



The Great Society and the American Constitution Tradition

WILL HERBERG

MY OBJECTION to the Great Society is not primarily an objection to its economic and social aspects, though I agree that these are, by and large, sufficiently objectionable. My objection to the Great Society runs deeper. It goes to the very idea itself, and it holds not only against President Johnson's Great Society, but also Governor Rockefeller's Just Society, and Governor Reagen's Creative Society, if indeed this last means anything more than letting people alone to take care of their own affairs. My objection to the Great Society is an objection to the very idea that it is within the scope and competence of the federal government, under our system, to devise and impose upon the country a special kind of society, however pleasing that might be to the President, to the Congress, or even to the people themselves. It is not, I believe, within the proper powers of the federal government for it to undertake any such project. The very idea, it seems to

me, flies in the face of the American constitutional tradition which alone gives legitimacy to our entire political system.

There are limits to the federal government's competence under the Constitution; indeed, there are limits to the competence of any government that claims to be legitimate; and trying to create new societies, with new men in them, is far beyond such limits. The Great Society, as concept and project, is fundamentally *ultra vires* for a constitutional government such as ours.

What is the essential difference between the constitutional state as we know it, and the totalitarian state? Well, there are a number of differences of quite fundamental importance. The totalitarian state—the very word “totalitarian” testifies to that—makes the claim, in principle, to total jurisdiction and control over all the individual's activities, public and private; the constitutional state, on the other hand, is, by its very nature, limited, *self-limited*.

Again, the totalitarian state recognizes no higher majesty beyond itself—it is, in fact, its own highest majesty—while the limited-power constitutional state recognizes, even if sometimes only implicitly and negatively, a majesty beyond itself, some limit intrinsically to its own pretensions, whether it be the natural law, the divine law, or whatever. These, and other differences like them, can all, I think, be summed up in this fundamental confrontation: the totalitarian state normally espouses its own public conception of the “good life” for man and society, and proceeds to enforce this conception by every means in its power; the constitutional state, on the other hand, does not pretend to any such total conception of the “good life” of its own: it strives merely to provide men, and groups of men, with sufficient freedom to follow their own, often diverse conceptions of the “good life” within the limits of public order. Here is the area of irreconcilable opposition.

Now, I ask you to consider for a moment, in which direction it is that Great Society ideas and programs, in their very nature, are straining. Is it not moving in the direction of totalistic new-modeling of society? I am not suggesting in the least that the United States is going totalitarian in chasing the *ignis fatuus* of the Great Society; our country, thank God, is still thoroughly sound at heart, and Great Society programs have a way of discrediting themselves through their own vice. So far, Great Society projects have been little more than a continuation of the political “spending” programs that came in with the New Deal—that, and a lot of talk. But the talk is altogether of the wrong kind; it is talk calculated to produce a superheated vision of a state-conceived, state-operated welfare society, where everyone will somehow be taken care of by Washington from the cradle to the grave. The very con-

ception of government is being systematically, and almost openly, subverted in a direction radically hostile to our constitutional tradition.

This is not merely a political question, though that would be grave enough. It is, at bottom, a philosophical, even a theological, question. “What is it to have a god, what is God,” Martin Luther once asked. And he answered: “God and faith go together. That which you depend on most absolutely, that which you turn to most entirely, when in distress and bitter need, that is your god!” What is it that we are becoming more and more accustomed to look to when in need and distress? From whom, indeed, is it that we are becoming more and more inclined to see “all blessings flow”? From Washington, of course, which is striving so hard to envelop us in the warm security of an expanding Welfare State. The present-day Great Society envisions itself as a kind of divinized Welfare-Bringer; like the Hellenistic monarchies of another age, it proclaims itself as *Euergetes*, or Benefactor, mediating the gifts of the gods to a grateful people. The analogy is too striking not to be more than a mere polemical device.

