

the court into "good guys" and "bad guys," depending on his own predilection as to particular issues. His book is a valuable contribution to Supreme Court literature for this reason, if for no other.

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Dilemmas of Politics. By Hans J. Morgenthau. Chicago: The University of Chicago Press, 1958. Pp. x, 390. \$7.50.

Twenty-four of Hans J. Morgenthau's essays have been bound together and given the title *Dilemmas of Politics*. The essays, which have appeared previously as articles over the last two decades, are given what unity they have by the author's self-styled "unchanged philosophy and intellectual preoccupations" (p. vii). Mr. Morgenthau has done something to bring certain of the essays up to date; he has partially rewritten them in order to emphasize their common concern with what he describes as "the dilemmas of politics."

I

The author refers to the history of political thought as a dialogue between the teachings of tradition and the demands of the contemporary world. He believes that our own time tends to throw all tradition overboard. In contrast to our time, he assumes "not only the continuing values of the tradition of political thought . . . but also the need for the restoration of its timeless elements" (p. 3), thus recognizing the need to test the contemporary relevance of traditional ideas and institutions. This modest affirmation raises the crucial question: What is the difference between truth and opinion? Mr. Morgenthau hopes that something of an answer to that question may emerge from his essays: that is, from a piecemeal examination of the concrete issues.

Political scientists do take note of what is occurring in fields of thought other than their own, and Morgenthau refers to the fact that modern thought says that what parades as truth in political matters is but a delusion or a pretense, masking interests of class or individual selfishness. To refute modern thought Morgenthau simply raises his voice. Admitting that truth, sometimes or even often, is but a delusion or a pretense, he concludes that "the whole history of the race and our own inner experience militates against the assumption that it is so always" (p. 4). Therefore, he argues, political science is correct in presupposing the existence and accessibility of objective truths. He writes that great political scientists of the past

were compelled to separate in the intellectual tradition at their disposal that which is historically conditioned from that which is true regardless of time and place . . . to reformulate the perennial truths of politics in the light of contemporary experience [p. 39].

The author pleads for the restoration of this intellectual and moral commitment to truth for its own sake. He taunts his contemporary political scientists, declaring that

It is the measure of the degree to which political science in America meets the needs of society rather than its moral commitment to truth that it is not only eminently respectable and popular, but—what is worse—that it is also widely regarded with indifference [p. 30].

But why is political science in America regarded with indifference? Mr. Morgenthau half realizes. He knows after all that the history of political thought is not just a dialogue between men with inexplicably different tastes, some choosing the old and some the new. He pleads for a political science faithful to its moral commitment of telling the truth about the political world. And yet he points out that a respectable political science—respectable, that is, in terms of the society to be investigated—is in a sense a contradiction in terms. A political science that is true to its moral commitment is at its very least an unpopular undertaking, and at its very best “it cannot help being a subversive and revolutionary force” (p. 29). We are told of the Socratic distinction of unpopularity, social ostracism, and criminal penalties, “which are the reward of constant dedication to the relevant truths in matters political” (p. 30).

The primary difficulty with Mr. Morgenthau’s system is that truth itself is undefined, its very existence in doubt; the secondary difficulty is that what there may be of it is an unwanted product. Mr. Morgenthau casts many stones at “utopians.” He believes in “truth,” and, much more than that, he believes that it can be communicated to a society broadly and profoundly enough for that society to make rational choices in keeping with their knowledge of it. But even among those who hold on to a faith in “truth” there is considerable disenchantment about the possibility of applying it. The real dilemma has been what to do with the truth one thinks one has. How many of the “truths” of political science, or of biology for that matter, form the basis upon which our *society* acts? And what stands in the way of whatever political truths there may be? Why are they not wanted?

Mr. Morgenthau unwittingly gives the answer to these questions when dealing with quite different matters. In another part of the essays he notes that the precarious state of freedom today is most obvious in the economic sphere. In the modern society a government which is too weak to threaten the freedom of the individual is also too weak to hold its own against the new feudalism of concentrated power. Mr. Morgenthau recognizes that freedom of the individual in the modern state is not the result of a specific constitutional device or institutional arrangement. It rests rather upon the values to which a society is committed. Herein lies the dilemma. Although the relation of this observation to his discussion of “truth” seems to escape Mr. Morgenthau, the “new feudalism” which he analyses with considerable brilliance cannot be forgotten when his

subject happens to be what political science ought to do or what it ought to be like. To forget the society in which political science exists is utopian indeed. Freedom does rest upon the values to which a society is committed. But the "new feudalism" controls all the mass communication media, and so the fate of those values.

