

James Corbett on “States of Emergency” in Canada, USA, Australia & Around the World

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[States of Emergency](#)

by [James Corbett](#), [The Corbett Report](#)

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“If something is done out of necessity, it is done licitly, since what is not licit in law necessity makes licit. Likewise necessity has no law.” [“Si propter necessitatem aliquid fit, illud licite fit.: quia quad non est licitum in lege, necessitas facitlicitum. Item necessitas legem non habet.”] –Gratian, *Decretum*. [Pars. 1 Dist. 48](#)

“. . . if the observance of the law according to the letter does not involve any sudden risk needing instant remedy, it is not the business of anyone whatsoever to expound what is useful and what is not useful to the state. Those alone can do this who are in authority, and who, on account of such cases have the power to dispense from the laws. If, however, the peril be so sudden as not to allow of the delay involved by referring the matter to authority, the necessity itself

carries with it a dispensation, since necessity knows no law.”
–Thomas Aquinas, *Summa Theologica*. [Part 1 of Second Part Q.96 ART.6](#)

“The necessity with which we are concerned here must be conceived of as a state of affairs that, at least as a rule and in a complete and practically effective way, cannot be regulated by previously established norms. But if it has no law, it makes law, as another common expression has it; which means that it itself constitutes a true and proper source of law... It can be said that necessity is the first and ordinary source of all law, such that by comparison the others are to be considered somehow derivative... And it is to necessity that the origin and legitimation of the legal institution par excellence, namely, the state, and its constitutional order in general, must be traced back, when it is established as a de facto process, for example, on the way to revolution. And what occurs in the initial moment of a particular regime can also repeat itself, though in an exceptional way and with more attenuated characteristics, even after the regime has formed and regulated its fundamental institutions.” – Santi Romano. Quoted in [The State of Exception as a Paradigm of Government, pg. 27](#)

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