Some two years ago, you may remember, storms and floods devastated parts of the midwest, and destroyed, with much else, a number of Amish settlements. Almost immediately, Amishmen from nearby states responded, and came to the assistance of their stricken brethren, rebuilding homes and community edifices through their own efforts. A TV documentary reported this event. Here is part of what the commentator said: “These days, when people are in trouble, there is one direction in which they look—the federal government. But the Amish people don’t look to the federal government for help; they look to each other in their church and community.” This commentator spoke perhaps more

wisely than he knew, for in the story he was telling and the scene he was presenting, there was a direct confrontation of two irreconcilable ways: individual and community selfhelp, in line with our best traditions; and forever looking to the federal government for comfort and assistance, like helpless dependents upon a powerful and benevolent patron.

Once basic constitutional restrictions are ignored, no limits can be set upon the all-embracing solicitude of the federal government. Food, clothing, shelter: all these, of course. But man does not live by bread alone. So education, too, is to be dispensed from the Great Cornucopia. And, beyond education, spiritual blessings as well. . . It is not for nothing that President Johnson so often refers to the Great Society he is so intent upon building as the City of Hope, in which the forlorn denizens of the urban wasteland are to receive new life. And, as if that were not enough, not too long ago a conference of educators and clergymen appealed to the President to do something to "restore some meaning and purpose to millions of lives." Words like these tell their own story—educators and clergymen (clergymen, mind you!) pleading with the President to make the Great Society serve as an order of redemption, conferring meaning and hope—in short, a church. Surely, farther than this, no Welfare State, no Great Society, can go in its inordinate pretensions!

These philosophical considerations are not so remote as may appear at first sight. For it is an inseparable and inviolable part of our constitutional tradition that the government, while friendly and encouraging to the religion, or religions, of its citizens, may not itself become the object of religious devotion; it must on no account allow itself to be divinized and to engage the citizen's highest hopes and expectations. The government, to be constitutionally legiti-

mate, must be content with being a power of the middle range, restricted to the rather prosaic functions proper to it, without pretending to be the seat of the citizen's highest values, as it is in so many Continental political philosophies and systems, and as it would be in a fully developed Great Society set up and operated by the state.

Fifteen years ago, in 1952, Elliot Cohen, the original editor of the magazine *Commentary*, published his now classic essay, "The Free American Citizen."

It seems to me [Mr. Cohen then wrote] that the free citizen, religious or non-religious, does have at least one shared conviction. Whether he professes to believe in God, or professes not to believe in God, he has a conviction that there is no god but God. To put it another way: I believe that both the religious believer and the man of secular faith in the United States come very close to holding in their heart the Hebraic commandment: "Thou shalt not have other gods before me." I take this to mean that, whether one believes in some transcendent power or not, one does *not* believe that there is any idea, institution, or program that we can regard as God. . . [The essence is that the individual] keep this obdurate recalcitrance in the face of all proposed faiths and ideologies that would give any political thing supreme value.

Yes, this is the creed of the "free American citizen." Can it also ever be the creed of the grateful beneficiaries of a state-operated Great Society?

The vision of a great Society engineered by the federal government is usually found closely associated with the demand for a "sense of purpose" to be developed and projected by the same authority. But this is likewise a radical departure from our basic constitutional system. The federal government is not, and was never meant to be, a

moral agency to give the people an inspirational lead.¹ "If people want a sense of purpose," an eminent British statesman recently said, "they should get it from their archbishops and their Church. They should certainly *not* try to get it from their politicians and their government." How right he was! Life without purpose is a mean and paltry thing. We all want to inform life with a sense of purpose that will give it significance and value. But the sense of purpose, if it is to come at all, must come to each of us from the deepest sources—from our faith, from our "philosophy of life," from our religious and moral convictions. To look to the state to supply it to us is once more to "religionize" the state, against both sound religion and responsible politics. It is something never contemplated by the Founding Fathers and the makers of our constitutional republic as a function of the state.

We may see the whole in the part. The continuing controversy over public education in this country is not without its relevance to the larger issue of the Great Society. In sharp opposition to that might be called the French, or Continental, philosophy of education, which sees the rising generation as wards belonging to the state, and the state itself as possessing a "natural" and proper educative function ("*l'état enseignant*") with a prior right to form the minds of the children, the American philosophy sees the children as belonging to the parents and family, and asserts the right of the parents, or whomever the parents may designate (tutors, independent schools, church schools), to bring up and educate their children. The government may step in only as a last resort to supply facilities and teachers, not otherwise available. Over a hundred years ago, John Stuart Mill, the great liberal of the nineteenth century, eloquently presented this view.

