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Alternatives to Orthodoxy

Despite the manifest flaws in the loop model of American governance, most calls for reform presuppose the efficacy of the loop model. The incredulity of representative democracy is both a curse and an opportunity. It is a curse on public administration because it deprives it of direct access to popular sovereignty as it is popularly understood. Public administrators' political masters sometimes exhibit behaviors associated with charlatans and demagogues, and sometimes crooks, parading under the garish banner of the will of the people. The intellectual misgivings associated with representative democracy provide an opportunity to theorize anew.

The three dominant responses to this paradigm anxiety have been neoliberalism, constitutionalism, and citizen activation. All owe their respective structures to the requirements of legitimacy and accountability. The most highly successful alternative model, named *neoliberalism* to gather in its variety of iterations (privatization, reinventing government, new public management, and others) will be discussed in the first section below. This first alternative to orthodoxy replaces the rule-bound, hierarchical, and sometimes inefficient bureaucracy with market reforms. Here we do not worry so much about following rules, but instead focus on outcomes, results, and performance. We end the section on neoliberalism by noting that it is open to corruption, unreasonably relies on social science methodology that cannot perform its assigned tasks, and displaces values such as democracy, openness, fairness, and equity with an intensified and toxic instrumental rationality.

The second alternative substitutes the Constitution for the electoral victors of the moment. Here loyalty to the sovereign people need not be compromised if it can be shown that constitutional principles have primacy over the merely elected. From the motley crew shouting conflict-

ing orders, we may choose which ones to obey when guided by the constitutional founding. *Constitutionalism*, as developed in the Blacksburg Manifesto (see Wamsley et al. 1990, for the published version), is the topic of the second section below. This body of discretionist thought is a reaction to the bureaucrat bashing that began in the 1970s. If the loop fails to deliver sensible manifestations of popular will, administrators can turn to the Constitution for legitimacy and guidance. We conclude the second section by arguing that constitutionalism is an insufficiently radical departure from orthodoxy because it attempts to assign constitutional legitimacy to the extant administrative state, with all its flaws.

More to our liking is the third alternative, the *communitarian* tendency, which seeks to replace the loop with direct interface between administration and the citizenry. The third alternative seeks to bypass the electoral loop by going directly to the sovereign citizens. Here we are instructed to replace electoral, representative, weak democracy with direct, strong democracy. But by embracing the entire citizenry, on the one hand, and regarding all issues as public policy issues, on the other, the communitarian ideal founders. But first, neoliberalism.

Neoliberalism

Neoliberalism may be considered an extension of conventional liberal-utilitarian thought in that the individual comes before the community, and community is or ought to be the realm of economic activity, wherein the role of the state is to keep peace in this community marketplace. “The internal design of the relation between the ‘natural’ private realm of the market and the ‘artificial’ public realm of the state has been the object of constant elaboration and adjustment” (Pesch 2003, 53). This is the background theme of several reform efforts in public administration that we gather together for critique under the umbrella of neoliberalism.

Privatization, Contracting Out, and Performance Assessment

The reform efforts that have gone by the names *public choice*, *privatization*, *reinventing government*, and *new public management* are examples of a genre that promises reform and radical change in the way the public sector is run. This genre of managerialism picked up steam in the Reagan administration in the United States, the Thatcher adminis-

tration in Britain, and in Australia in the 1990s. There is the promise of less red tape, and an emphasis on performance and effectiveness rather than rules. "Reformers sought to replace authority and rigidity with flexibility; the traditional preoccupation with structure with improvements to process; and the comfortable stability of government agencies and budgets with market-style competition" (Kettl 1997, 447). Though Kettl writes in the past tense, and others would argue that any or all of these iterations of reform are by now passé, the pressure continues, at least in the English-speaking world, for public administrators to introduce or extend the practices of contracting-out and to adopt performance-measurement reforms. Efficiency is valued highly in the school of thought we are calling neoliberalism. Discourse that, in contexts other than neoliberalism, would be appreciated as a form of democratic deliberation, are regarded here as a transaction cost that preempts other opportunities (Horn 1995). These styles, which we gather into the genre of neoliberal reform, challenge the orthodox model in some ways (the rules orientation of orthodoxy is not heeded with the same respect), but in other ways (rationalism and scientism) neoliberalism reiterates and affirms the presuppositions of orthodoxy.

The term *liberal* has become a mutant metaphor that, when mentioned by certain right-wing talk-show hosts, is hissed with a snarl on the lips rather than spoken in a normal tone of voice. This may seem odd, because a classical liberal might find herself ideologically close to those in the United States who nowadays are identified as neoconservatives or probusiness right-wingers. This is not so much irony as custom. In the United States, the image of a liberal is someone who supports the welfare state, including Social Security, public education, some kind of nationalized health care system, as well as "big government," civil rights, and equal opportunity regardless of race or ethnicity. In Canada and Japan, on the other hand, the Liberal Party has always been linked closely to business interests, retaining the classical libertarian meaning of the term liberal.

The lineage of neoliberalism is not New Deal or Great Society liberalism, but classical liberalism, by which the government restrains itself from interfering in business, science, scholarship, and religion to the extent possible. In its reaction against the "excessive government" of the New Deal, the Chicago School of Economics has been identified by Foucault (1994b, 79) as an expression of American neoliberalism, which "seeks to extend the rationality of the market, the schemes of analysis it

proposes, and the decision making criteria it suggests to areas that are not exclusively or not primarily economic.” While classical liberalism placed much emphasis on the rule of law and constitutional guarantees, neoliberalism expresses an ideological standpoint favoring market-system solutions and methods over government intervention—especially when it comes to restrictions on business operations, corporations, and the flow of capital. Jeremy Bentham’s Panopticon writings, which offered an interventionist social-engineering twist to his utilitarian liberalism, along with Adam Smith’s advocacy of markets in *Wealth of Nations*, provide the most relevant lineage from classical liberalism to neoliberalism.¹ The attacks on government beginning in the 1970s, and on bureaucracy in particular, can be traced significantly to neoliberal advocacy of limited government—limited spending, limited taxation, limited regulation, and limited interference in free enterprise. Market systems have demonstrated themselves superior to centralized government planning systems (Lindblom 2001), and so neoliberal philosophy has commanded significant power and influence over the affairs of nations, states, and communities.

