable by death for anybody who defamed the Fuhrer. After the war, she was charged with denial of his liberty by a German court, and the court decided that in fact, although it was the law at the time, it was a law that should have been disregarded, and she was sentenced.

The very distinguished South African born legal philosopher, David Dyzenhaus, who's now at the University of Toronto, wrote a wonderful book called "Hard Cases in Wicked Legal Systems." I learned the other night that when he did it for his doctorate, that one of his external examiners may well be on this call tonight, another hugely distinguished South African born lawyer, Sir Jeffrey Jowell, but David pointed out, David Dyzenhaus pointed out actually, that wasn't what had happened in the Grudge Informer case, in fact, the court should not have sentenced the man, and that the law had some latitude in it, and that is relevant to something we will see a little later on in the film.

But the fundamental proposition that I'm talking about is this clash between the moral content of law and law itself, and what the relationship between the two is, and what we do when we are

faced with these levels of immorality. It's fascinating to me, if I can just make the point, that in last week's, there is a very interesting part where Pinehas kills an Israelite and Armenianite with whom Israelite was having sexual intercourse, and as a result of which the plague, which you encountered the Jewish people at the time, the Israelites stopped, and there's a significant debate in the tractate of Sanhedrin 82 in which the Talmud grapples with the point as to whether in fact the killing was legal, even if it may have been moral, was it legal?

And they come to the conclusion it wasn't. So you can see that this particular problem of the relationship between law and morality and what the role of courts are in systems which stray from any basic moral code, you can see that this is particularly pertinent. So this film is therefore a fictionalised version of a real live trial of the judges at Nuremberg which actually took place in 1947. The reason they changed to 1948 in the film is because they wanted to show the expedience of the Americans at that time who wanted to close down these cases, it's shown in clips, sorry, in scenes in the film, close down the cases of the trial of the Nazi judges for the reason that the Americans now desired to have Germany on its side in its fight against Russia, itself a reflection of just how plastic morality is in the face of political pragmatism.

But I run ahead of myself, so let me say a little bit about the background to this film. The director of the film, Stanley Kramer, made it 1961, made a number of other very interesting films, some of which I've also shown in the courses that I've done. "Inherit the Wind" is one, which is the Monkey Scopes case about Darwin's theory, and he made another very famous film called "Guess Who's Coming to Dinner" with Sidney Poitier, which was banned in South Africa when it first came because of fact that it was highlighting interracial relationships. So he was the director of this particular film, which has an extraordinary cast.

The film actually reached the point where two, unusually, two actors were nominated for the best actor award, Spencer Tracey, who plays Judge Haywood in the film, and as well, Maximilian Schell, who actually won the award for Best Actor of the Year, and who of course, played, it was a curious character, played a number of roles dealing with the questions of Nazi Germany. He was in the "The Odessa File" and in "The Man in the Glass Booth" and others, just to give some illustration. Other actors I'll come to in a moment. But the fundamental idea of the film was therefore to raise the moral questions, the fundamental moral questions that arose because of courts, which, as in the grudge case in former a case, where courts actually refused to hold the line, and in a sense, caved in to the ideology of the Nazis at the time.

I want to make one other preliminary point. This film is also very famous for another reason. It was the first time that holocaust scenes were shown in a commercial film, so that it meant that in 1961, the world, who'd seen this film, because it was a major movie, saw scenes, atrocious scenes of the Holocaust for the very, very first time, which made the film equally significant for that particular purpose. So that's the background to the film, and I'm going to introduce some of the other actors as we move on in their context, but I'm going to start off, and I'm very indebted to Carly, who's standing in for Shawna, and given the fact that I'm such a Luddite, is helping me with the clips.

We're going to start with the first clip, which is a clip Richard Widmark, who's acts as the prosecutor, just one piece of background, as his character, we learn in the film, which is a three hour film I might add, we learn that he had been with the forces, American forces, which in fact had been the first to come across some of the concentration camps, a point which influences the character enormously. So here is a little clip from his opening address to the court.

A video clip of the film "Judgement at Nuremberg" plays.

- The defendants serve as judges during the period of the Third Reich. Therefore, you, Your Honours, as judges on the bench, will be sitting in judgement of judges in the dark, and this is as it should be, for only a judge knows how much more a court is than a courtroom. It is a process and a spirit. It is the house of law. The defendants knew this too, they knew courtrooms well. They sat in their black robes and they distorted, they perverted, they destroyed justice and law in Germany.

