Book Review: Scientific Man vs. Power Politics

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A critic’s judgment can have but little worth for his readers unless they know his point of view. Let me, then, confess at once that with much in this book I agree, because some ideas previously expressed in my own writings resemble some of Morgenthau’s. That perhaps will explain why (despite what I consider its glaring faults) I recommend this volume as a valuable antidote to the pernicious pseudo-rationalism of many so-called social scientists and many legal thinkers. However, just because I agree with Morgenthau to a considerable extent, I regret, and urgently warn against, his (almost) wholesale rejection of the possibility of deliberately extending the power of human reason. He quotes Pascal, but he ignores Pascal’s sage advice: “Two extremes: to exclude reason, to admit reason only.”2 He gives too little attention to Graham Wallas’ seminal idea that thought is not wholly different from the “natural impulses” or “dispositions” but is itself a natural impulse or disposition, that there is an “emotion of thought.”3

Morgenthau’s principal thesis is that grave dangers lurk in the assumption that, since the methods of the physical sciences have yielded a considerable amount of reliable predictions and of control of physical nature, those methods will be equally successful if applied to matters social.4 This thesis, which Morgenthau ably elaborates, needs to be widely publicized. For the excessive claims made by many social “scien-

1 See especially Frank, Fate and Freedom (1945). See also Frank, Law and The Modern Mind (1930); Frank, Are Judges Human? 80 U. of Pa. L. Rev. 17, 233 (1932); Frank, What Courts Do In Fact, 26 Ill. L. Rev. 625, 761 (1932); Frank, Save America First (1939); Frank, If Men Were Angels (1942); Frank, The Scientific Spirit and Economic Dogmatism, in Science for Democracy 111 (ed. by Nathanson, 1946); Frank, A Sketch of An Influence, in Interpretations of Modern Legal Philosophies 189 (1947); Frank, A Plea For Lawyer-Schools, 56 Yale L.J. 1303 (1947).

2 Pascal, Pensées, No. 253. Hoxie wrote that “man is not rational but is capable of a high degree of rationality”; Hoxie, Trade Unionism in the United States 368 (2d ed., 1931).


4 I am surprised that Morgenthau uncritically accepts the stereotyped notion of the relation between the natural sciences and the “social sciences.” He wrote: “Since reason in the form of causality reveals itself most plainly in nature, nature became the model of the social world and the natural sciences the image of what the social sciences one day will be.” Here he neglects the fact that the notion of “laws of nature” seems to have had its origin in the notion of order in the social group, and he neglects also the frequent subsequent interactions of the notion of “natural law” and that of “laws of nature.” I have discussed those subjects in Frank, Fate and Freedom, Ch. 10, 111 (1945). Unknown to me, a somewhat similar view had been presented previously in Zilsel, Problems of Empiricism, 2 Int. Encyc. of Unified Science No. 8, 53, 65, 62 (1941); but cf. ibid., at 94 n. 9.

It is curious, too, that Morgenthau seems to overrate the dispassionateness and lack of prejudice of natural scientists. He says that, in the “social sciences,” certain subjects and modes of inquiry are “ostracized.” This implies a belief that no similar taboos exist in the physical sciences. That surely is not true. Fashions and prejudices have often affected physicists, and affect them today. See Frank, Fate and Freedom 77, 180–84 (1945).
tists," having turned out to be unfounded, have caused needless disillusionment, despair, and cynicism.

But I think that Morgenthau, carried away by his zeal in exposing the absurd pre-tensions of many historians, economists, sociologists, and students of politics, has himself been guilty of flagrant excesses. For instance, he creates the impression that John Stuart Mill was one of those who believed 1) that "social problems are very much like mathematical problems," 2) that ignorant men can be made both good and reasonable if only they learn what reason requires, 3) that human emotions play a subordinate role, 4) that "the shortcomings of man, especially in the field of action, are to be remedied not by reforming the domain of the emotions but only by improving the reasoning faculties of man," and 5) that there can be a "scientific ethics" grounded upon "the calculable and calculated regularity of action." Surely that is a distorted report: John Stuart Mill, whatever his defects, had no such simple-minded conception of man and society.6

Throughout, Morgenthau grossly overstates his case. He treats, as if they were all fundamentally in accord, 1) the dogmatists who assert the possibility of contriving something like a social physics, 2) the exponents of 19th century individualistic economic liberalism, 3) those who think that the natural sciences can dissipate all of life's mysteries, 4) the economic determinists, 5) William James, John Dewey and their followers (such as Hook, for instance) who modestly urge that the "scientific spirit," intelligently employed, can be helpful in arriving at temporary solutions of some social problems. As a consequence, Morgenthau, at times, seems to jeer at all human efforts to use reason or to plan in any way for the future, and to range himself with the most pessimistic Machiavellians, such as Pareto and Burnham;8 he thus needlessly lays

5 Morgenthau created this impression by disregarding the changes in Mill's views as he matured and by interweaving with comments on Mill the latter's reports of James Mill's attitudes.

6 Mill wrote that "the dictum that truth always triumphs over persecution is one of the pleasant falsehoods which men repeat after one another till they pass into commonplaces, but which all experience refutes. History teems with instances of truth put down by persecution. If not suppressed forever, it may be thrown back for centuries. . . . It is a piece of idle sentimentality that truth, merely as truth, has an inherent power denied to error of prevailing over the dungeon and the stake. Men are no more zealous for truth than they often are for error, and a sufficient application of legal or even of social penalties will generally succeed in stopping the propagation of either." Mill, On Liberty Ch. II (1859). See Ch. III with its advocacy of "strong feelings."

Consider also Mill's remarks on how the accidental existence, at a particular place and time, of an "exceptional individual," good or bad, has "affected the whole subsequent fate of the world"; Mill, A System of Logic Book VI, Ch. 3 (1843). See also his astute analysis of the notion that man should conform to nature, in the first of his Three Essays on Religion (1874), reprinted in part in Randall, Buchler, and Shirk, Readings in Philosophy 44 (1946). As to Mill's deviation from 19th century "economic liberalism," see Lynd, England in the Eighteen-Eights 99-103 (1944).

7 Kallen, Modernity and Liberty, 18 University of Buffalo Studies 73 (1946); Kallen, Art and Freedom (1942); Hook, Intelligence and Evil in Human History, 3 Commentary 219 (1947); Hook, Scientific Method on The Defense, 1 Commentary 85 (1946); cf. Hook, The Hero in History (1943); Hook, Abstractions in Social Inquiry, 34 Ill. L. Rev. 13 (1939).

8 Pareto, Mind and Society (1935); Burnham, The Machiavellians (1943). "To recognize the existence of human aggressiveness and the problems it creates does not compel an alliance with . . . Pareto's, who, professing to describe reality, defend some of the most apparently regressive forces of the social world." Gambs, Beyond Supply and Demand 12 (1946).
himself open to attack by so sagacious a student of scientific method as Ernest Nagel.  