Government is put to best use, in the neoliberal frame, by making markets available to free enterprise. This use of government may range from international free trade agreements to engaging in war to promote “freedom.” Government under the influence of neoliberalism enables the exploitation of resources, including labor and raw materials, in an efficient and effective manner. Governmental interventions to accomplish these political-economic tasks are not as limited as they would have been in the classical liberalism that John Locke, David Hume, or Edmund Burke envisioned. Classical liberalism would abhor proposals to take people’s private homes or businesses and hand that property over to a corporation that would spur economic development. But the 2005 U.S. Supreme Court ruling in *Kelo v. City of New London, Connecticut* allowed government to use eminent domain to transfer private property to another private interest in hopes of boosting the tax base. Proponents of classical liberalism probably would not even list old-style takings—limited to those that involve public purposes such as new roads or schools—high on the action agenda. The new use of eminent domain power signals the more aggressive corporate style of neoliberalism, and it is a global as well as a local phenomenon. Hence neoliberalism and globalization are often mentioned in the same sentence. With neoliberalism, strong and powerful governments armed with mighty

military capacity and supported by international financial institutions are deployed to make the world safe for free enterprise. This top-down expression of institutional power has the potential for undermining both democratically elected governments and tyrannical despots.

Neoliberalism is criticized for helping to create a race to the bottom, as corporations move operations to places with the least restrictive environmental laws, the weakest labor standards, and the cheapest natural resources. Inequality in wealth and power thus increases when policy is guided by neoliberal philosophy (Pollin 2005).

Neoliberalism as a domestic political movement is all about downsizing government, privatizing government-run operations to the extent possible, and “getting government off our backs,” as the late U.S. president Ronald Reagan was fond of saying. By that he meant the deregulation of business—a thrust much appreciated by businesses large and small, which frequently found themselves tied down by government red tape. The metaphors deployed in trying to improve public management are borrowed from business models. For example, the metaphor “customer service” was an attempt to get public managers to deploy a business frame of mind in the way that it related to citizens. Thompson’s (2003) association of orthodox public administration to “the Prussian model” indicates how neoliberalism can be seen as a significant challenge to orthodoxy:

In the US the progressive movement created modern public administration. To a remarkable degree the progressive reforms—an executive, input-oriented budget, a professional civil service and merit-based public personnel administration, control by rules, standardization of procedures, task specialization, and a strict administrative hierarchy, with clearly delineated staff and line functions—were based on the Prussian model. . . . One of the best-known apologies for this practice was Woodrow Wilson’s argument that politics and administration are different functions, making it possible to borrow administrative practices from an authoritarian state without thereby threatening democratic politics—“If I see a murderous fellow cleverly sharpening his knife . . .” (333)

Government, because it is rule-bound rather than market-sensitive, was seen as unable to operate enterprises that require flexibility and adaptability. In public administration, neoliberalism translates into a desire for transparency on the one hand, and dismantling of governmental regulations on the other. At issue is the implementation of regula-

tions that seem to lack consistency and efficiency. It is better to limit government to supplying public goods, say the public choice advocates who have strongly influenced neoliberal economic theory.

Neoliberals are not unambiguously antigovernment, however. Some of them, at least, have taken it upon themselves to try to improve public-sector management. According to Thompson (2003, 334): “Old style bureaucracy is authoritarian and hierarchical, those attributes never comported well with democratic values. Moreover, the requirements of directing giant, vertically integrated, functional organizations has tended to overwhelm the capacity of the public and its elected representatives to attend to the general welfare. Limiting the scope of the public sector to the provision of services that truly are infused with the common interest cannot but enhance the efficacy of democratic governance mechanisms.”

Economic theories of organization and management, especially emanating from public-choice-style political economy, helped buttress the case for reform. Privatization, downsizing, load-shedding, and contracting-out were pursued with the purposes of making government smaller. Keen attention was paid to the incentives of institutional practices; those that lead to desired results were continued or strengthened. Otherwise, the incentive system needed to be changed. Principal agent theory, performance assessment, and a focus on measurement of results and effects were aimed at making government more efficient and effective. Even nonprofit organizations are advised to adopt neoliberalism’s instrumental rationality, as when Peter Drucker famously warned the Girl Scouts that their benefactors would judge them on the basis of results. If success is to be measured by effects, then it became imperative that government adopt the methods of empirical social science, whereby indicators of performance could be reported to political authorities to verify programmatic veracity.

Hence, neoliberalism as expressed in the public administration literature is laden with calls for systematic analysis and for adoption of the habits and techniques of policy analysis (Barzelay 2001). The emphasis on technology and the transfer of technology that could be found in neoliberalism was reiterated in public administration as an emphasis on analytical techniques (Lynn 1996).

At the same time, centrally managed institutional rules and routines were to yield to “situation specific requirements of policy entrepreneurship” (Barzelay 2001, 158). In some attempts at implementing the

neoliberal managerial program, this was to be accompanied by individualized performance contracts rather than traditional civil service rules. Indeed, the tremendous emphasis on outcomes assessment, performance measurement, and program evaluation may signal the limits of neoliberal managerialism. The ever-greater specification of performance goals and output measures (Kettl 1997) mirrors the problematic we described in chapter 1.

Critique of Neoliberalism

Reservations about neoliberalism and its business-oriented methods have gained increasing expression in public administration journals. “[R]unning government like a business means that public managers increasingly regard the public as customers to be served rather than as citizens who govern themselves through collective discourse practices” (Box 1999, 22). Indeed, there are some very good reasons to be skeptical of neoliberal managerialism, not the least of which are: (1) the potential for corruption and (2) the unrealizable ambitions regarding performance measurement and outcome assessment.

