

proach was repudiated in the Constitution, by the most sophisticated political thinking on record. This thought is premised on the understanding that human nature is such that if power situations are deliberately created, the worst men will gravitate toward them, and such good men as are given arbitrary power will be corrupted by it. At stake here are two contrasting estimates of man.

Two Views of Man

What is your reading of human nature and the consequences of power? Optimists and utopians tend to think in terms of erecting large and powerful structures of government with wise and good men in charge. Overlooking the corruption in human nature they dream of the benefits which might flow from such an arrangement. Realists, on the other hand, will try to limit the power of government in order to forestall evil men from snatching control of it and doing great harm. A federal republic along the lines of the American model is the product of this outlook. "When it comes to questions of power," wrote Jefferson, "let no more be heard of the goodness of man, but bind him down from mischief by the chains of the Constitution."

The very structure of constitutional government, then, reflects

a philosophy of man; the political machinery itself disperses power and thus limits it. Then, those in the old-fashioned Whig and Classical Liberal tradition placed further controls on power by laying down the earmarks of good law. They may be briefly summarized. In the first place, a good law makes no pretensions to perfection. No human laws are in fact perfect, and the attempts of some to apply their "perfect" laws to imperfect human beings have been disastrous. A good law will take human shortcomings into account; it will reflect our limited understanding and sinful nature.

In the second place, a good law will be written so as to correspond to what the eighteenth century referred to as the Higher Law. A good law, in other words, will not violate our ethical code; it will not supplant morality with mere legality.

Equality before the Law

Generality is a feature of a good law. Everyone should be equal before the bar of justice, and so a good law is one which applies to all men alike and without exception. Men are different in several important ways; some are bright and some dull; some are rich, others are poor. There are differences of nationality, color, and religion; there are employers and

employees, and so on. These are important distinctions and classifications — but not to the law! The law should be blind to such differences, and any law which is general, applying to one man as to all cannot have much wrong with it. Fairness in application coupled with proper enforcement induces respect for law and makes for a high level of law observance.

Besides being imperfect, moral, and general, a good law is conditional; it has an "iffy" quality about it. It says, *if* you steal, or *if* you defraud, or *if* you drive on the left side of the road, you will be punished. A good law takes the side of the negative, saying "Don't," or "Thou shalt not." This means that it is theoretically possible for a man to negotiate life without encountering the law, provided he sticks to the positive. The fifth and final point in this abbreviated list is something like the first; a good law reflects the customs and habits of a people — otherwise it