His picture of the 18th century Enlightenment as utterly blind to irrational human impulses and childishly optimistic is overdrawn. Montesquieu did not lack insight into the power of nonrational customs; and he influenced the Enlighteners. Diderot said that “everything, even among the greatest sons of man, is incomplete, mixed, relative; everything is possible in the way of contradiction and limits; every virtue neighbors elements of uncongenial alloy; all heroism may hide points of littleness; all genius has its days of shortened visions.” However, among the thinkers of the Enlightenment, undeniably the emphasis was largely on the rational; the psychological writings of the time “dealt chiefly with knowledge and rather neglected emotions, volitions; and actions.” The “Romantic” reaction in the 19th century led to study of the irrational components of human mind. Much attention was paid to hypnotism, somnambulism and insanity. Generally, this “Romantic” reaction went too far—as in the case of Hegel who made the world “Reason” symbolize its exact opposite, the non-rational. In our time, thanks to men like James and Dewey, the view of the role of reason (intelligence) has been revolutionized. According to this view, the forces of unreason are stubborn, the Enlighteners were too impatient in their belief that men can easily learn by reason what is best for them and how to achieve it. But the new view breaks with the past: It denies that the human mind is a passive recording device. It regards intelligence as a human manipulative instrument, as man’s most effective means of coping with the environment and of reshaping it to his ends. It recognizes the creative possibilities of intelligence; it asserts that we humans can often effectively meet crises through constructive skepticism, including creative doubts about traditional methods of meeting crises. The chief defects of Morgenthau’s book derive, I think, from his neglect of this new view of reason’s role.

Illustrative of both the strength and weakness of his position is his discussion of international power politics. He is on solid ground when demolishing the naive notions of men like Cordell Hull, i.e., that increased trading between all nations, unhampered by tariffs or other governmental restrictions, will produce universal prosperity, and that with such trade-barriers removed, respect for international law will rid us of war, especially if all countries become politically democratic. Morgenthau brilliantly summarizes what has been previously written concerning the vacuity of those beliefs. Among other things, he shows the obvious fallacy of reasoning that, since, within a nation like the United States, the legal rules are, on the whole, obeyed, it may be expected that the “rule of law” will be respected as between independent sovereign nations, absent any authority able to enforce the legal rules through the exercise of superior force. Intra-murally, the state possesses, at least in theory, a monopoly of force; extra-murally, no such monopoly exists, but the nations live, anarchically, in a “state of

10 As to the folly of speaking of an “eighteenth century mind,” see Frank, A Sketch of an Influence, in Interpretations of Modern Legal Philosophies, 188, 217-18 (1947).
11 Santillena, Problems of Empiricism, 2 Int. Encyc. of Unified Science No. 8, 1 (1941).
12 Ibid., at 79.
13 His sympathy with the “Romantic” reaction is indicated by his marked fondness for Burke, one of the forerunners of that reaction.
"nature" like that which Hobbes described. The prattlings of most 19th and 20th century international lawyers amply deserve the scorn Morgenthau heaps upon them. And his strictures on Woodrow Wilson's peace plan seem to me to be cogent.

But what Morgenthau significantly overlooks is this: The defect in that plan, as in Hull's, derived precisely from the superficiality of the reasoning on which it was based, from its insufficient, and therefore "unscientific," application of reason to observable facts. Indeed, the superficiality, the lack of "scientific spirit," in the Wilsonian planning drove many Americans into isolationism. We felt that the economic disorganization of Europe, its Balkanization, intensified by the Wilsonian "self-determination" principle, almost certainly would produce another European war. We recognized that peace throughout this planet required the establishment of some effective global super-sovereign. Our belief that, more than ever, thanks to Wilson, Europe would refuse to join in such an establishment, led us to urge a relatively self-sufficient Western hemisphere. We went wrong because we did not perceive that modern industrial technology, which might have made such self-sufficiency possible, also gave rise to a military technology which made it impossible for this hemisphere to live alone and like it. With the fall of France, we were forced to face that fact.

Facing that fact, reason (or "scientific method," if you please to use those words) offers us a conclusion which Morgenthau evades: The sole escape from effects of the reign of international anarchy, from the necessity of submitting to the horrors bound to result from power politics in world affairs, is through the creation of some kind of world government. In sum, such world government must be substituted for the fatuous world government à la Hull. Morgenthau answers that there is now no such global organization and that serious obstacles stand in the way of its creation. He solaces himself with the reflection that "peace is not indivisible," that there have been "localized wars," that we can, from time to time, work out a temporary "social equilibrium" through "balance of power" blocks, that civilization has in the past survived world wars. With the advent of the atomic bomb and the V-2, that surely is an over-

14 Suppose one were to apply to Wilson's or Hull's plans some of the warnings of scientific errors uttered by Cannon, a first-rate natural scientist. Cannon refers, inter alia, to the "Error of Untested Assumption," the "Error of the Incomplete Test," and the "Error of Unwarranted Conclusions." See Cannon, The Way of An Investigator Ch. XI (1945).

15 See Frank, The New Sin, 28 Sat. Rev. of Literature 3, 27 (1945).

16 That, absent world government, there may well be such horrors even if World War III does not eventuate, see Lasswell's brilliant article, The Interrelations of World Organization and Society, 55 Yale L.J. 889 (1946); see also Borden, There Will Be No Time: The Revolution in Strategy (1946). Lasswell sees as one possibility the development of a "garrison state" in this country. Tocqueville, in Democracy in America 356 (Bradley ed., 1945), said that, "if a military government were ever to be established among any of the nations of our times," the "result would be a regular, clear, exact and absolute system of government; the people would become the reflection of the army, and the community regimented like a garrison."

E. B. White writes: "It would appear that Russia has been spying on Canada—a bit of news which comes as a surprise to everybody.... If there is one thing which no longer should remain mysterious to anyone, or thrilling, it is that every nation must of necessity spy on every other nation.... Spying is not a mystery. To us it is far from thrilling; it is putrefactive.... If the United States is not at this moment spying on fifty or sixty other nations, to find out what is going on inside their borders, it is not only innocent, but derelict.... A nation that doesn't spy today is not giving its people an even break." White, The Wild Flag 157-58 (1946).
sanguine attitude. Here we have a social problem, the solution of which can be rationally conceived and executed. No one can be at all sure that, before it is too late, mankind will accept such a solution. But we may be sure that it will not, if Morgenthau's defeatism prevails.