Corruption

Certain private-sector aspects of neoliberal managerialism have been linked to corrupt practices. Proponents of privatization, for example, “ignore impressive examples of inefficiency, waste and corruption in the American experience with defense, construction projects, and health care—all mostly produced privately with public dollars” (Morgan and England 1988, 979). Names have been given to various scurrilous or circumstantial yet common practices: low-balling, buying-in, cost overruns, collusive bidding, unforeseen circumstances, or market failure (Miller and Simmons 1998). One should not expect free competition when there are numerous examples of single-bid contracts, negotiated bids, wired deals, outright bribery, and “profit”-sharing kick-back schemes for anyone who reads newspapers to know about.

The concern among neoliberals has more to do with slacker employees than with the inevitable corruption that contracting-out yields. While neoliberalism is keen to reduce the power of public-sector labor unions, contracting-out can result in reduced health care benefits for workers, lower wages, and pernicious work rules. Yet, the most enduring and con-

tentious debates are in the areas of contract oversight and corruption, as Leonard White long ago reported. “During the 1870’s there was both incompetence and dishonesty in the large custom houses: discipline and integrity among the navy-yard labor forces were at low ebb; the Indian service had been roundly condemned by Garfield; land agents connived at irregularities, and surveyors made fraudulent claims for work not performed” (1958, 367).

Corruption notwithstanding, the more contracting out, the more resources necessarily will be devoted to contract writing, specification of standards, performance monitoring, and auditing. The promulgation of rules by which procurement policies are implemented likewise will be necessary. In addition to providing a new outlet for red tape, another layer of accountability and oversight bureaucracy will be necessitated.

The Problems of Measurement and Causal Attribution

Public-sector problems are often the most difficult to solve, much less define. That is to say, there often is not a political consensus on what to do, and there is not the technical expertise to solve the problem even if the what-to-do problem were solved. Multiple values and perspectives come into play. In this sort of turbulent environment, the hope that performance measurement will be of any use whatsoever is a hope for too much. The problem is not only one of constructing indicators that are valid, but of deciding what category of thing to count. “Infant mortality rate,” for example, a widely used indicator of a population’s access to health care, is controversial when used that way. But that is among the least controversial environmental and public health indices. Should asthma be used as a national health indicator? Such a national standard would be opposed by smoke-stack industries.

An additional difficulty comes when attributing causality to governmental programs. Was it state and federal environmental programs that caused the air and water quality improvements in Michigan? Or was the “cause” the fact that so many manufacturing facilities were relocated to union-free states or low-wage countries during the same time period?

In practice, there are numerous problems with performance indicators. On this score, the critique of orthodoxy presented in chapter 1 applies to neoliberalism in spades, because accountability via social science techniques has become an integral part of neoliberal social engineering.

Among the most important difficulties with the use of social science techniques is the matter of gaming the system. Gaming implies that presumably stable indicators are incorporated into policy. Getting arrested criminals to admit to crimes they never committed, or helping students cheat on standardized exams are but two ways of gaming the system. If standardized education assessments test only for mathematics competencies, teachers will stop teaching art and citizenship. If a job training program rewards a job placement agency or counselor according to the proportion of registrants that find jobs, there is an incentive to register for training only those who are likely to get jobs. Gaming is measure specific.

Reports of the irrationality of rationalistic performance measures abound. "Consider the case of chandeliers [in the former Soviet Union]. . . . Because the original production description chosen was weight, the Soviets could soon boast the heaviest chandeliers in the world" (Courty and Marschke 2003, 269). And one can imagine the absurd scenario playing out in full. If performance measures in the nail-making industry emphasized quantity, one can be assured that the nails will be too small to hold the chandeliers in place in the ceiling. And if quality indicators of light bulbs focus overmuch on luminescence, every chandelier is also likely to be a fire hazard.

Meanwhile, evaluators can also game the system, by making themselves seem indispensable. A particularly wicked strategy would be to create as many different and complicated indicators as possible. Everyone is confused except the evaluator!

In sum, the proposition that performance can be reduced to variables that can be measured, and that outcomes, results, effects, and even non-events can be attributed to programs and policies, amounts to fanciful faith in what social science methodology can accomplish.

Neoliberal Extremism

Neoliberal reform, in its public management manifestations, has been labeled "a remarkable revolution" (Kettl 1997, 1). It has challenged orthodoxy in important ways, yet some things remain the same. Neoliberalism's reliance on principal agent theory (which informs the rationale for contracting out) reiterates the politics-administration dichotomy. "[P]rincipal-agent theory is especially applicable in the public sector, where the relationships between citizens (principals) and politi-

cians (their agents) and between politicians (principals in this case) and bureaucrats (their agents) are a constant source of fascination” (Box 1999, 28). The idea is that agents can be fired by their principals if their performance assessments do not indicate efficiency or effectiveness. But efficiency and effectiveness are sometimes construed in peculiar ways. The sacking of Amtrak’s president David Gunn is a case in point.

Referred to as the best president in years of the nation’s only passenger railroad by the *New York Times* (November 10, 2005, A30), the editorial noted that the U.S. Senate “managed to get a 93–to–6 vote to authorize \$11.6 billion for passenger rail service in the next six years—as close to an all-out endorsement of Amtrak as you can get.” But the Board of Directors wanted competition, outsourcing, load-shedding of certain corridors, free-market modes of transportation, and expense cutting—perhaps even liquidation of Amtrak. These reforms have a constituency and an argument—Amtrak’s service needs improvement and its control of train tracks and train stations should be opened up to competition (perhaps from certain legislators’ important campaign contributors). Neoliberalism’s managerial reforms sometimes look a lot like orthodoxy, even as they impose a harsher set of economic utility-maximizing assumptions. And in spite of the genre’s antihierarchy rhetoric (e.g., see Thompson 2003), organizational control remains vertical and severe. At the same time, bureaucracy’s cultural signature, instrumental rationality, is insinuated into the public discourse with increased fervor, driving out values such as fairness and equity, as well as fraternity, liberty, and equality.