- If the prosecution will please watch the light. The interpreter cannot follow you.

- I'm sorry, Your Honour. They distorted, they perverted, they destroyed justice and law in Germany. Now, this in itself is undoubtedly a great crime, but the prosecution is not calling the defendants to account for violating constitutional guarantees or withholding due process of law. The prosecution is calling them to account for murder, brutalities, torture, atrocities.

They share, with all the leaders of the Third Reich, responsibility for the most malignant, the most calculated, the most devastating crimes in the history of all mankind, and they are perhaps more guilty than some of the others, for they had attained maturity long before Hitler's rise to power. Their minds weren't warped at an early age by Nazi teachings. They embraced the ideologies of the Third Reich as educated adults, when they, most of all, should have valued justice. Well, here, they'll receive the justice they denied others.

Clip ends.

- So already in the first clip, very fiery Richard Widmark, as I said, if you've watched the film as a whole, and many of you may have, but those of you haven't, just to, as I said, influenced as he was by the awful scenes of coming across the concentration camps, and therefore, in a sense, influenced by that in the prosecution of these judges, raises a number of very interesting points.

He first raises the question of that these were educated people, and indeed, I will talk a little bit more about that in a moment, and that is really important, that these weren't thugs when they started. They were thugs eventually, but they weren't, these were people with doctorates in law, some of whom had been appointed under the Weimar regime. These were people who, to some extent, you'd expect to show at least some fidelity to law. They had taught law, they had written law. They were lawyers of many years standing, and yet ultimately, as Richard Widmark poses,

they in fact not only collapsed, but they facilitated, and they were very much part of the wickedness of the regime itself, which in a sense, means the film doesn't shy away from a really important point, who's culpable in wicked legal systems like this?

Obviously, this is the most extreme, but as I indicated in my illustration of the Selma rights, as I've indicated in relation to the question of apartheid South Africa, these are things that actually really, really touch us, and really got a clip on the screen shows why I hesitated about the role of judges under apartheid, and you did right to ask that question. One of the most shameful experiences that, one of the most shameful cases that one can come across in South African jurisprudence was in 1961 when there's a case called Lockhart, in which there was a serious challenge to the Group Areas Act.

And if you live in Cape Town or you visited Cape Town, and you drive past that fallow land in District six which has still hasn't been reconstructed after all these years, becomes even more important. And there was real argument, really good legal argument as to why that act should not have been implemented. And there's five members of this appellate division, the judgement of Judge Holmes spoke about the fact that there had to be latitude to the government in its "colossal social experiment in which it had embarked," a colossal social experiment to dump hundreds of thousands of people on the Cape Flats was described as a colossal social experiment. I ask you to say yes to the question that was put to me, absolutely, this film speaks to all of those particular kind of problematics.

The second clip I want to show you is a young Maximilian Schell. He was about 30 years old at the time. He won the Oscar for it against Spencer Tracey, although I watched an interview which I would've loved to have shown you where he was interviewed many years later by Larry King, that is Maximilian Schell talking about the film, and talking about how it really affected him in a most profound way, and how he had worked with an ageing, he was only about 60 at the time, but he looked much older, Spencer Tracey, how he'd worked with him. But here's Maximilian Schell in a clip, which is his opening address, and again, you've got to give it to the director. He does not shy away from profound moral questions, some of which have been raised by Trudy in her lectures, and which are put together here in a sort of, as a recollection, which constitutes a clip from the opening address of the defence counsel, acted here by Maximilian Schell on behalf of the judges. So this is clip two.

A video clip of the film “Judgement at Nuremberg” plays.

- Did they not know the intentions of the Third Reich? Did they not hear the words of Hitler's broadcast all over the world? They did not read his intentions in "Mein Kampf," published in every corner of the world? Where's the responsibility of the Soviet Union, who signed in 1939 the pact with Hitler, enabled him to make war? Are we now to find Russia guilty? Where's the responsibility of the Vatican, who signed in 1933 the Concordat with Hitler, giving him his first tremendous prestige? Are we now to find the Vatican guilty? Where's the responsibility of the world leader Winston Churchill, who said in an open letter to "The London Times" in 1938, 1938,

Your Honour, were England to suffer national disaster, I should pray to God to send a man of the strength of mind and will of an Adolf Hitler?