I, for one, applaud when Morgenthau castigates some "social scientists" for their belief in the existence of a science of history equipped, by a knowledge of man's past, to predict its future. But, although he seems unaware of it, a good part of his book commits him to precisely that belief: Repeatedly he asserts that, since mankind has heretofore been unable or unwilling to eliminate wars, beyond possible doubt we will always have them. A physicist, commenting on such pontification over the "inherent depravity of human nature" and on the "method by which history arrogates to itself the right and the power of prediction," remarks, "By the same token the chance that atomic energy should be released in 1944 seemed negligible in 1943. . . . Natural science has become creative. When its practitioners said: let there be an atomic bomb, their fiat became true despite history's ignorance of atomic bombs." We need not regard "political history as the sole criterion for the possibilities of future achievements of our race. . . . History . . . fails to encompass the vast inherent potentialities inherent in mankind. . . . The premise . . . that there will be no change in our political institutions, in particular that nations will never yield their sovereignties to prevent wars," because "struggle is as basic an aspect of human life as cooperation," seems "as archaic as Aristotle's belief that a stone falls, and fire rises, because each tends towards its natural place."

Morgenthau writes that modern nationalism has augmented international antagonisms. That observation might have suggested to him that from the unification of the Western world under Rome stemmed two centuries of peace. We do not want another Roman empire; but, remembering it, we can use our reason in constructing planetary unification under one federal government.

Aggression is one of the components of man's nature. The problem of harnessing it, sublimating it, is the major problem of contemporary civilization. The job requires the invention of specific techniques for fostering the constructive impulses. Here Morgenthau would do well to consult with another member of the University of Chicago faculty, that unbelievably erudite yet sagacious philosopher, McKeon. He has differentiated science and politics, while granting that they may and should supple-

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18 See Frank, Fate and Freedom, Part One, The Inevitabilists, 1-85 (1945).


21 In the domestic area, this has been the aim of the many so-called "institutional economists," the disciples of Veblen. See Gambs, Beyond Supply and Demand 12, 34, 36, 45, 51, 77-78 (1946).

After this article was written, I first read the brilliant article by Sharp, Aggression, A Study of Values and Law, 57 Ethics Part II, 1 (1947). Sharp points to two mistakes to be avoided: (1) To curb overt forms of destructive aggression may be merely to drive destructive aggression underground where, in concealed forms, it may play havoc with society. (2) In curbing the destructive type of aggression, care should be taken not to impair constructive aggression, a highly valuable social fuel.
ment one another. But while not going as far as Morgenthau in extolling the "ill informed man," or "more-than-scientific-man" as gifted with a "higher kind" of wisdom, he does say that the "judgment of the many, frequently (in national elections, for example, and in international issues) resists sophistries to which the learned are victims....."23 But, as distinguished from Morgenthau, he insists that there can be "cooperation of men who may adhere to mutually exclusive doctrines,"24 since "agreement concerning action is possible without resolving differences of theory."25 Accordingly, he argues that a world political organization, an essential in order to maintain peace,26 can be achieved without waiting for a resolution of all the major economic, moral, and ideological differences between nations: A federal world organization—devoted primarily to the maintenance of peace, and with the power to act in that area directly on individuals as citizens of a world state but leaving to the several component nations autonomy as to other matters—would, McKeon suggests, result in agreements concerning courses of action on practical means; such agreements would not require accord on ends or theories, although conceivably the latter might eventually stem from accord as to means. The "formation of a world society depends on the constitution of supra-national political institutions in which ambiguities of theory and interpretation may be avoided in the concreteness of agreements about particular courses of action."27 Here is a proposal for coping with the problem of force, of power politics on a planetary scale, which does not at all ignore the irrational or non-rational, does not involve a naive, delusional trust in the unremitting sway of reason.28 If we adopt some such proposal, there will disappear many of the otherwise insoluble problems of international power politics which Morgenthau elaborately discusses. McKeon, unlike Hull, has intelligently used the analogy of intra-mural methods of democracy.29 There is ripe wisdom in his suggestion that the "political means of coming to agreement concerning courses of action provides the one alternative both to the unjustified use of force (whether in the manipulation of material advantages or in the imposition of economic theories or moral criteria) and to the ineffective use of intellectual and moral suasion (whether for the distribution of material goods or for the definition of justice)."30

24 Ibid. at 286.
25 Ibid.
27 "Do we creep up on Utopia by slow painful steps, or do we make salutary progress?..... Can we rely on changing institutions to change human nature, or must man first be changed, or must both processes go along together?" Gambs, Beyond Supply and Demand 91 (1946).
28 "We can develop loyalty to a world system if it exists; it would be absurd to wait for such a loyalty to develop, for the loyalty is a function of the real, not the imaginary..... The problem is not to wait upon loyalty but to create it." English, quoted in Murphy, Human Nature and An Enduring Peace 224-25 (1945).
29 "Peace is not something to be kept, like a monkey; peace is the product of responsible government." White, The Wild Flag 41 (1946).
30 McKeon, op. cit. supra note 25, at 89.
More bluntly put, we may in some such way, coupled with intelligent use of our economic power, work with Russia in abolishing war, but without surrendering our opposition to communism or totalitarianism in America (or elsewhere outside Russia).

No sane man, however, thinks that all international problems would then vanish. Here we come upon an important blemish in Morgenthau's criticism of those whom he lumps together as "rationalists." He ascribes to them all a conviction that, for any problem, there is a single, correct, and permanent solution. With justified indignation the disciples of James and Dewey repudiate that charge. Dewey calls for "recognition of specific forms and modes of connection of human beings . . . ." and declares that "the events constituting the present crisis will be dealt with in a way to produce a desirable outcome only in the degree in which they are viewed in their concrete context." Hook writes, "No reputable advocate of scientific method has ever contended that a formula is a solution of a problem . . . . The resolved situation may of course become problematic in turn. . . . The problem of health must be solved every day. Shall we therefore deny that a physician has cured an illness because his patient later falls victim to another? Cure-alls are for quacks, not scientists. . . . Once the 'problem of poverty' . . . is given a specific formulation, so that it is actually recognized as a problem and not as a vague lament, it can certainly be solved by a system of minimum wage or unemployment insurance. But why must this solution also be a solution of tomorrow's 'problem of poverty,' which on analysis may turn out to be a different problem altogether? The first is a problem involving actual hunger; the second may involve questions of social and cultural equality. . . . The tragic sense of life is the realization that the human estate consists of a succession of problems, penalty for refusing to face which is often death; that not all problems can be solved at once; and that there is no guaranty that any problem will be solved." Kallen, speaking of modern scientific "solutions," says that "they do not look to any liquidation of the problematical. They work rather on the basis of acquiescence in their own contingency.

31 See Frank, The New Sin, 28 Sat. Rev. of Literature 3, 28 (1945).
32 Reason, here as elsewhere, calls for adequate reckoning with the non-rational. Thus, in trying to overcome the hostility of Russia to federal world government, we should consider the roots of that hostility: It is in part neurotic and ideological, in part based on traditions inherited from the Czarist regime, in part a result of apprehensions which have realistic causes. Because of this background, which for our own sakes we should strive to understand, it will be no easy task to induce the Russian government to enter a world-federation. See Hazard, The Soviet Union and The United Nations, 55 Yale L.J. 10 (1946); Murphy, Human Nature and Enduring Peace 161, 163, 432-53 (1945); Stevenson, Post-War Reflections, 42 Ill. L. Rev. 292, 297-98 (1947).