Neoliberal ideologues have gone to extremes to advance privatization even when corporations have no useful role to play. In a proposal by one senator, the National Weather Service would have had to limit the weather information they make directly available to the public so that weather information would have to be funneled through private corporations instead (Krugman 2005). Requiring anyone who wants Medicare drug benefits to enroll in a corporate-provided plan has increased not only administrative costs but has caused former Miami Dolphins coach Don Shula to go on TV and tout the benefits of enrolling in the drug plan that pays him to go on TV. Meanwhile, the same law explicitly prohibits Medicare from using its clout to negotiate better deals for the consumer/citizen/taxpayer (Krugman 2005).

In one of the more startling critiques of neoliberal managerialism, Imas (2005) reconstructed the management discourse in Chile in the

1970s. Imas argues that Chile became a rational management society due to colonization, and that “because Chile was the result of imported ideas, lives and cultures, Chileans did not have a strong historical identity. Therefore, they were susceptible to foreign discourses, such as rational management” (113). Moreover, unequal control of mines, farms, and natural resources had, by the 1960s, exacerbated serious class divisions in the country and created a confrontational environment. Salvador Allende was elected president in 1970 by a left-wing coalition; by 1973 the right wing had him assassinated and “Chile was to be re-born as a modern rational organization, and a previously somber and insignificant figure of its history was to be catapulted to a central role: rational management emerged to write the new Chile” (119). Imas’s chilling first-person account of the day Salvador Allende was assassinated—September 11, 1973—conveys the terror, dismay, and anxiety of not knowing the whereabouts of his father (who “disappeared” at the National Stadium).

It is important to remember that a new era had arrived in Chile. Before Allende, Chile was run like a big *hacienda*; after the military coup of 1973, Chileans learned a new model of organization and a new model of man (Imas 2005). “These market principles insisted on the right to private property, the non-interventionist nature of the state and the domination of market forces through privatization and liberalization of the economy . . . Moreover, under this new organization, all vestiges of bureaucratic political rule (as they referred to democracy) and Chilean history would simply disappear as if they never existed” (Imas 2005, 124). Imas’s story, then, is about a Chile that acquired a new historical identity and came to resemble a rationally organized society guided by technocratic and rational managers. Its previous identity had been “disappeared.”

The Chilean example underscores the unavoidable political backdrop of rational managerialism, which is still regarded in some circles as a neutral force. Institutions are, above all, routinized relations of power (as we will argue more fully in chapter 4). Public administration theories that posit an administration that is separate from politics fail to convey the everyday, relational practices of power. Neoliberal reform pushes forth a one-dimensional instrumental rationality and seems unwilling or unable to abide multidimensional value plurality. This one-dimensionality endorses *limited* government, but neoliberal proponents of *effective* government are harder to find.

In contrast to neoliberalism, the next two models may be considered discretionist (Fox and Cochran 1990) and are therefore willing to acknowledge the inevitably political component of actions and events that concern public administration. As we shall see, these models affirm a proactive public administration on behalf of the public interest. Administrative discretion, in turn, is based explicitly or implicitly on the incredulity of representative democracy as we know it (called weak democracy by Adams et al. 1990; known also as overhead democracy and unilateralism in Mosher 1982). All discretionist views imply skepticism toward contemporary political authority.² Although discretionists dismiss the politics-administration dichotomy, they also would like to leave behind the petty bickering, grandstanding, and gridlock that stem from partisan politics.

The Constitutionalist Alternative

Constitutionalism means different things in different contexts and literatures. Here the term is used to identify a class of arguments now sufficiently solidified and complete to qualify as an alternative theory vying to replace orthodoxy in public administration. The leading intellectual proponent of constitutionalism in this sense is John Rohr. His case for refounding public administration based on a particular reading of the founding is all the more influential as the cornerstone of the Blacksburg Manifesto (Wamsley 1990, 23) and as the template for various interpretations from D. F. Morgan (1990) to Spicer and Terry (1993). As the impressively erudite Rohr is an unlikely man of straw, it is Rohr's (1986) argument that merits explication and critique.

Rohr's Thesis

Rohr is straightforward: "The purpose of this book is to legitimate the administrative state in terms of constitutional principle" (Rohr 1986, ix). But how can the Public Administration (capitalized here to reflect the convention of Blacksburg scholars) be a constitutionally legitimate governmental structure in its own right when the word *administration* appears nowhere in the written Constitution? Rohr's answer is that a constitution is more than the particular contract that the document codifies. A constitution is a covenant (x). Given the religious overtones of *covenant*, Rohr here seems to mean that a contract is the letter, whereas

a covenant is the spirit, of an agreement between two or more parties. But how may one “read” the spirit? Rohr’s answer is that it should be read through the exegesis of writings of those engaged in the argument (9), exegesis being the critical interpretation of text. For Rohr, this exegesis has as its object an expanded text, including the actual Constitution, *The Federalist Papers*, and writings of the antifederalists as well. The purpose of exegesis is to distill larger, more fundamental verities from the clutter of impassioned points made by debaters in the heat of the moment. In such a context, the constitutional document itself is only the provisional synthesis, a strong but not decisive point held in tension in the larger agonistic web of argumentation and counterargument.