Writing a quarter of a century ago Carl Becker noted that liberals had come to see that the obvious solution for social ills was in restricting rather than in extending the economic liberty of the individual. He did not believe that liberals had learned sufficiently that economic liberty was intimately associated with liberty of speech and press. Modern methods of communicating thought are more subtle and effective than any ever before known, while the verification of the truth or relevance of the thought so communicated is far more difficult. Yet there issues daily from the press and radio

a deluge of statements that are false in fact or misleading in implication, that are made for no other purpose than to fool most of the people most of the time for the economic advantage of a few of the people all of the time.¹

Becker admitted that the evil could not be cured by creating a board of censors pledged to exclude lies from oral discourse and printed matter. But, he noted, "neither can it be cured by waiting while truth crushed to earth pulls itself up and assembles its battered armor."² And so the real dilemma:

the liberal democratic political mechanism functions by enacting into law the common will that emerges from free discussion. Thus the circle seems complete: for curing the evil effects of free speech we must rely upon a public opinion formed in large part by the speech that is evil.³

Even more today than when Becker wrote, not only the laws, but the values to which our society is committed as well, are changed at will by the economically powerful.

Mr. Morgenthau wishes political science to seek the objective general truth behind ideological rationalizations and justifications. He believes that in order to fulfil that mission the political scientists must live within the world without being a part of it. Rousseau said the same thing when he declared that we need gods for legislators. Rousseau saw what followed logically from this necessity. He concluded that political theory was a useless science. Mr. Morgenthau is not so logical. But even if he were given his detached truth seekers, even a profession filled with them, would it matter? What hearing would they get and what influence would they have? But political science will not become what he wishes. Mr. Morgenthau speaks of the Socratic distinction of social ostracism (p. 30). He forgets the rewards which went with that kind of ostracism in earlier days. We live in a different world.

¹ Becker, *Everyman His Own Historian* 107 (1935).

² *Id.*, at 107-108.

³ *Id.*, at 108.

II

Throughout the essays we meet with the conviction that our culture has a general tendency to escape from the facts of political life. We read repeatedly that dominant elements in Western culture, and American culture in particular, have consistently misunderstood the nature of foreign policy. For his own part Mr. Morgenthau bases his analysis of international politics upon two "realistic" definitions. First he defines international politics itself by pointing to one basic fact which distinguishes that kind of politics from all other kinds. He writes:

The constituent members of domestic society, individuals and subnational groups, live in an integrated society, which holds supreme power and is the repository of the highest secular values and the recipient of the ultimate secular loyalties. Yet these domestic societies are the constituent members of international societies which must defer to them in terms of power, values, and loyalties. What sets international society apart from other societies is the fact that its strength—political, moral, social—is concentrated in its members, its own weaknesses being the reflection of that strength [p. 47].

This definition of "domestic society" does not fit many actual national states. And so it is of little practical use in dealing with international problems. In every modern state there are large minorities (added together in given states they are majorities) who do not repose their highest secular values in the state, nor give the state their ultimate secular loyalties. Conflicts on the domestic scene frequently are more real and harder to reconcile, and ultimate values and loyalties at least as divided within each state as they are among the states on the international scene.

Mr. Morgenthau's definition of "national interest" is a logical outgrowth of his premises regarding a domestic society. The "national interest" he equates simply with "survival," by which he means the survival of the interests and values which he presumes every domestic society represents. He asks us to assume that on the international plane "power is wedded to the interests of a particular nation" (p. 50). This is to say that by and large what a government does on the international scene is in the interests of the domestic society which that government represents. For

the relatively constant relationship between power and the national interest is the basic datum for the purposes of both theoretical analysis and political practice [p. 50].

And so the "invisible hand" does its beneficent work here as well as in *laissez faire* economics. But Mr. Morgenthau does not go so far as the economic liberals—he presumes no universal harmony of interests. For finally—

and most importantly—the national interest is not a fraction of a transcendent, comprehensive social interest to which it is subordinated and by which it is limited both as to content and to the means employed for its realization [p. 51].

What the author has done is simply to equate "the national interest" with the interests of those who happen to hold power within the national state at any given moment. Such an equation surely simplifies both theoretical analysis and political practice for those who would use it. It is none the less radically unrealistic.