But the difficulty should not lead to abandonment of the effort. American foreign policy, wisely using our economic power abroad, may, before too long, dissipate Russia's resistance. See Stevenson, ibid., at 298-300; cf. Frank, The New Sin, 28 Sat. Rev. of Literature 3, 28 (1945).
33 Dewey, The Crisis in Human History, 1 Commentary 1, 8-9 (1946).
34 Morgenthau makes much of the "tragic sense of life," a phrase popularized by Unamuno, as to whom see Brea, Ortega, and Madariaga, 1 University Observer 29, 31 (1947).
35 Hook, Scientific Method on the Defensive, 1 Commentary 85, 89-90 (1946). See also Hook, Intelligence and Evil in Human History, 3 Commentary 210, 218, 220 (1947): If "we wish to solve our problems and not just wring our hands over them, our task becomes the discovery of specific institutional devices, the planning of schemes and programs, both comprehensive and detailed, to meet the challenge of nature and history. . . . What follows from the realization that we are all fallible and temptable is greater care about the means we use to save others."
They recognize that each unification of the diverse into the general and of the singular into the universal is itself a concrete and singular event subject to the challenge of alternatives; subject, here, to treatment which, if successful, would for the time being at least orchestrate it with its challengers. Often they acknowledge the unique, the irreconcilable, the indeterminable. . . . ‘Solutions’ of this kind we usually call scientific, and the way to them ‘the method of science.’36 This method is thus that of a free enterprise which works its way through a boundless world on hypotheses that aim at unguaranteed consequences, not at foregone conclusions.36

However, just as Morgenthau becomes excessive in his criticisms of those with whom he disagrees, so does Nagel in his criticism of Morgenthau.37 Although on other occasions Nagel has displayed a balanced judgment, when he writes of Morgenthau he is unwilling patiently to give the devil’s advocate his due, to discuss Morgenthau’s arguments and to concede that some of them are sound even if they do not prove his case.39 I cannot refrain from protesting against Nagel’s patronizing suggestion that Morgenthau wholly misunderstands the implications of modern physics merely because

36 Kallen, op. cit. supra note 7, at 74, 91. In line with this approach, I have said: “An Ideal . . . . represents an aspiration—a wish. . . . Instead of using an unrealized ideal as a daydream—an escape from an undesirable reality—you can convert that ideal into a wish-postulate or wish-assumption. Then it becomes a tentative program or plan for the future. You stop saying, falsely, ‘Life is like this’ (describing your unrealized ideal), and instead you say, ‘Life is not as it should be. This’ (describing your ideal) ‘is the way I want life to be.’ Then you set out experimentally—scientifically—to ascertain what changes can and must be brought about in order to make your wish come true, and to escape successfully from phases of existing reality which you deplore. Perhaps you will discover that there are no means for accomplishing that end, or that it can be only partially accomplished. But you may invent means for achieving your wish, in whole or in part. If then you can persuade others to help you in using those means, your wish will become a new reality substituted for an old. You and your fellowmen will have escaped from the undesirable. Only thus can the significance of an ideal be understood. An ideal has no meaning when it does not lend itself to practical devices for its realization, at least approximately. The meaning of our democratic ideals must be approached by describing their potential consequences in specific situations and by then ascertaining what must be done to realize those consequences. The pre-war doubts entertained by some Americans about the ideals of democracy were the result of taking those ideals for granted, of not dealing with them in a scientific spirit.” Frank, Fate and Freedom 215-16 (1945). See also Frank, Scientific Spirit and Dogmatism, in Science for Democracy 11, 17 (1946).

37 See Nagel, op. cit. supra note 9.


39 Nagel here comes dangerously close to the sort of dogmatic “liberalism” which Mrs Trilling recently castigated because its adherents “close the windows of their minds against any fresh currents of ideas. . . .” This dogmatic liberalism she contrasts with “classic liberalism” which “prided itself on being more intelligent, more boldly imaginative, than its enemies” and which “would have scorned to use the pressure from the opposition as an excuse for not examining its own premises,” and “hated non-thought as it hated all other infringements of liberty.” Trilling, Letter, 3 Commentary 386, 388 (1947).

So John Stuart Mill wrote in 1859: “The beliefs which we have most warrant for, have no safeguard to rest on but a standing invitation to the whole world to prove them unfounded. If the challenge is not accepted, or is accepted and the challenge fails, we are far enough from certainty still; but we have done the best that the existing state of human reason admits of; we have neglected nothing that could give the truth a chance of reaching us. . . . This is the amount of certainty attainable by a fallible being, and this is the sole way of attaining it.” And Mill maintained that a person “whose judgment is really deserving of confidence” is eager to be “cognizant of all that can . . . . be said against him, and . . . . has sought for objections and difficulties, instead of avoiding them. . . . .” Mill, On Liberty Ch. II (1859)
he quotes "the interpretations . . . popularized by Eddington and Jeans." One may
discount those interpretations on the ground that those writers are "romantic" or
mystical. But one cannot laugh off the fact that other eminent natural scientists, who
are neither "romantic" nor mystical—Maxwell, Peirce, Schroedinger, and Irving
Langmuir—have, in one way or another, and contrary to Nagel, said that "the sta-
tistical character of current theories of sub-microscopic particles," if it has not "dis-
proved," has at least thrown serious doubts on "the causal nature of macroscopic trans-
actions." Langmuir recently pointed to the existence of "divergent phenomena" which
classical physics overlooked. There are circumstances, he says, when a "single dis-
continuous event," which may be exceedingly small, "becomes magnified in its effect
so that the behavior of the whole aggregate does depend on something that started
from a small beginning." Thus there occur unpredictable initial divergences which
render predictions of future averages unpredictable. "The net result of modern phys-
ics," remarks Langmuir, "has been to wipe out almost completely the dogma of causa-
tion."

Similarly, but long before Langmuir, in the 19th century the great Maxwell
spoke of "unstable systems." In any such system, he said, "an infinitely small variation
may bring about a finite difference in the state of the system in a finite time. . . . It is
manifest that the existence of unstable conditions renders impossible the prediction of
future events, if our knowledge of the present state is only approximate and not ac-
accurate." Thus a slight and unpredictable change in the conduct of one or a few of the
individual particles composing some physical "systems" can bring about a substantial
change in the average mass habits of all the particles in such systems; a statistical "law"
as to such systems is therefore not reliable, for that "law" is at the mercy of the un-
foreseeable ways of the individual particles.