Constitutional in this sense is certainly a more encompassing concept than the crabbed Constitution of the strict constructionist jurist. Constitutionalism as a legitimizing font for the administrative state is really about the founding. “The Constitution is the symbol of the founding of the Republic and in politics, ‘foundings’ are normative” (Rohr 1986, 7). “The source of authority of regimes is the founding act itself” (179).³ But what is *founding*? In the history of political philosophy, many watershed thinkers revere foundings. To Plato, for instance, if the ideal of the Republic cannot be actualized, the second best state is one of laws stemming from a founding. Similarly, Rousseau settles for the founding acts of a legislator, failing the emergence of institutional manifestations of the general will. Social contract theory in general—Hobbes, Locke, and, recently, Rawls—imagines some founding moment when for various reasons the people come together to create unabrogatable arrangements for living together in (at least) peace, if not justice and harmony. Rohr suggests that this second-best historicism is what he has in mind. By such logic, foundings may approximate to varying degrees Absolute Justice/Truth. Although they are a compromise from Absolute Justice, and they differ from place to place and time to time (such differences already a regrettable move along the spectrum from ideal to appearance), these approximations usually depend on the sagacity of the humans (or suffer from the lack thereof) who serve as the vehicles of Truth or Justice. In the case of the founding of the American republic, though, there is not one wise Solomon-like lawmaker; there is instead a formidable committee whose members argue.

Rohr’s innovation, then, is to embody the founding, not in a founder, nor even in the founding fathers, but rather in the thoughts and principles flowing between the participants and between them and their interlocu-

tors. “The founding was in the argument” (1986, 179). Thus, when we swear an oath to protect the Constitution, we swear to honor the founding and the tradition coalesced by that act, we swear to honor the argument, and in a sense we swear also to engage ourselves in the argument, bounded by the high principles through which it was originally conducted.⁴

So how is all this founding talk related to public administration? Rohr (1986) makes three modest claims: “The administrative state is consistent with the Constitution, fulfills its design, and heals a longstanding major defect” (13). First, although public administration exercises executive, legislative, and judicial powers, it does not violate the relaxed standard of separation of powers, which standard may be adduced from the founding argument. Second, public administration provides a constitutional “balance wheel,” a function originally assigned to the non-elected Senate. Third, public administration provides a measure of (demographic) representation insufficiently fulfilled by the strictly constitutional branches.

Critique of Constitutionalism

We have tried to portray constitutionalism with the genuine sympathy we feel for it and the cause that it champions. Constitutional legitimacy for government’s embattled regulars surely is worth the effort. The Blacksburg Manifesto, which relies on constitutional legitimacy, resonates with a dignity deserved by dedicated public servants in the agencies. As the first coordinated effort to replace dysfunctional public administration orthodoxy, the manifesto blazed a path that subsequent efforts will gratefully follow, before they too face the undergrowth, but now using machetes whose edges have been spared the dulling effects of the first cut.

Ultimately constitutionalism fails us because it is simply too conservative; it is reactionary in the noble but still fettering Burkean sense. To defend the administrative state by constitutional inquiry looks back instead of forward. The attempt to save the administrative state from the attacks of primitive neoliberal philistines fights the battle on the wrong ground. One ends up forced to affirm many arrangements that merit, instead, reconstruction. Forced by the right-wing contras to a desperate redoubt, public administration theory finds itself fighting alongside such past and future nemeses as hierarchy, moribund institutional boundaries, agency aggrandizement (see, e.g., Kronenberg’s 1990 challenge), and all the other bureau pathologies many of us had once hoped to surpass.

As the Blackburg scholars admit (Wamsley et al. 1990, preface), they have come to embrace institutionalism and authority at least as a welcome alternative to the libertarian anarchy of the resurgent Right. We contend that this is overly defeatist. Defense of the status quo robs public administration theorists of the independence required to imagine more democratic and less constricting possibilities of work and governance. We should instead be alert to seize upon emerging trends and to coax from them a path toward a tolerant and nondogmatic administrative culture that respects contingency and surprise. Many niggling quarrels—such as the exclusion of dedicated state and local civil servants, the elitism implied by the role of the “upper reaches” of the civil service for which Rohr proposes a senatorial role—could (but won’t) be picked. Other more substantive objections that we share with others (such as Stivers’s [1993] charge of instrumentalism of the founders, or P. Cooper’s [1990] demur relating to agencies’ actual performance) need not be repeated here. Constitutionalism (and to the degree of reliance on same, the Blackburg Manifesto⁵) ought not be afforded pride of place in the colloquy for an alternative model because it stoops to defensive and tortured argumentation; lacks a stable referent; and seems too closely tied, by virtue of the institutionalism implied, to a given structure of governance.

Tortured Argumentation

One cannot but admire the careful constitutional scholarship and the many hours of meticulous reading that Rohr (1986) exhibits in his *To Run a Constitution*. Few would agree to duel with him on these, his, grounds. He is also scrupulously honest about the results of these labors. The strongest case he can make for the constitutional legitimacy of public administration remains, by his admission, weak. Rohr would not ask for relaxed standards of judgment, or poetic license (174–78), were it not so. Because the cause—defending embattled bureaucrats—is just, we are asked to suspend normal protocols of scholarly argumentation. Aristotle’s dictum that no more precision should be required than a subject admits is invoked to justify this suspension. At one point (176), novelty by itself stands as a criterion for positive evaluation of the argument. Even granting all such dispensations, in the end it is not so much that the Constitution founds public administration, as it is that public administration is not inconsistent with it. But by that logic, public administration is no less legitimate than, *tu quoque*, the imperial presi-

dency, an activist judiciary, or, heaven forbid, the corps of Washington lobbyists. For such a diluted product, we think Rohr asks too dear a price. For violating the separation of powers, we are urged to adopt the most relaxed standards that can be read from Publius. For the independence to obey whichever master public administration deigns to hear, we are asked to acquiesce to the analogy of a long-since abandoned senatorial structure and its metaphoric balance wheel. The reasoning, although not exactly fallacious, nonetheless fails to persuade. An equally serious difficulty is what we call the riddle of the vanishing referent.