Are we now to find Winston Churchill guilty? Where's the responsibility of those American industrialists who helped Hitler to rebuild his armaments and profited by that rebuilding? Are we now to find the American industrialists guilty? No, Your Honour, no, Germany alone is not guilty. The whole world is as responsible for Hitler's Germany. It is an easy thing to condemn one man in the dark. It is easy to condemn the German people, to speak of the basic flaw in the German character that allowed Hitler to rise to power, and at the same time comfortably ignore the basic flaw of character that made the Russians sign pacts with him, Winston Churchill praise him, American industrialists profit by him. Ernst Janning said he's guilty. If he is, Ernst Janning's guilt is the world's guilt.

Clip ends.

- Again I can emphasise the fact that the film does not shy away from difficult questions, and you know, the character of the defence counsel here making a whole lot of points which are troubling even if they don't exonerate the members of the accused, as it were, I'm going to on just one aspect. Ernst Janning, who's the character to whom he refers, is played by Burt Lancaster. You would've seen him amongst the four in the dock. It's interesting, he looked much older at the time. I think Burt Lancaster was only about 48 years old at that stage, and as you know, he'd come to fame in that film called "From Here to Eternity."

Most people remember the iconic beach scene with Deborah Kerr, which has really gone into the annals of film history in all sorts of ways, but he plays a character who was a real character called Franz Schlegelberger, who was in fact, was tried at Nuremberg, who had a doctorate in law, who had been appointed as a judge during the Weimar Republic, who was highly respected as a jurist, and who was not a Nazi to start off with, and had written books which certainly indicated, if you wish, an engagement between law and morality, and yet this particular Franz Schlegelberger, who then becomes Ernst Janning in the film, but is the real character who, as I say, did spend quite a bit of time having been sentenced.

He was sentenced to life, but like so many others, came out in 1956. That particular character is interesting compared to some of the others that I'll come to in a moment, because he was somebody who truly, as I think the Maximilian Schell character indicates, Herr Rolfe in the film, is troubling because of the stature that he brought to bear and yet the stature which he brought to bear which ultimately legitimated the Nazi regime, which makes him such a more difficult character to deal with, and we will come to him shortly when I show a couple of clips of his evidence and his reaction right at the end.

Now, you're going to have to bear with me here, because I've got two longer clips, and it's perhaps somewhat of a risk, particularly when you're doing a lecture to do this, but they're absolutely compelling. The first, if I, now I'm muddling up, but I think it is the first of the two is a

clip which shows the character played by Montgomery Clift, another very famous actor who, since we've dealt with Marlon Brando on this course in "The Godfather," together with Marlon Brando and James Dean, was perhaps the quintessential method actor that came to fame in a film called "A Place in the Sun," and as well as "From Here to Eternity," both of which made him a star. He plays a role here of a man who had been sterilised by the sterilise court of Germany at that time, of Nazi Germany, and there is an absolutely riveting exchange under cross-examination.

It's absolutely heart rendering, but the purport of it is quite interesting, both from a legal and a moral point of view, and I'll discuss that after you've seen the clip. But let's look at it, it's about six minutes. I hope you'll bear with me, but it is some absolutely extraordinary acting by Montgomery Clift in this exchange that he has with Maximilian Schell, the defence counsel.

A video clip of the film "Judgement at Nuremberg" plays.

- You may take your earphones off now if you want to. Mr. Peterson, you say you work as a baker's helper, is that correct?

- Yes, that is right.

- [Rolfe] What other occupations have you held?

- I have worked for my father.

- What did your father do?

- He was a railroad worker.

- Yes, but what did he do?

- Oh, he would raise and lower the barrier at the crossing of traffic.

- And you spoke about your brothers. How many brothers do you have?

- Five.

- [Rolfe] And sisters?

- Four.

- [Rolfe] Oh, then you are a family of 10?

- Yes.

- [Rolfe] What occupations do your brothers have?

- Labourers.

- [Rolfe] All labourers? I see. Mr. Peterson, you said the court at Stuttgart asked you two questions, the birth dates of Hitler and Dr. Goebbels, is that correct?

- Correct.

- What else did they ask you?

- [Peterson] Nothing else.

- Are you sure? Are you sure there were no questions about your schooling?

- Objection. The witness has already answered that question.

- Objection sustained.

- May I ask you, Mr. Peterson, may I ask you, how long did you attend school?

- Six years.

- [Rolfe] Six years, why not longer?

- I had to go to work.

- Would you consider yourself a very bright fellow at school?