In such interpretations of physics by careful and responsible physicists we find an
answer to Nagel's jibe:44 Morgenthau is not without warrant in saying that, in some
situations, "a small deviation may exert an ever-expanding influence" and throw a
monkey-wrench into the prediction apparatus. That conclusion applies with even
greater emphasis to human "systems," i.e., human societies;44 average "laws" con-
cerning the behavior of human groups are far from reliable except as to a relatively
few matters over a short time-range.43 Although some modern physicists emphasize

40 "The burden of proof," says Schroedinger, "falls on those who champion absolute causal-
ity, and not on those who question it."

41 For a discussion, with citations, of Langmuir, Maxwell, Schroedinger, and Peirce, see
Frank, Fate and Freedom 150–160; cf. ibid., at 151–69 (1945). It is fashionable to ascribe
the notion of partial "acausalism" to a misunderstanding of the quantum theory and of Heisen-
berg's resultant "principle of indeterminacy." But the views of Maxwell and Schroedinger
antedated those recent developments. See Frank, Fate and Freedom 158 (1945). For further
support of Morgenthau's interpretation of modern physics, see Kallen, Modernity and Liberty
Ch. II (1946).

42 Neurath says that the difference which a small initial variation may bring about is "tre-
mendous" in matters social, for there, peculiarly we "deal with a plurality of initial states. . . .
It is an open question which social situations may be regarded as unstable. Not a few sociolo-
gists seem to try to avoid problems which deal with unstable situations as if we knew where
such were and were not. And not a few [sociologists] think they can avoid the crux of the
matter if they look at the behavior of masses only." Neurath, Foundations of the Social Sci-
ces, 2 Encyc. of Unified Science, No. 1, 28 (1944).

43 As to the tricky character of social averages, see Frank, Fate and Freedom 156–57 (1949);
cf. ibid., at 333–34; as to long-range predictions, see ibid., at 33. See also Frank, A Plea for
Lawyer-Schools, 56 Yale L.J. 1303, 1337 (1947).
the significance of individual events, Morgenthau correctly says that "the social sciences . . . are to a much greater extent than the natural sciences interested in individual behavior as such," and that therefore social forecasts are more often "dependent upon individual behavior and individual events as such." As I have said elsewhere, the history of our times probably turned on the fact that a bullet intended for President-elect Roosevelt did not hit him. "If the assassin's aim had been better, John Nance Garner would have been our President from at least 1933 to 1937, and the domestic policies of our government—perhaps also its present (1945) foreign policy—would have been substantially different." Nor is Morgenthau entirely unjustified when (perhaps analogizing to the dilemma of modern physics described by Heisenberg) he comments that a published prediction of a future social happening may have a transforming effect on that happening, so that it may turn out quite differently from what it would have been if the prediction had not been published. The forecasting of future human history, especially over a long stretch of time, is a job fraught with difficulties.

Nagel writes derisively of Morgenthau's suggestion that the inability of any man to become aware of the "inner consciousness" of his fellows is sometimes a serious obstacle to prophesying their conduct. But there are scientific-minded thinkers who on this score agree with Morgenthau: Zilsel, observing that many of our attempted social predictions depend on empathy (i.e., on an observer interpreting another's outward

44 Frank, Fate and Freedom 42 (1945). Morgenthau never clearly says whether he believes in the "objectivity" of chance. He says in his Preface that, "while conscious of the role accidents play in history," he "continues the search for the general causes of which particular events are but the general manifestation." He seems to hold (pp. 149, 189) that what we call "chance" is always but another name for human ignorance. There is a different view (i.e., of the objective reality of chance) which he does not discuss. See Frank, Fate and Freedom Ch. 12, 13 and Appendix 5 (1945); Feibleman, The Theory of Human Culture 22, 126, 159, 156, 198–99, 202–3 (1946).

45 See note 41 supra, for cautionary observation as to such reliance on Heisenberg.

46 Thus, as J. M. Clark somewhere observed, increased knowledge by businessmen of what would have been a business trend may have the undesirable effect of hastening and intensifying that trend. See also Cox, Business Forecasting, 6 Encyc. Soc. Sci. 348, 352–53 (1931); Neurath, Foundations of the Social Sciences, 2 Encyc. of Unified Science, No. 1, 28 (1944); Allen, This Time and Last, 162 Harper's 93, 202 (1947); cf. Kuznets, Time Series, 14 Encyc. Soc. Sci. 629 (1934); Seligman, Are Businessmen Human Beings? 2 Commentary 478 (1946); Katona, Psychological Analysis of Business Decisions and Expectations, 35 Am. Econ. Rev. Pt. II (1945).

One may be "destroying the success of [a] prediction by making it . . . .," says Neurath, Foundations of the Social Sciences, 2 Encyc. of Unified Science, No. 1, 28, 28–29 (1944). If a scientist, he continues, were to publish a prediction that a meteorite would fall and kill some people at a certain time and place, the people might leave and the prediction would be false. If he merely wrote the prediction in his notebook, it might be accurate; on the other hand if he published it, the people might think he had a selfish purpose in trying to induce them to move and they might therefore remain, with the result that this prediction would be correct.

47 See Frank, Fate and Freedom 33 et seq. (1945). Johnson refers to "that inescapable inremovable factor that every logician faces when he assumes to deal with human beings. He may predict the movements of a planet or any electron for a thousand years with almost absolute accuracy. He may predict the development of fruit flies, or of guinea pigs, through many generations with a factor of negligible proportions. But the moment humanity enters the equation, mathematical calculation loses its authority. . . . " Johnson, American Heroes and Hero Worship, 64–65 (1943). See also Frank, A Plea for Lawyer-Schools, 56 Yale L.J. 1393, 1334–39 (1947).
behavior by putting himself psychologically in the place of the other), says, "Yet scientific predictions, based on empathy, may be relied on only in so far as they are confirmed by observable actions and reactions of the individuals concerned. The method of empathic interpretation ... is highly fallible. ... At any rate, it is an empirical fact that man can experience empathy in certain cases and is unable or less able to experience it in others."48

Perhaps that is why most of us did not anticipate what Germany would become under Hitler.49 As Miss Arendt remarks, "The real story of the Nazi-constructed hell is desperately needed for the future. ... Only on this foundation, on which a new knowledge of man will rest, can our new insights, our new memories, our new deeds, take their point of departure."50

To be sure, as Hook correctly says, the great 18th century liberals were not wanting in apprehension of the possibilities of evil, as well as good, in man.51 But it may be that Nagel, a student and collaborator of Morris Cohen, shares with Cohen (who highly esteemed the 18th century liberals) a kind of liberalism which involves "a deep fear of acknowledging the emotional and destructive impulses of man," a liberalism which, "in its rush to justify the beauties of human reason and social organization ... has underestimated the dark and subterranean forces of the human mind," so that it engages often in "fighting or denying the unconscious instead of trying to assimilate it."52 Maybe that is why Nagel over-violently reacts to Morgenthau.53 To the extent that he


49 We disregarded Frazer’s warning: "We seem to move on a thin crust [of civilization] which may at any moment be rent by the subterranean forces slumbering below." Frazer, The Golden Bough (abridged ed., 1922).