That the whole, or any large part of the education of the children [he declared] should be in state hands, I go as far as any one in deprecating. . . All that has been said [in the essay *On Liberty*] of the importance of individuality and diversity in opinions and modes of conduct, involves, as of the same unspeakable importance, diversity in education.

Mill felt that the state might well require universal education, but should not itself conduct schools. Rather should the state subsidize the education of children in independent schools chosen by the parents where parents could not afford to educate their children from their own resources. Whatever might be the need for state aid, one thing could *not* be permitted in a free state, and that was the state taking over for itself the function of educating the rising generation and forming its mind in line with state doctrine. The state has no business having an official doctrine about the good life, and even less business trying to indoctrinate the people with it.

So strongly did Mill feel about freedom and parental rights in education that he, an unwavering agnostic, even favored religious education, where desired by the parents. "There would be nothing," he declared, "to hinder them [the children] being taught religion, if their parents chose, at the same schools where they were taught other things."

For historical reasons with which we are familiar, it proved impossible to avoid a large-scale establishment of state schools in this country. But the original commitment that the children *of right* belong to the parents and family, not to the state for indoctrination, has never been quite abandoned, despite the totalistic dreams of large numbers of professional educationists. In 1925, the United States Supreme Court—in happier days—struck down an Oregon statute in effect requiring parents to have

their children educated in public schools, and in public schools only. Here is the operative paragraph in the Oregon decision:

The fundamental theory of liberty upon which all governments in this Union repose, excludes any general power of the state to standardize its children by forcing them to accept instruction from public teachers. The child is not the mere creature of the state; those who nurture and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations.²

And another Supreme Court decision, nearly twenty years later (the Massachusetts Jehovah's Witnesses case of 1944) went even further.

It is cardinal with us [the Supreme Court then said] that the custody, care, and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder.³

A state system of education, with state control of the rising generation, is an essential element of any fully developed Great Society, and the Oregon and Massachusetts decisions were certainly a blow to such totalistic pretensions. In the matter of education, these historic decisions went far to vindicate the right of individuals, or groups of individuals, to devise and pursue their own ways of life, free from any pressure by the state to comprehend them in an official scheme of purposes, values, and ideals.

Let me now try to bring to some sort of conclusion these somewhat sketchy remarks of mine. Actually, I have had only one point to make, and that is the point that the function of government in our constitutional system is not to provide its citi-

zens with an official program for the good life, an official vision of the Good Society, an official answer to the human yearning for a sense of meaning in life, an official guarantee of security and hope. The urge to come to the people with such promises and programs is, today, largely one emanating from the federal government; with some exceptions, the several states do not seem to have either the inclination or the resources to launch out into this kind of salvatory politics—though we should never forget Upton Sinclair's EPIC ("End Poverty in California") campaign a generation ago. It is these pretensions of the federal government to come to the people with an official program of well-being, meaning, and hope that I find so disturbing. I am not, at this point, criticizing the particular projects advanced under the Great Society—some are new, some are old; some may make sense, others obviously don't; all seem to involve free and easy spending. What bothers me, and I've been trying to say this throughout this paper, is the banner under which they are brought forward—the banner of a state-conceived, state-promoted Great Society. It is such pretensions that I find fundamentally at odds with the underlying conceptions of our American constitutional tradition.

²George F. Kennan, however unsatisfactory his views on foreign policy may be, is very clear about the nature of government in the American constitutional tradition. "The process of government," he writes, "is a practical exercise, not a moral one. Primarily, it is a sorry chore, consisting of the application of restraint by man over man, a chore made necessary because of man's irrational nature, his selfishness, his obstinacy, his tendency to violence . . . A government is an agent, and no more than any agent may it attempt to be the conscience of its principals" (*Realities of American Foreign Policy*, p. 48).

³*Pierce v. Society of Sisters*. 268 US 510 (1925)

⁴*Prince v. Massachusetts*. 321 US 158 (1944)