- At school, it was a long while ago, I don't-

- Perhaps you were not able to keep up with the others, and that's why you did not continue?

- Objection, Your Honour. The witness's school record has nothing to do with what happened to him.

- It was the task of the health court to sterilise the mentally incompetent.

- Objection overruled.

- Were you able or were you not able to keep up with the others? I would like to refer to the deficiency report made at the school about Mr. Peterson. He failed to be promoted and was

placed in a class of backward children. You say your parents died of natural causes?

- Yes.

- [Rolfe] Would you describe in detail the illness your mother died of?

- She died of her heart.

- [Rolfe] In the last stages of her illness, did your mother show any mental peculiarities?

- No, no.

- [Rolfe] In the decision that came down from Stuttgart, it is stated that your mother suffered from hereditary feeblemindedness.

- That is not, that's not true, not true, not true.

- Can you give us some clarification as to how the Hereditary Health Court Institute arrived at that decision?

- It was just something they said to put me on the operating table.

- It was just something they said?

- Yes.

- Mr. Peterson, there was a simple test that the health court used to ask in all cases of mental incompetence. Since you say they did not ask you then, perhaps you can answer to us now. Form a sentence out of the words hare, hunter, field.

- Your Honour, objection.

- Mr. Peterson, was the court in Stuttgart constituted like this one?

- I don't understand what?

- Was there an audience?

- An audience, yes, yes.

- Thank you.

- Objection overruled.

- Hare, hunter, field, Mr. Peterson. Take your time.

- Hare, hunter field. Hare, hunter. They had already made up, when I walked into the court, they had made up their minds. They had made up their minds. They put me in the hospital like a criminal. I could not say anything, I could not do anything. I had to lay there. My mother, what do you say about her? She was a woman, a servant woman who worked hard. She was a hardworking woman, and it is not fair, not fair what you say.

Clip ends.

- We could have continued with that, but I wanted to give you a sense of it, and it's quite, I think it's an extraordinary piece of acting. It's also quite an extraordinary piece of filmmaking, the way the pencil is used to sort of almost depersonalise the questioner and focus attention on the Montgomery Clift character, but the acting is quite something. And of course, these cases happened, but just think about what's happening here is that the defence counsel is saying they applied the law. There was a test, hare, hunter, field. If you can't answer that, then you failed the test.

Now of course, teaching that, showing this film in South Africa during the apartheid period, people would, of course, refer very much to the race classification cases where there was this pencil test, which was used to determine whether somebody was African or not by putting pencil in their hair, absolutely awful test, and yet the same sorts of thing happened. Now, the question of course, that arose was, well, they were applying the law, you see? As long as they applied the law, that was fine, and you can't hold them responsible for that, which is part of the theme of the film.

It is interesting too that when I showed this film to a group of American students, they raised the interesting question with me about the way people are cross-examined in rape cases, and the way victims of rape cases are put before, are really, as it were, cross-examined in a manner in which they, exactly as happened here, reproduce the same horror in many ways as that which they encountered, not necessarily physically, but certainly emotionally during the course of a rape cross-examination. And again, from a South African perspective, I was struck by that when the students spoke to me about this, that was one of their reactions. I don't know what yours is, but I'm sharing it with you.

When I read a book, a recent book about a year or two ago by Redi Tlhabi, one of our most distinguished journalists who wrote a book about the Zuma rape trial, and how, in fact, the complainant, Khwezi, had been cross-examined in that trial, and I read those three or four pages, absolutely appalled by exactly the same experience as you have here, and you ask yourself, "Is that really what a trial is about?" If you're trying to prove that the law says X or Y, how far are you are entitled to go? And what experience can you put a witness through, as in the case of Maximilian Schell, sorry, Maximilian Schell as Montgomery Clift?

It's extraordinary when you think of the character that he plays here compared to his character in "From Here to Eternity" or "Place Under the Sun" or many of the other films in which he acted, and of course, at one point, he had a relationship with Elizabeth Taylor, regarded as the most beautiful couple in Hollywood. When you look at this, you think it's really a most remarkable performance, even though it's a sort of small realm.