Vanishing Referent

The regime norms from which American bureaucrats are urged to deduce their ethics (Rohr 1989) are vanishing referents (Fox 1993). Like mirages and rainbows, they disappear when approached. So too seems the case with the cluster of concepts—*Constitution, principle, covenant, contract, tradition, and founding*—that Rohr uses to make his argument. In Rohr's text they are tautologically defined only in relation to each other. They take the form: What is X? It is Y. What is Y? It is Z. What is Z? It is X. (For example, what are constitutional values? They are regime values. What are regime values? They are the polity. What is the polity? That political entity that was brought into being by the ratification of the Constitution.) Like the classic caricature of a bureaucratic runaround, we are endlessly transferred to the next office without satisfaction. Specifically, if the Constitution owes its validity not to the document so named, but to a founding, and if the founding enacted a covenant that was itself based on the principles that bounded the argument, how can anything substantive about it be confidently asserted? Or indeed, with a little interpretive creativity, virtually anything could be audaciously asserted. If one is dissatisfied with the results of straightforward Constitution reading, just expand the parameters of the argument. How far from the framers and signers can we go? If we consult the antifederalists on the Left, as Rohr does, should we exclude British loyalists on the Right? If so, on what principle of exclusion? Should we not also consult (say) the recently unearthed diaries of the unindicted coconspirators of Shay's and the Whiskey rebellions? And what nominal time frame brackets the founding? Are we not still founding when we take the oath to uphold and support the argument? The point, overly made, is that constitutional legitimacy is a chimera wrapped in an enigma.

Communitarians would agree with us on that point. For them, it is the pursuit of the public interest and not a historical episode that legitimates the efforts of all who join with proactive public administrators, sometimes across institutional lines, in the endeavors of freedom and democracy.

Communitarian/Citizen Alternative

The other major contender to replace orthodoxy is citizen activation or civism. In public administration the legitimacy crisis is their entrée to the discourse caused by paradigm anxiety. As communitarianism is an essentially premodern philosophy, it has never been seen to illicitly associate with the utility-maximizing individualism that is presupposed by the loop model. The weakness of representative democracy represents, for communitarians, an opportunity to resuscitate the direct democracy of the community. Although the agencies that Blacksburg scholars would affirm may exhibit characteristics of community, their hierarchical structure and rigid turf-protectionist boundaries would surely be anathema to contemporary communitarians. Communitarians want strong democracy that leads to justice. People should be involved in the decisions that affect their lives, not only for the sake of justice, but also because the full development of their human potential requires it. People must involve themselves in the community to escape from the modern alienation that would otherwise typify their lives. The full development of human potential in community takes precedence over archaic constitutional debates and the current agential manifestations of these debates. Moreover, if the loop model is as dysfunctional as we have claimed, a logical alternative is to bypass the masters of ill-begotten political superordination and make common cause with the citizens themselves.

If the constitutional model harkens back to a sacred founding of the republic, citizen-administration solidarity harkens back to the direct democracy of the Athenian polis, the Swiss canton, and the New England town. Citizen engagement is both more diffusely defined than constitutionalism and possessed of a more complete standpoint (see Adams et al. 1990; Box 1998; Chandler 1984; T. L. Cooper 1991; Frederickson 1982; Gawthrop 1984; ; King and Stivers et al. 1998; Stivers 1990). It is a more thorough standpoint insofar as those advocating the citizen approach either implicitly or explicitly base their views on communitarianism. Communitarianism itself is a full-blown philosophical school strongly rooted in ancient (Aristotle), medieval (St. Thomas

Aquinas), and contemporary thought (e.g., Jonsen and Toulmin 1988; MacIntyre 1984; C. Taylor 1985; and to a lesser extent, Walzer 1983). Readers may be familiar with Bellah et al.'s (1985) *Habits of the Heart* and (1991) *The Good Society*, or Sandel's (1996) *Democracy's Discontent*, which are also rooted in communitarianism.

It might be helpful to briefly review the major tenets of philosophical communitarianism to see the power of it. Communitarianism can be portrayed in four steps. It has: (a) a different (from modernist liberal, classical liberal, or neoliberal) view of the self, which (b) alters the locus and direction of agential causality, which (c) calls forth a teleology of virtue or character ethics, which in turn (d) promotes a praxis typified by *phronesis* (practical wisdom). After we have reviewed these tenets we will point out the difficulties with this standpoint, note communitarian adjustments to account for these problems, and introduce the problem of citizen apathy, for which communitarians are insufficiently equipped.

Communitarianism: Bedrock View

The Self

The modern liberal understanding of the self supposes an atomistic (bourgeois) individual who rationally maximizes valuables unto its lonely self. Communitarians, on the other hand, worry about lifestyle agendas that lead to withdrawal from political engagement (Bennett 1998). Communitarians protest that the "self" presupposed in utilitarian doctrines is hardly a recognizable self at all. Such a cipher self has no culture, no history, and no situatedness; it is not embodied. It is an abstract self, a disembodied reasoning being theoretically fashioned after Descartes's cogito: "I think, therefore I am." Obversely, communitarianism follows Aristotle's dictum that a person is a social-political animal, the full development of which can only occur in a well-ordered community (polis). This more robust self comes stamped by its past community experience and does not have the absolute free will assumed for abstract, atomistic, and autonomous individuals.

The Primacy of Community

Communitarians begin not with the atomistic sovereign individual but with context. "They view human agency as situated in a concrete moral

and political context and stress the constitutive role that communal aims and attachments assume for a situated self” (d’Entreves 1992, 180). Individuals, it follows, do not act as if in a vacuum. Causality—which in orthodox-liberal-modernist patterns runs from autonomous individual consciousness, to judgment or decision, to action—is now conceived by communitarians as a dialectical, reciprocal causality between individuals and the communal-historical context in which they have been formed. This context is already well populated with significant others. Indeed, without context the human individual is unimaginable—there would be no perceivable physiognomy, no temperament, no character, no flash of personality. An important implication of this shift in locus is to elevate the community to, if not absolute primacy, at least coequal causal primacy. In orthodoxy and neoliberalism, individual self-interest is assumed to be the primordial force in life, coordinated by the invisible hand of the market and tempered subsequently by an overlay of moral obligation dictated by right reason. In contrast, communitarians assume that the community itself and other humans are a precondition for human life and happiness. It follows that other-regardingness, altruism, loyalty, community attachments, and other group-based sentiments are not mere eccentric deviations from the norm of self-centered rationality, but are part of being in a human community. Attachments are not to be explained away as irrational exogenous factors but are there before the calculations of self-interest begin. This communitarian view undermines rational choice theory and dominant branches of economics (for public policy implications see Stone 1988).