Jaffe, writing of Brandeis, says: "What is clear, I think is that most of us humanists, and Brandeis among them, have not understood the immensity of the task. We have been caught off guard. One felt that nothing in his system prepared Brandeis for Hitler. He moved with such assurance in the realms of light that darkness had ceased for him to be a living reality. The demonic depths and vast violence of man’s soul were part of the historical past rather than the smoldering basis of the present. Rationalists may be forced to admit ... that man is so made that rationalism alone cannot harness the demon and that without a supra-rational faith, we shall destroy ourselves and each other. In any case, it is not given to us to write on a clean slate. In seeking justice, be it domestic or international, we encounter always the accumulated momentum of individual, class, and racial attitudes. These embody the fear and hate, the emotional intensities of centuries of living. The effort for social reconstruction may find its compelling form in rational discourse, but it is effective in the degree that it galvanizes passions more powerful than those opposed to it." Jaffe, Review of Mason, Brandeis: A Free Man’s Life, 14 Univ. Chi. L. Rev. 526, 528 (1947).

See also Sabine's penetrating study of the unpreparedness for fascism of so keen a thinker as Carl Becker, in Becker, Freedom and Responsibility in the American Way of Life xxx-xxxvi (1945).


51 Hook, Intelligence and Evil in Human History, 3 Commentary 210, 212-13 (1947). See also Lurie, ibid., at 87 and 88, to the effect that, after all, the Nazis were not victorious, that in recent years "there have been enormous gains in recognition and acceptance of human values which have enhanced the dignity of the individual," and that it "would not be too difficult to make out a case for the proposition that human beings are on the threshold of immense advances in spiritual dignity as well as in physical well-being. ..."

52 Schlesinger, Book Review, 3 Commentary 290, 291 (1946).

53 "The point to be made is that mankind is not willing to stay within the limits of knowledge set by his tools of observation, and this is necessarily more true of the social sciences,
does, he endangers the cause of those who espouse the wider use of reason. For "there is no greater obstacle to the development of rationality than the illusion that one is rational when one is the dupe of illusion." The "rational and ethical factors are thwarted in their operation by the . . . tendency to ignore the non-rational and non-ethical factors." Only by "recognition of the immense stretches of unreason" can "its proportions be reduced."

In his responses to Morgenthau, Hook, as distinguished from Nagel, shows no taint of what might be called irrational rationalism. "It remains true," he says, "that mankind may be doomed even if it takes thought and despite all the techniques it brings to bear upon problems. This, the liberal admits. He adds only that mankind will be doomed if it does anything else." That Morgenthau does not accept that attitude raises a suspicion that he was once an ultra-rationalist, that, deeply disappointed by the tentativeness of truly rational solutions of social problems, he has come to spurn all attempts rationally to solve them, that he wants 100 per cent certainty or nothing. He mocks at the perfectionists, but he tends himself to be a negative perfectionist—the kind of person who opposes a proposed reform of imperfect conditions unless the reform promises to bring perfection.

Yet, in stressing human imperfections, he does highlight the unavoidable inadequacies of human institutions. One may object to his talk of "the enduring presence of evil in all political action" as too magniloquent. But his point has some validity. Human existence does, as he says, have "tragic antinomies." Any sensitive judge will where the tools are few and crude, than in the physical sciences, where there are many and delicate—or powerful. Since the mind does, in fact, fill up the gaps, let us make sure that the filling up of gaps is done on the basis of conscious, adult decisions, not on the basis of the unconscious and unremembered fears and hopes of childhood, or the biases with which all men are endowed by their Creator and their institutions." Gambs, Beyond Supply and Demand 87 (1946). See Cox, op. cit. supra note 46, at 353; quotations from Bacon and Bridgman in Ricketts v. Pennsylvania, 153 F. 2d 757, 764 n. 22 (C.C.A. 2d, 1946).

For discussion of "positive" and "negative" perfectionists, see Frank, If Men Were Angels 137-38 (1942).
agree that many a judicial decision is unjust to the losing party because, in the judicial
effort to achieve generality and "equality before the law," unique individual factors
are disregarded as irrelevant or because (on account of the time factor or other causes)
important evidence is not discovered. The so-called "rule of law" may thus work grave
injustice. Acknowledged and unavowed methods of "individualizing justice" are used
but are often ineffective. And the subjectivity inhering in courtroom fact-finding fre-
quently means that the facts of cases are incorrectly "found," so that impeccable
legal rules are often misapplied. In part, these tragedies can be eradicated, but never
can we be wholly rid of them. In that sense, in aiming at social order—the elimination
of violent struggles between the members of society—government cannot entirely
avoid doing evil and acting irrationally.6

Morgenthau, however, is too misanthropic. He virtually confesses that he has a
pronounced Calvinist bias.62 Necessarily, one with such a bias is not merely a misan-
thrope; he is peculiarly dominated by an ascetic mood. Now to my mind, because the
ascetic mood (by no means wholly deriving from Calvinism63) has our civilization in its
grip, we refuse to utilize modern physical science to create a society in which many of
our age-old social problems would disappear.64 As I have said elsewhere, "Because of
that mood, we actually fear to contemplate the blessings of leisure. With intelligence
we can, inside a democracy and under a profit system, constantly reduce the toll of the
great majority of our citizens and arrive at something like the leisure society of which
Thomas More dreamed. Doubtless, the transition to such a society will cause disloca-
tions, provoking many new and difficult problems in the distribution of the national
income. Those problems, however, are not insoluble. Our major difficulty is this: we are
emotionally blocked by our asceticism to such an extent that we are fearful of solving
those problems; for, if and when we solve them, then all our citizens will be members of
the leisure class—and, unconsciously, we are terrified by the idea of a leisure society. If,
however, we rid ourselves of that fear, and devote ourselves freely to the task of hu-
manistically utilizing the possibilities which modern science offers us, we shall elimi-
nate the major impediment to the creation of a society such as Thomas More en-
visioned—one in which no one 'works for a living' more than a few hours each day."65

62 See Frank, Sketch of an Influence, in Modern Interpretations of Legal Philosophies
234-37 (1947); Frank, What Courts Do in Fact, 26 Ill. L. Rev. 658, 662, 759-70, 782-84
(1942); Frank, If Men Were Angels 66-101, 269-71, 284-94 (1942); In re Fried, 161 F. 2d
453, 462-64 (C.C.A. 2d, 1947).

63 He writes (p. 1): "Lord Bryce quotes the statement 'that the American government
and Constitution are based on the theology of Calvin, and the Philosophy of Hobbes,' and
he adds, 'Compare this spirit with the optimism of the Frenchmen of 1789.' He might as well
have added, 'Compare this spirit with the philosophy of our age.' The strangeness to the
modern mind of the theology of Calvin and the philosophy of Hobbes testifies to the enormity
of the gap which separates the philosophy of our age from the prerealism of our age.