The next clip draws on an absolutely true trial as well. It's called the Feldenstein trial in the fictitious example that we've got under the Nuremberg trial in the film, but actually, it was called the Katzenberger case. It's a very, very famous case in Nazi Germany history from 1942, and it was really very much based on the race defilement law of Germany at the time. And the case is very important because it drew huge audiences and because it was used in 1942 to, in fact, exponentially increase the extent that was required hatred of those Jews who still remained. And the story was basically this, that Mr. Katzenberger, Leo Katzenberger was his name, was a very prominent Jewish businessman in Nuremberg of all places, and he had rented an apartment to Irene Seiler OUT of the kindness of his heart.

He was 70 at the time when she was 30. The law, the race defilement law was that it prohibited sexual intercourse between a Jew and a non-Jew, and it was punishable by death. There was no sexual intercourse between Mr. Katzenberger and Ms. Seiler, but the case was a total fabric of the Nazi regime, and in fact, it culminated in Mr. Katzenberger actually being sentenced to death, and Ms. Seiler, for telling the truth, spent two years imprisonment for perjury. So the case is brought up in this film, and I'm going to show you a clip about it in a moment. Let me just make two other points before we do see the clip.

The case was presided over by a most notorious Nazi judge, Dr. Oswald Rothaug, who was an absolute, unlike the Ernst Janning character that is the Schlegelberger character, person, that jurist who is a much more problematic character, and who I'm going to come to in a moment, here, by contrast, you had a real hack. He of the four judges who are on trial in the film is the real, is the personification of the hack. Ironically, his name in the film is called Emil Hahn, but it is Dr. Rothaug. Interestingly enough, he's played by Werner Klemperer, the actor who was himself a refugee from Nazi Germany, which is an interesting little aside.

In the clip, we are going to see, I actually suppose if we were sitting around the room all having a nice glass of wine, and I could ask you questions, I would love to know whether you'd actually recognise who the actress is who plays the role of the young woman who is now being led in examination in chief, but since I don't have that ability, 'cause we're all sitting on Zoom, and I'm talking into my computer, I shall tell you it is Judy Garland. Judy Garland in 1961, who at that stage was 39 years old, plays this role, and it is truly again, just like the Montgomery Clift, a small role, but quite an extraordinary piece of acting from this very famous singer who plays the role of this young woman who had spent two years imprisonment and is now called at the trial, as she was in the real case.

The real Ms. Seiler was called to testify against Dr. Rothaug, who was the judge. So let's have a look at the way in which Richard Widmark deals examination in chief with Judy Garland.

A video clip of the film “Judgement at Nuremberg” plays.

- Will you raise your right hand? I swear by God the almighty omniscient that I will speak the pure truth and withhold and add nothing.

- I do.

- Will you please state your name to the tribunal?

- Irene Hoffman Valner.

- Mrs. Valner, did you know Lehman Feldenstein?

- Yes.

- [Lawson] When did you first meet him?

- It was 1925 or 1926, I am not sure exactly.

- How old was he at this time?

- He was in his 50s.

- [Lawson] And how old was he at the time of his arrest?

- He was 65.

- I see. What was the nature of your relationship?

- We were friends.

- [Lawson] Did you continue to see him after your parents died?

- Yes.

- [Lawson] Why?

- We were friends. He owned the building that I lived in. His business took him there quite often.

- Now, what did you say to the police when they questioned you about having intimate relations

with him?

- I told them it was a lie.

- Could you tell me who the public prosecutor was?

- Emil Hahn.

- [Lawson] Did Emil Hahn question you?

- Yes.

- [Lawson] What did he say to you?

- He took me into a separate room where we were alone. He told me that it was no use to repeat my story, because no one would believe me, that there had been a race defilement, and the only pardon for this was to kill the violator. He told me that if I protected Mr. Feldenstein, that I would be held under arrest for perjury.

- [Lawson] What did you reply to him?

- I told him what I had said again and again. I told him that I could not say anything else. I could not lie about someone who had been so kind to me.

- Were you held under arrest?

- [Irene] Yes.

- Now, Mrs. Valner, tell us, what was the manner in which Emil Hahn conducted the prosecution?

- He made a mockery of everything Mr. Feldenstein tried to say in his own defence. He held him up to ridicule whenever possible.

- What was the reaction of the audience?

- They laughed again and again.

- How long did the trial last? Mrs. Valner, how long did the trial last?

- Two days.

- [Lawson] Was the verdict passed at the end of the second day?

- Yes.

- What was the verdict?

- Guilty.

- [Lawson] And what was the sentence?

- Mr. Feldenstein was sentenced to be executed. I was sentenced to be imprisoned for two years for perjury.

- Who was the presiding judge?