Using the terms in his own way Mr. Morgenthau pictures two schools of thought locked in struggle over the nature of the American tradition of foreign policy: utopians who write about and defend the "humanitarian and pacifistic traditions" of this country, opposed by realists who accept power politics and the balance of power as the guiding principle of American foreign policy. He asks the humanitarians to explain how it came about

that the thirteen original states expanded into the full breadth of a continent, until today the strategic frontiers of the United States run parallel to the coastline of Asia and along the River Elbe. If such are the results of policies based upon "humanitarian and pacific traditions," never in the history of the world has virtue been more bountifully rewarded! [p. 57].

Mr. Morgenthau may beat a dead horse if he wishes. Nevertheless he proves much less than he thinks. That we have not been humanitarians does not prove that we have always been right. The author believes that from the beginning American foreign policy can be made intelligible by reference to the national interest defined in terms of power—political, military, and economic. He seems to say: "And look where we are today!" But take France, or Spain, or Poland, or Turkey—the historian has just as easy a task if he wishes to prove that their foreign policy can be explained by exactly the same references. And look at them today! If we apply Mr. Morgenthau's analysis to the less "successful" nations it is at once obvious that everything that has happened in history has not served the "interests" of those nations. And even in the case of the United States our present strategic frontiers are not all the proof we need that everything we have done in foreign policy from the beginning has been for the best.

The author believes that the struggle between the utopian and realist schools of thought might well be formulated in terms of concrete interests versus abstract principles. The contest between utopianism and realism is not, he declares, a contest between principle and expediency, morality and immorality. It is rather between two types of political morality. One type is guilty of taking as its standard universal moral principles abstractly formulated, the other weighing these principles against the moral requirements of concrete political action, their relative merits to be decided by a prudent evaluation of the political consequences to which they are likely to lead [p. 60].

He believes that the ultimate test, political as well as moral, by which we should judge is the question of which attitude is more likely to safeguard the United States in its territorial, political, and cultural identity and at the same time to contribute the most to the security and liberty of other nations. But he has not

distinguished between utopians and realists except by using pleasant sounding adjectives to describe realists and unpleasant sounding ones to describe utopians. For Mr. Morgenthau presumes that the security and liberty of other nations place moral limits upon the means by which we pursue our "national interest," even that the security and liberty of other nations is one of our secondary interests. Thus he seems to believe that we are right to foster and aid the security and liberty of others in so far as we do not endanger our own security and liberty in so doing. Mr. Morgenthau may find those who disagree with him on principle in this matter, but certainly he exaggerates both their influence and importance. That they influence United States foreign policy is not to be suspected. It is not "utopians" we have to fear, but men to whom abstract moral principles are only words, and particularly men too ignorant to evaluate anything prudently.

III

The author is at his best, and very good indeed, when he descends from grandiose generalizations to the analysis of concrete situations. Four such analytical essays, "The Decline of Democratic Government," "The Decline of the Democratic Process," "The Corruption of Patriotism" and "The Subversion of Foreign Policy" make the appearance of the book an important event. In these essays Mr. Morgenthau points out that it is the measure of the decline of democratic government in this country that the administration has consistently concealed from the people and its elected representatives "information in both the most vital and the most trivial matters and misrepresented the truth known to it" (p. 289). Obviously such procedures are incompatible with democratic government. Mr. Morgenthau, however, turns to another fact—about which there is considerably less general understanding.

The author reminds us that democratic government must be partisan government, at least in the sense that the elected government stands for one set of policies and those who have been rejected at the polls are committed to another set of policies. He is appalled by the corruption of bipartisanship in foreign policy. He believes that the only meaning consistent with the democratic process which bipartisanship can have is that a foreign policy will not be opposed by the opposition party simply for the reason that the administration belongs to another party. But it is the first duty of the opposition to oppose policies it believes wrong and to submit alternative policies for the administration to adopt or the people to support by changing the administration.

It does not seem to Mr. Morgenthau that the Democratic opposition has performed this duty. Instead we have had what passes for national unity. This apparent unity, he believes, has been paid for with the lifeblood of the democratic process:

For this is not the unity of a people who, after weighing the alternatives have decided what they want and how to get what they want. It is rather like a fog that makes us all brothers in blindness [p. 298].