Teleology of Virtue and Character

The cultivation of internal traits of character and virtue, then, is the goal of a well-ordered polis. Citizenship in a polis, by this view, is not simply a matter of convenient administration of affairs. Citizenship is a crucial part of the process of character cultivation. One does not emerge from the womb as a completely virtuous being nor does one suddenly become virtuous at puberty. Fully developed virtue and character, the telos of human life, require active participation in communal governance. The process of discourse with communal others, working out common ground, developing norms, is essential to the full development of human potential. Humans are political animals not only out of material need, but from their need for full spiritual maturation.

Phronesis

A well-ordered community of trust does not require rational-comprehensive social science. The latter, a mistake of the Enlightenment, assumes an impossible all-knowing God's-eye scan congruent only with predictable, rational, maximizing individuals. The looser but more realistic standards of *phronesis* (practical wisdom) are more suited to a discourse of communal citizens making decisions in concert. (See Flyvbjerg 2001 for a lengthy discussion of *phronesis* as a mode of social science research. See also D. F. Morgan 1990, for a discussion of *phronesis* specific to the problem of democratic public administration.) As Stivers (1990) has written: "The restoration of an understanding of governance as the exercise of practical wisdom . . . involves moving toward greater reliance on tentative strategies that self-correct through frequent feedback of information about their effects" (260).

Communitarianism: Criticisms and Responses

The Problems

Four overlapping problems quickly surface when one begins to think through communitarianism. If a major difficulty with orthodoxy and neoliberalism is the assumption of autonomous individualism, an abstraction of real situated individuals, the parallel problem with communitarianism is the assumption that communities are wholly or largely benign. Communitarianism has totalitarian tendencies, in that all aspects of life are gathered up, as it were, by the teleological thrust toward well-ordered harmony. At best, people may find this insufferably boring. At worst, eccentricities would be construed by community fussbudgets as inconsistent with community goals—mind-numbing conformity becomes the price of membership. The rights to privacy afforded sovereign individuals and the separate spheres (i.e., work, leisure, family, religion) carved out by liberal pluralism may be abrogated in communitarianism for the sake of community integrity, morality, or unity. Remember, too, for every misty dream of bucolic rural community there is an equally compelling vision of the dead weight of conformity enforced by community elders (élites) and self-appointed casuists. The dilemma may be instantly grasped by replacing the word *state* for *community* in all preceding sentences. A related problem is that communitarianism

may be essentially an idealistic stained-glass-window nostalgia no longer viable as a real option in the mass societies inexorably created by advanced and postindustrial capitalism.

Adjustments to Base Communitarianism

The above difficulties of communitarianism have not gone unnoticed by its public administration champions. T. L. Cooper (1987, 1991) has tried to accommodate them by amendment. Acknowledging the incorrigible actuality of pluralism, Cooper avoids the nostalgia and totalitarian traps mentioned above. Adopting Cochran's (1982) innovative theoretical move, he conceptualizes community in pluralistic, associational terms, hence freeing community from the confinement of geographical jurisdiction. Thus rendered, community becomes more like an electronically augmented, communication-age affinity group. This allows communities with qualities similar to Tocqueville's voluntary associations to serve as mediating institutions between (merely) legal citizens and government. By *legal citizens* Cooper means minimalist citizenship consistent with atomistic passive individuals possessing the usual rights and freedoms—what Berlin (1979) aptly calls negative freedom. Within these associations lies the potential for communities. The communitarian milieu, where full ethical citizenship flourishes, is nurtured in these communities.

The citizen-administrator encourages these communities and dialectically intermingles with them. Administrators themselves are ethically nourished and cocreated within professional communities in government (Stivers 1990, 267ff. makes a similar point). This sort of professionalism is distinguished from the sort of professionalism entailed by guild protectionism. That sort of professionalism has been criticized as a conspiracy against the laity, a self-serving professionalism illegitimately cooked up behind veils of expertise, technique, and credentialing. MacIntyre's (1984) distinction between internal and external goods of a practice is appropriated for the purpose of distinguishing between ethical professionalism and self-serving professionalism (T. L. Cooper 1987). Professionalism must remain open to external influences. This theoretical move creates a complex array of overlapping communities synergistically cocreating ethical citizens, some of whom also will be ethical citizen-administrators. As in Barber's (1984, 2004) strong democracy, not only would such a scheme provide for will formation and legitimate governance, but—more important to communitarians—it would also encourage the full development of

human potential, which fulfills the teleological obligation to participate in community decisions that affect both the individual and the commonweal (Cochran 1982, cited in T. L. Cooper 1991, 160). We will adopt many of these amendments and co-opt them as integral parts of discourse theory. Other adjustments cannot be abided.

Both Cooper and Stivers have anticipated a response to a class of objections that idealism of any sort is liable to attract. What is the response to the criticism that the existing society and existing culture obviate deployment of the communitarian model? The answer is the “tension between the real and ideal” gambit. Stivers (1990) has gone so far as to turn the lack of correspondence between real and ideal into a virtue: “Unless we understand that our intentions—the ends for which the state was formed—are out of reach, we will be unable to practice the trust in one another that enables us to accept the inevitable imperfections of actual policies” (254).