- Ernst Janning.

- Were the sentences carried out? Thank you very much, Ms. Valner, that's all.

- Any questions?

- Your Honour, I would like to request that the witness be kept available. We will present further evidence on the Feldenstein matter when it comes time for the defence to present its case.

- The witness will please hold yourself so available. You may go, you're excused now.

- [Judge Haywood] Colonel Lawson.

- [Lawson] Your Honours.

Clip ends.

- So you wouldn't believe that that was the same person who sang "Over the Rainbow," but there it is, and it reflects exactly the facts in brief truncated form of the Katzenberger case and what happened there. Now, there are many other themes that I can't possibly canvas with you this evening in the film. There's a role played by Marlene Dietrich who plays the wife of a German general who died, and she, when Judge Haywood, who's played, of course, by Spencer Tracey, lives in that house, she comes to the house, and there are engagements between her and the Spencer Tracey, the judge, and they're very interesting, 'cause again, Stanley Kramer explores with the audience watching the film, the character of Marlene Dietrich who uses that usual kind of defence, we did not know this was going to happen, and you know, we didn't like Hitler.

And many of these particular questions are then raised, so they're a tribute of themes that are

explored, including, as I said, a point in the film where it's suggested to the Judge Haywood that he goes easy on the defendants because of the fact that the USA is so need of Germany in the Cold War. But those are separate themes, let me keep to the fundamental one, and we come now two last clips. The first is a speech given by the Ernst Janning character that is Burt Lancaster, who, as I indicated, is the character chosen by the director to personify the more difficult problem, not of a hack, not as someone who was a traditional Nazi, not as someone whose history had to a large degree indicated that he would be entirely opposed to Hitler, somebody who would be antithetical to anything that the Nazi regime stood for, not somebody who himself had been appointed as a judge during the Weimar social democratic period, but somebody therefore, who you would've thought, "How was that possible?"

And it's therefore important that this character be played. It's played magnificently in this film by Burt Lancaster in another of the extraordinary performances of the film. You'd have noticed, by the way, I think perfectly obviously, some of the interesting camera work that is done when the Judy Garland character is giving her testimony, and when she walks out of the courtroom, but that again, would be for a different occasion. So let me play to you the clip now. It's a penultimate one in which Janning, played by Burt Lancaster, essentially now effectively stops Maximilian Schell's aggressive cross-examination, and essentially admits his guilt, but in a particular way which is, I think, rather interesting, and which I think speaks, in some ways, to many conditions of authoritarian societies in which people think it's always going to go away, or we can live with this person, or we can do a deal with this person, or we can compromise our morality for pragmatic reasons. It is a speech which seems to me the transcendent particular condition and speaking more universally, but here is a short clip from it.

A video clip of the film “Judgement at Nuremberg” plays.

- What about those of us who knew better? We who knew the words were lies and watched their lies? Why did we sit silent? Why did we take part? Because we loved our country. What difference does it make if a few political extremists lose their rights? What difference does it make if a few racial minorities lose their rights? It is only a passing phase. It is only a stage we are going through. It will be discarded sooner or later. Hitler himself will be discarded, sooner or later. The country is in danger. We will march out of the shadows. We will go forward. Forward is the great password. And history tells how well we succeeded, Your Honour.

We succeeded beyond our wildest dreams. The very elements of hate and power about Hitler that mesmerised Germany, mesmerised the world, we found ourselves with sudden powerful allies. Things that had been denied to us as a democracy were open to us now. The world said, "Go ahead, take it, take it. Take the land, take the right land, it, take all of Austria, take it." And then one day, we looked around and found that we were in an even more terrible danger. The ritual began in this courtroom, swept over the land like a raging, roaring disease. What was going to be a passing phase had become the way of life.

Clip ends.

- Well, how many times have we heard that in different contexts? How many times have we sort of said "It'll pass. It's just a transient phase," and "Well, the country's in crisis, it needs this kind of leadership"? I don't need to talk about particular political leaders, but in a world where authoritarianism has certainly taken root in many ways, and where this kind of discourse is rather more prevalent than I for one would like it to be, it's not something which doesn't touch you as you listen to it, and of course, it's absolutely true that the industrialists and others on the conservative side, admittedly, of Germany at the time thought they could manage Hitler, that in fact, they could box him in, and that all would finally come to some level of normality.

