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Morals, Law and Power in International Relations by Percy E. Corbett

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affairs is pertinent to judicial problem-solving. This treatise is now good authority and such facts of life and such sociological arguments as are presented by the authors are bound to have a telling effect on the future course of judicial decisions.

Plaintiffs' lawyers will of course take Harper and James to their hearts because the authors do clearly describe the trend away from an individualized "fault" theory to a theory of social responsibility in an era of almost unbelievable interdependence, unbelievable at least to those who are not aware of what has been happening around them. But this is not meant to be just a plaintiff's brief. If today's facts and judicial decisions happen to favor plaintiffs as a class, everyone should know about it and talk about it, not under the guise of "duty" and "proximate cause," but in the pure light of today's conditions. Defendants will ultimately find themselves in a better position in an arena where such problems are frankly thrashed out.

Please do not conclude that "The Law of Torts" is only a sociological text. Actually it does not go nearly so far in that direction as legal treatises one day will go. The authors' presentation of social problems is not sufficiently correlated with legal doctrine in a scientific sense to call it any more than a halfway step to a scientific policy approach to the problems of torts. Very likely the legal profession as a whole is not ready for the whole step. This, then, is the best yet — both from the perspective of social interests and from the perspective of legal technicality. The problems are presented, at least, and the role that doctrine *may* and often does play is outlined. As always, the ultimate job of persuasion is left in the only place it presently fits — in the arguments of counsel for defendants and counsel for plaintiffs.

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MORALS, LAW AND POWER IN INTERNATIONAL RELATIONS by
PERCY E. CORBETT. Los Angeles: Haynes Foundation, 1956, 51 pages,
\$1.50.

When I read the text of Professor Corbett's three Haynes Foundation lectures, given at the University of California in Riverside last year, I had to think of a delightful story. It comes from the titanic era of American international law, between the two world wars. In a stimulating debate, so the story goes, in which the late Edwin Borchard of Yale had the main word, Professor Fenwick of the *American-Journal-of-International-Law* and the *Pan-American-Union* fame, was heard to mut-

ter "I don't know what's wrong with me today, but I agree with everything Borchard has said."

The exact tone of the remark was not related to me. In any case, I had a similar feeling when leafing through *Morals, Law and Power in International Relations*, except perhaps that my tacit muttering was unconditionally happy.

Much of what Mr. Corbett has to say belongs among the most realistic and sensible things said about international law and relations in many years. The main points of his thesis were stated or foreshadowed in his much more substantial volume on *Law and Society in the Relations of States* (1951). But the present volume presented an opportunity for better focusing. The contours of his conception come out much sharper, indeed.

In Mr. Corbett's own words, his composite thesis is that (1) there is a need for "fresh appraisal of the role of *morals* in international relations"; (2) that although the majority of individuals must be assumed to seek "order and predictability" in their individual relations, international *law* as a "coercive order," "has (inevitably) failed for want of adequate organization" and will continue to fail until the "supreme challenge to the mind and soul of man, . . . the drastic change in human attitudes necessary to the achievement of an effective system of world law" has been realized; and (3) a premise as well as a conclusion, that because of its historical transience, "power can not be the "lodestar of foreign policy," a fact which should, but does not sufficiently, impress people and leaders to "put a premium on the promotion of morals and law in a world-wide society."

Of course such a distilled summary can only indicate the direction in which Mr. Corbett moves. Much of its thesis is as self-evident to some as it may sound perhaps "un-American" to others, whose information and thinking is fifty years behind even our own "supreme national interest" in the present world. This interest Mr. Corbett describes as "recognition and implementation of the general interests of a society larger than State (why the capital letter?), and the development of effective supra-national law," which would afford the carrying out, nationally and internationally, of the actual mandate of democratic leaders, that is "to keep policy moving, as steadily as possible in a perilously shifting environment, towards moral objectives."

Mr. Corbett is admirably realistic, unlike the so-called realists of the Morgenthau or Kennan type, whom he dismantles succinctly and without naming names. See his own summary of the first lecture, stating that "it would be a bad thing for the world if conduct of governments in the international sphere should cease to be regarded as a proper sub-

ject for moral judgment, which could be appropriately addressed to his co-Princetonian of the "legalistic-moralistic" fame; or his criticism of the "inflated myth of balance of power as a peace preserver," which undoubtedly refers to the "better-balance-of-power-through-better-diplomacy" thesis shared by both Messrs. Kennan and Morgenthau. Although he does not spell it out, Mr. Corbett certainly does not overlook that a balance of power in the full sense, in which enforced law is indeed a heavy weight, is indispensable for a successful development and continuation of any community. The real break for the growth of international organization has been the nuclear stalemate; however, there is still too much unbalance in the other elements which make up the total power situation.

Throughout, Mr. Corbett's realism keeps a pretty even keel. His advocacy of the better-United-Nations type of international organization does not lead him to indulge in pretense and self-delusion. He prefers to call a spade a spade (e.g. speaking of the "arrogant and gigantic" reservation this country has made when it ratified the so-called "optional clause" of the world court statute); but he has kind words for the "overall direction of the (U.S.) foreign policy (since 1945)" toward the "positive goal of effective world organization . . . more and more explicit not merely in the language but in the substance of American foreign policy." In a meandering way and, partly, through accidents, the developments of the recent weeks regarding the Suez crisis and the Middle Eastern settlement have put perhaps more substance into Mr. Corbett's words than when he spoke them. We must proceed without detours on the road to a more advantageous balance between the "accumulation of national power" and an institutionalized international situation in which the emphasis on its use could be overwhelmingly peaceful.

As I progressed with the reading, the book seemed to get increasingly disjointed. Has Mr. Corbett perhaps labored under the professional peril of academic serial lecturers, who must always count on the fact of life that their audience in the last lecture will be reduced to the hard core, where actually the politely cheering crowd at the first occasion needs the education most? Maybe he did not; it is, perhaps, inevitable, that such a succinct statement of a definite thesis should come through pretty completely in the first one-third or one-half. In any case, to say that the last part of the book is still very interesting and stimulating reading is to imply how brilliant the remainder of it is.

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