64 Glazer wisely suggests that the most important job that social thinkers can take on
today is "the theoretical construction of models of possible social organizations." He admits
that any such model is not in itself a solution but, he says, "for lack of it, progressive politics
today is largely negative, fighting off the worst to defend the bad." Glazer, The "Alienation"
of Modern Man, 3 Commentary 378, 385 (1947).

65 Frank, Fate and Freedom 194 (1945); cf. ibid., at Ch. 8 and 9. As to our over-emphasis
on the economic aspects of life, see Polanyi, The Great Transformation (1944); Polanyi, Our
Morgenthau's unusually strong asceticism sets him against planning for such a society.

Anti-New Deal propaganda brought the words "plan" and "planning" into disrepute among ultra-conservatives, a disrepute from which, fortunately, it is now being rescued by some conservative proponents of the "Marshall Plan" who consider some such reasoned action the only alternative to chaos. Of course, any planning should be wary, circumspect; but to say that is not to agree that it is valueless. "Men often forget," I have suggested, "that not to plan is a kind of planning—a plan to accept whatever happens, or a plan to abide by the uncorrected results of the past when meeting

Absolute Market Mentality, 3 Commentary 109 (1947). See also Frank, The New Sin, 28 Sat. Rev. of Literature 3 (1945): "It was in 1933, I think, that someone suggested that it would be calamitous should scientists invent a single machine which, run by a half-dozen men, could supply the material needs of all mankind. For, it was said, such a machine would cause universal unemployment as a result of which everyone would starve. Of course no such machine is in sight. But it is surely symptomatic of a grave defect in our attitudes that it can seriously be thought that such a contrivance would be a calamity. That attitude needs careful attention. For if we harness scientific ideas and methods now available—and here I exclude atomic energy—we will slowly move towards something like that invention. Even without a deliberate, concerted program, every year witnesses the introduction into industry of new machines which turn out more and more goods with less and less human effort. To be sure, as millions of men, for a long time to come, will have extensive, unsatisfied economic wants, labor-saving machines, under adequate guidance, need not spell widespread unemployment. As, however, the machines grow more efficient, the number of hours of labor per man will grow increasingly fewer, so that living standards can rise while the hours of labor required for economic purposes can be reduced. Push that line of thought in your imagination to its logical conclusion and you reach a time when machines will fill all important economic needs with virtually no labor. That time is so far away that we need not concern ourselves with its practical consequences. But the crucial point is this: If we should wisely and systematically apply even our present store of scientific knowledge to the production of goods, then probably by the end of this century most of the human race would enjoy a very considerable measure of material well-being with no one spending more than a few hours a day on economic activities. Atomic energy can only speed up that process. I doubt whether inertia can alone account for the dread of plenty. I think that a far deeper, stronger root of that dread is to be found elsewhere:

Our culture is permeated with a centuries-old asceticism that makes us shudder at the prospect of a society in which most men and women would have many hours of leisure. Most of us regard as a curse a semi-leisure civilization, affording to all men the opportunity for long stretches of un-irksome activities."

Ward, Truth About This Earth 157 (1946) writes: "Instead of eight hours' work a day and three hours' leisure we are threatened with three hours' work and eight hours' leisure." (Italics added.)

"Reliance on Instinct against Reason has been characteristic of conservative thinkers from the time when Aristophanes attacked Socrates and Euripides. . . ." Wallas, op. cit. supra note 3, at 223.

An editorial in the New York Herald Tribune for September 12, 1947, endorsing that plan, reads as follows: "It is ironic that the Marshall plan, in part inspired by those who disliked the idea of 'subsidizing Socialism in Britain,' is forcing us as well as the European nations to quite new levels of international planning. Our own representatives have looked with alarm upon some of the implications—such as those of European tariff union—which have appeared dimly but unmistakably behind the theory of the Marshall plan; but there are likely to be others, affecting our own tariff policies, the degrees of trade control and of economic responsibility we will accept, not so easily to be sidestepped. The Marshall plan, if it means anything, means planning on an international economy of some kind. But what pattern it will take is not clear; and it is certain that it will demand much more of the United States than mere check writing." N.Y. Herald Tribune, p. 22, col. 2 (September 12, 1947).

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the future. Precise blueprints of the future are absurd. But men can do much to guide their destiny, if their efforts are cautiously tentative and their plans are executed with a weather eye constantly open for signs that factors of importance have been overlooked or that new factors are emerging which compel revisions of their plans. We should not plot a course, take our ease, and sail blithely along, sure that there is nothing we have ignored and that we need never reckon with unanticipated hurricanes, fogs, or icebergs. We can, in the light of past experience—past mistakes—see to it that our ship is as seaworthy as possible, and use the best educated guesses as to what lies ahead. . . . We should beware of soothsayers, no matter how erudite or self-assured; we want, not soothsayers, but careful mariners. 

Morgenthau, in effect, counsels against such seamanship. That is dangerous counsel. Put it in terms of concrete instances, and see what it portends: It is now generally agreed that on America's prosperity depends not only American welfare but that of most of the globe. Yet Morgenthau presumably would have us believe that we should make no reasoned (planned) effort to avert another serious economic depression in this country. With his trust in the superior judgment of the uninformed statesman, presumably he deems it unwise that the President and Congress have the benefit of the studies now currently made by the Council of Economic Advisers. If his book means what it says, it means that, as the reports of the Council are human products and therefore fallible, they should go in the waste-basket.

Despite all its faults, however, Morgenthau's book has excellent tonic qualities. Its constant theme is that politics deals with possibilities, not certainties, that possibilities are not to be confused with realities, since full knowledge of the relationship of reality to possibilities no mere mortal will ever possess. It is well to be reminded of man's finiteness, of his unavoidably limited knowledge of the universe. 

It pays to

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Frank, Fate and Freedom 38-39 (1945). 

Bismarck, echoing Aristotle, said that politics is the 'art of the possible, the attainable.'

'Man can neither explain the universe nor predict all of its future conduct. It is too immense and he too puny. He can achieve but partial explanations and predictions. To attempt more is presumptuous, arrogant. How and why all the surprises, accidents, disjunctives occur, man cannot know. It is impudent to suggest that the world must be 'rational' according to man's reason, that the world plan must be what man would plan if he were God. If the world to be 'rational' must be built on a plan based on man's notion of order, then the world seems not to be rational, and probably is not. Using the word 'rational' as the dogmatic rationalists use it, no rational way can be found to reconcile the coexistence of order and disorder in the universe. Maybe there is no complete plan or system of the universe; maybe, if there is one, it is either of a kind incomprehensible to man's reason or is still in the making. But this we do know: We must put up with a universe that, whatever it is 'really' like, does not in practice conform fully to our finite notions of order. Man is, inescapably, shut off from complete understanding of much that goes on in the world, even of what occurs in that restricted area which he inhabits, to say nothing of events in the immense areas outside his ken. . . . Our reason grew up as a device for meeting crises in a restricted part of the universe. In that restricted province, human reason did fairly well; it could 'rationalize' those crises with moderate success. By our inventions, we have pushed our reason into contact with problems arising far beyond the little corner of the universe in which man evolved. Little wonder that our finite reason has increasing difficulty in solving those problems.' Frank, Fate and Freedom 310-12 (1945).