Well, how wrong they were, and of course, the Janning character here in the longest speech, which I've just given you a clip of, basically says, "That's what I thought. That's why I did what I did, and I was then caught up with it like a raging disease, and at the end of the day, here I am in court." And it is indeed something which is deeply troubling for those of us who seek to see how we can address the past and deal with it in a much more sensible, rational, and socially just type of manner. So again, film made in 1961, but Nazi trials seems to speak way beyond its confines of '61, or alternatively, its subject matter, and as for that reason that I'm going to conclude with the last scene of the film.

Just to keep you in the loop, of course, the judge is pressurised, certainly he's the main judge, with the other two, to go leniently on these accused, and he doesn't do so. He does sentence them to life imprisonment, and he persuades one of the other judges to come along with him, and that, of course, character's spared by Spencer Tracey, who himself was a most remarkable actor, and who did a lot of work with Stanley Kramer, "Inherit the Wind," which is another form of film we see, particularly in present days, unscientific kind of rhetoric that we're all confronted with. Again another most remarkable performance by Spencer Tracey in a courtroom drama on the Monkey Scopes case, very, very interesting film in itself, and well worth discussing, he was in that.

He was, of course, also in the other film I've mentioned, "Guess Who's Coming to Dinner," and many, many others, and of course, had a lifelong relationship with Katharine Hepburn, the great actress who, they were together until until he died, Spencer Tracey. So he plays the central role and perhaps the moral authority in the film, and I perhaps haven't given enough clips of him, which is a pity, but many of you will doubtless want to watch the film. It's certainly available. I've had a couple of email SMSs. It's certainly available on DVD.

The film entirely may be on YouTube. I don't know, I haven't checked that, but it's certainly easily available in DVD through Amazon. So we are coming to the last scene. The judge, the court has effectively convicted, not effectively, it's convicted all of the four of them, all different, all in the film as a whole, you'd see how different they were, and at the end of the film, Maximilian Schell comes to the house of Judge Hayward, Spencer Tracey character, and asks him whether he would be prepared to see his client who's now in jail, and he's been sentenced to life imprisonment. And because of the speech of which a clip that I've just given you, because of

that speech, Spencer Tracey feels inclined as the judge to do just that, and so he comes along to the jail, to the prison where the Burt Lancaster, Ernst Janning character is now imprisoned, and this last clip is actually the last scene of the film, and it's extraordinarily powerful. Let me play it for you, and then I'll just make one or two final remarks.

A video clip of the film "Judgement at Nuremberg" plays.

- That is right in this world. Your verdict was a just one.

- Thank you. What you said in the courtroom, it needed to be said.

- Judge Haywood, the reason I asked you to come, those people, those millions of people. I never knew it would come to that. You must believe it. You must believe it.

- Herr Janning, it came to that the first time you sentence man to death you knew to be innocent.

Clip ends.

- Extraordinary way to end the film, that riveting picture of Burt Lancaster standing there rather pathetically having been told the profound moral lesson, which I suppose is true of anybody who presides in a courtroom or makes any moral decision, which is the first time you make one where you know it's wrong, for the wrong reasons, you're leading down that slippery slope, and certainly during the apartheid era, I wondered long and hard about that in relation to the South African judiciary, not all of them, of course.

There were some magnificent exceptions, and we must be clear about that, but those who weren't, or any other country for that matter, when decisions are made of that particular kind. And so it seems to me that this film made in 1961, which raises really the critical questions about the relationship between law and morality and the role of morality in decision making, and who is culpable for evil and for injustice in the world, in all sorts of particular wicked countries, wicked systems, seems to me that the film made in 1961 is as relevant today as indeed it was when it was made.

I do, I hope you do find it too, something that you'd like to see again, see the whole film. In fact, what I would've loved, but of course, it's impossible, would've been to, as I've done with my students, where you show 'em the whole film, and then we spend an hour and a half dissecting it thereafter. I've done the best I can in an hour to give you the clips, and I hope the film lives with you as I think it does with most people who've seen it. And also goes to show just how much, if we analyse film based from the theory of film and from from law, how much we can learn about each other's systems. So thank you very much.

- [Wendy] Dennis, thank you very much for the most outstanding presentation.

- [Dennis] Pleasure.

- [Wendy] You have left us a lot to think about.

- [Dennis] Pleasure, pleasure.

- [Wendy] So on that note, everybody, I'll say goodnight. Thank you so much, thanks, Dennis.

- [Dennis] Thanks for the confidence.