Mr. Morgenthau places the blame for this unfortunate brotherhood upon the President, the Democratic party, and the communication industry. This seems to be fair enough.

In "The Corruption of Patriotism" Mr. Morgenthau discusses the security system established by the President's Executive Order 10450 of April 27, 1953. Taking for granted that genuine military secrets must be protected, the author discusses the problem of secrecy in the Department of State as it applies to foreign policy proper. In his own experience, admittedly limited, he knew of no top-secret document the knowledge of which would have been advantageous to a foreign power. He describes the composite picture of the man unlikely to commit treason which emerges from Executive Order 10450. He writes that this ideal

of the "good" American is at odds in one or the other respect with the actual behavior of most men who have ever lived and are now living. Hardly an American statesman from Franklin to Dulles and Eisenhower has, and could have, lived up to it, and most of them would fail the test on multiple grounds [pp. 311-12].

He concludes that the end result of the security policy is not a Department of State more immune to subversion and treason than it was before. Possibly the reverse is true.

In any event, the Department of State ceased to be the eyes, ears, and brains of the foreign policy of the United States. Its eyes became blind; its ears, deaf; and its brains, dull [p. 320].

This essay did not need to be brought up to date. It is up to date.

In "The Subversion of Foreign Policy" Mr. Morgenthau discusses the difficulties which have faced the present administration. He believes that Mr. Dulles permitted the destruction of the Department of State through the elimination of most of the able and experienced members of its higher rank and their replacement by men whose main qualification was that they had the confidence of the isolationist wing of the Republican party. This was done in the hope of committing that wing of the party to the support of the policies of the administration. Instead it committed a powerful group within the Department of State to the support of opposition policies.

According to the author's analysis Mr. Dulles's effort reflects a basic misunderstanding of the American political system, a misunderstanding which has dominated the thinking of the Eisenhower administration. President Eisenhower thinks of a two-party system in which the President's party supports the executive branch. Mr. Morgenthau points out that "a Republican President, pursuing a rational foreign policy in a responsible manner, cannot help having at least a third of the Republican party in Congress against him" (p. 336). Although a solid majority of the people of the United States support "reforms" which have transformed the American political scene in the last twenty-five years, a majority of the Republican party in Congress

pursues "prerevolutionary policies with the fanaticism and irresponsibility of desperation" (p. 336). It follows that a Republican President, to be elected, must identify himself with the outlook supported by a majority of the people, and that after election he can expect the opposition of an important part of his own party in Congress.

Mr. Morgenthau writes that a Republican President who thinks and acts in terms of party discipline and looks at the Republican party as his own and the Democratic party as the opposition completely misreads the lines which divide both Congress and the people with regard to foreign policy. And a Republican President who, like Mr. Eisenhower, conducts foreign policy with a view to maintaining the unity of his own party can do so only at the price of his own paralysis or of his own surrender. That paralysis and that surrender have been the history of our foreign policy under his presidency.

If in fact the President and Mr. Dulles have had a rational foreign policy, possibly their misunderstanding of the American system explains their inability to carry it out. But any presumption that Dulles and Eisenhower have had a rational foreign policy would be difficult to prove. The presumption that the Democratic party is capable of carrying out a rational policy would be nearly as difficult to prove. Nevertheless the dilemma of a hypothetical Republican President who had a rational foreign policy is brilliantly described. And Mr. Morgenthau's plea that the executive must fulfil the role in foreign affairs which our Constitution assigns him, that he must show initiative and leadership, if we are to have a public opinion capable of guiding and supporting rational foreign policy would seem obviously true.

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The Transfer of Chattels in the Conflict of Laws. By Pierre A. Lalive. Oxford: Clarendon Press, 1955. Pp. xix, 200. 30s. net.

The end of private international law is frequently said to be international uniformity of decision. This end, of course, cannot be attained unless there is international uniformity of private international law. It is well known how far away we are from such uniformity. In the book under review, the author, now a member of the faculty of law of the University of Geneva, Switzerland, has chosen one of the few topics with respect to which the choice-of-law rule appears to be the same throughout most of the world. The rule that problems concerning the transfer of title to a particular chattel are to be determined in accordance with the *lex rei sitae* has come to be adopted in nearly every country. It looks as if the once dominating rule of *mobilis sequitur personam domini* has been abandoned everywhere except in Spain, Puerto Rico, and perhaps other countries where the Spanish Civil Code of 1888 is still in effect.