Zilsel notes that the scientific rationalism, "which began in the Newtonian era and continued right into the 19th century, one might even say right to Einstein himself," was based on a faith that the reality possesses a rational structure which is coincident with the organization of the human intellect—a faith in the illimitable power of the human mind. But that faith, he says, is dying, if not dead: "The mirror of nature that reason had endeavored to
have in mind Swift's "concept of man as an earth-bound animal capable of reason enough to perceive his limitations and escape illusion."71 As I said in 1945: "Less cocksure about what we know and can know, we can be more sure that our choices will be real, not illusions. Thereby, too, we shall become both more humble and more effective. We shall rescue ourselves from the two greatest human fallacies: the fallacy of denying all human freedom, of seeking irresponsibility through slavish recourse to a nature which we expect to dictate our every move; and the fallacy of arrogantly assuming that mankind can ever be wholly free to guide its own course, infallibly, to perfection. We can escape neither the flux and variety of life or our own finiteness. Such an attitude, however, does not mean a defeatist submission to whatever may happen. Nor, on the other hand, dare we rest upon a belief that human society, because it can be improved, will surely improve. That we have some freedom to shape our future, that increasing knowledge will assist us in doing so, affords no guarantee that we will shape it well. The possibilities, at any stage of human history, are for good or evil. Life is restless, protean. Mankind cannot reach finality, create an unaltering Utopia. World War II, despite its evils, presents us with a glorious opportunity, in the peace, to advance all mankind. We may fall in meeting that opportunity; we shall meet it successfully only if we ingeniously create new world-wide institutions. But those institutions cannot be static. We shall be wise only if we recognize the inherent imperfections and instability of our solutions. The major obstacles to human progress center in the beliefs that our progress is destined and that men, necessarily limited in knowledge, can attain perfection. The only absolute knowledge on which we can count is the knowledge that human knowledge will never be absolute, will always be relative and limited. That awareness, however, while it will eliminate much blundering, will not enable us to elude our limitations. Thus we come to the basic paradox of our American faith: humility in the face of our limitations but faith that our will can move us forward on the road to the good life. The impossibility of arriving at perfection does not justify indifference to the aim of constantly bettering man's lot."72

Morgenthau (maybe because of his German experience)73 has too little of that faith. His appearance of being hard-headed and practical is deceptive. Because of the "practical" diplomacy of England's statesmen from 1933 to 1939, Hitler all but succeeded in his try at world empire. "We have received ample assurance from practical politicians that a federalized world is preposterous and fantastic. But we also have been assured that the short range of the present rocket-bombs will soon be corrected. Every build up . . . . is shattered, and we look . . . . straight into an unknown world." Zilsel, The Development of Rationalism and Empiricism, 2 Encyc. of Unified Science, No. 8, 1-8, 47 (1941).


72 Frank, Fate and Freedom 336-37 (1945). There I added some words which Morgenthau should heed: "We should avoid . . . . smugness in our humility. As Pascal said: 'Vanity is so anchored in the heart of man that . . . . those who write against it want to have the glory of having written well; and those who read it desire the glory of having read it. I who write this have perhaps this desire, and perhaps those who will read it.'" See also Frank, Scientific Spirit and Economic Dogmatism, in Science for Democracy 11, 21 (ed. by Nathanson, 1946); Feibleman, The Theory of Human Culture 70, 156 (1946).

day the importance of being fantastic becomes clearer. . . . The only condition more appalling, less practical than world government is the lack of it in this atomic age."\(^7\)

Little courage is needed to be a prophet of evil.\(^7\)

We dare not take the risk of not taking a risk in the use of reason when confronted with destructive uses of unreason. There is real evil in the world—fascism, for instance. Americans generally believe that, with courage and intelligence, we may be able to overcome many evils. But that belief does not commit us to the dogma that victory is certified. Our belief, hardy and athletic, inspires us to take reasonable chances. "The future of human society," as Mr. Justice Douglas puts it, "depends on whether this generation will be successful pioneers of adventure."\(^7\)

As Tocqueville's Democracy in America is highly esteemed by Morgenthau, it is too bad that he does not take to heart these words from the last paragraph of that book: "Providence has not created mankind entirely independent or entirely free. It is true that around every man a fatal circle is traced beyond which he cannot pass; but, within the wide verge of that circle he is powerful and free; as it is with man, so with communities."\(^7\) Within that circle, we must rest our hope for the future, not on a philosophy of drifting, but on a faith in imaginative, inventive intelligence coupled with integrity and good will.\(^8\) My answer to such pessimism as Morgenthau's I have expressed thus: "Man's conscious and deliberate purposes have to some extent affected the past, and they can also to some extent affect the shape of the future. Such is the central thesis of the traditional American credo, a thesis which can neither be proved nor be disproved 'scientifically' but which is a matter of faith. . . . Some inevitability there is in the universe, but also much evitability. . . . We need to keep in mind the . . . belief that 'God helps him who helps himself.' In expressive Americanese, we must make good."\(^7\)

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For more than fifteen years, the Dean of Osgoode Hall Law School has attentively followed the case law in the field of conflict of laws and accompanied the important de-

\(^7\) White, The Wild Flag 34, 186 (1946).

\(^7\) "The prophets of evil are softies in their hearts; they have no stomach for the kind of struggle and patience which are needed again and again along the road to wider team-building." Llewellyn, The Mechanisms of Group Tensions, 14 Am. Scholar 228, 230 (1945).

\(^7\) Douglas, Foreword, 55 Yale L.J. 865, 869 (1946).

\(^7\) Tocqueville, 2 Democracy in America 334 (Bradley ed., 1945). Elsewhere (p. 88) he said: "In perusing the historical volumes which our age has produced, it would seem that man is utterly powerless over himself and over all around him. The historians of antiquity taught how to command; those of our time teach only how to obey. . . . If the doctrine of necessity . . . passes from authors to their readers till it infects the whole mass of the community and gets possession of the public mind, it will soon paralyze the activity of modern society. . . ." See also Frank, Fate and Freedom (1945) passim, and especially Ch. 1.

\(^8\) See Becker, New Liberties for Old xvi–xvii (1914); Becker, Freedom and Responsibility in the American Way of Life 108, 109 (1945).

\(^7\) Frank, Fate and Freedom 16–17 (1945).

* Judge, Circuit Court of Appeals for the Second Circuit.