We can only point out that such a gambit can be used on behalf of any ideal. If we are going to imagine ideals validated by the distance of them from the existent, why not imagine one where the state has withered away, humans have transcended scarcity, labor is no longer forced by survival needs, and administration is over only things, not people? Why not dream beyond Marx of the *German Ideology* and the *Grundrisse* instead of dreaming only beyond Skinner of *Walden II*?

On the matter of citizen apathy, the communitarian ideal is especially problematic.

The Problem of Citizen Apathy

Communitarianism, we believe, stumbles over the problem of citizen apathy. Communitarians cannot abide indifference and inattention among the would-be citizenry. We, on the other hand, believe the apathetic have a right to their ways.

If most people are not much interested in matters of governance, the communitarian model would seem an unlikely proposition. Teenagers capable of infinitely varied and precise recognition of categories of sports shoes, trousers, and other fashions cannot name cabinet-level agencies. But before the hand wringing begins, a pause may be in order. Perhaps we are the arrogant ones, we professional political junkies, policy wonks, and government watchers. Imagine the range of human endeavor that

we also neglect. Our close attention to issues of governance should not lead us to assume that others would be equally attentive if left to their own devices. Perhaps the communitarian fulfillment by the governmentally apathetic could come not from governing in the usual sense of self-government, but from participation in all the other myriad forms of self-through-community actualization available to them, including car racing, dog clubs, RV clubs, church activities, little leagues, fan clubs, gangs, and Bible reading groups. The comforting knowledge that one could at any time *become* active and have influence seems enough democracy for the average middle-class citizen.

Furthermore, it is easy to make the *standpunkt* error of falsely conflating community governance with what our public administrationists' perspective has labeled governance. We have reified the term *governance*, confusing the given conception with the thing itself. Indeed, the usual and immediately apparent reaction to the juxtaposition of some form of ideal democracy, on the one hand, with evidence of citizen apathy, on the other, is to assume that apathy is unnatural and has been caused by some fundamental flaw in the political or societal structure. Further, we should strive to overcome this flaw, this apathy. This response is doubly seductive from the communitarian perspective, where participation is a necessary component of being human at all. To leave people alone with their apathy is to consign them to the status of *untermenschen*. If we do not wish to "force them to be free," would it be all right if we merely empower them (Adams et al. 1990)? Empowerment would bring into the community those citizens who have been shut out. Certain reforms flow from this view. Voter registration regulations should be reformed to make it easier to vote; policy analysis should avoid jargon so that normal citizens can understand the issues; sunshine legislation should be pursued to ensure that citizens have adequate access to information; public-interest TV channels should be set up to counter the tendency for media to be monopolized or oligopolized in fewer and fewer hands. The theory of empowerment is behind the laudable efforts described in *Government Is Us* (King and Stivers et al. 1998). We urge strong and active support for all such measures, but it is our skeptical guess that they will not be able to significantly counterbalance the inertia of citizen inattention. Sunshine legislation and open hearings only made budgetary markup sessions more accessible to well-heeled and well-organized special interest groups, not to the citizenry at large. Giving citizens the theoretical capability of obtaining more information on top of the information they

already ignore is not helpful to them. It is, however, helpful to the attentive citizens, those who engage their intellect, passion, and personal reputations with the issues.

In a community where the general citizenry is inattentive except during crises or when malfeasance has become egregious, democracy may be *for* the people but it cannot be claimed that it is *of* or *by* the people. Mass democracy exists only as potential—a potential that should, of course, be preserved at all costs. For the remainder, we have a discourse of “citizens in lieu of the rest of us” (Walzer 1970, 216).

Community Over All

This next sort of problem is glossed over by communitarians who, to their credit we believe, argue for a stronger sense of *res publica* (the public thing), but lack a good line of demarcation as to where the public thing should cease. Put another way, we would like to retain a measure of classical libertarian tolerance for those who step outside of the dominant social and moral codes. But Bellah et al. (1991) argue for a democratic society that contains, among other things, a “public church.” They are not intending to prescribe a state religion or a governmental church, but, “in two senses,” the authors of *The Good Society* write, “religion cannot be private.”

Firstly, both Christians and Jews recognize a God who created heaven and earth, all that is, seen and unseen, whose dominion clearly transcends not only private life but the nations themselves. There is nothing in the private or public realm that cannot concern such a religious tradition. Secondly “public” came to mean the citizenry who reflect on matters of common concern, engage in deliberation together, and choose their representatives to constitute the government, whose powers are limited by a constitution. Religious bodies are very much part of *this* meaning of the public . . . because they enter into the common discussion about the public good. (Bellah et al. 1991, 179)

Bellah and his associates presume “religious bodies” are able to speak in the common discussion, a presumption that calls forth a series of problems lurking just beneath the surface of community.

Intrusive Fussbudgets

In the quotation above, Bellah et al. assert that “There is nothing in the private or public realm that cannot concern such a religious tradition.”

Now if one is neither a Christian nor a Jew, the notion that Christians and Jews would declare the public at large (or “nations themselves”) to be their domain is not necessarily reassuring. Indeed, with nothing off-limits to community strictures that are not one’s own, one might be worried that one’s opportunities to live life as one wishes in a non-Christian or non-Jewish manner would diminish. Private space is particularly vulnerable to communitarian encroachments.

The more things called sin, the more sin. There are some places where public administrators ought not tread, or at least ought to tread lightly, justly, rarely, and solicitously. We are unable to specify the line where off-limits issues begin; but surely not all issues are public issues. The claims of pursed-lipped fussbudgets enforcing the lesser mandates of the community do not always trump the claims of the individual of classical liberalism. The association here is that the total-inclusion model of communitarianism, as espoused by Bellah et al. (1991), is coercively so. Good intentions notwithstanding, that sort of homogeneous community looks identical to a totalitarian state.

Spicer (2001) claims that any proposal entailing harmony of human purposes now lacks credibility. The communitarian thrust in public administration may simply be inappropriate. “[I]t becomes increasingly likely that acts of public administrators, when directed toward the achievement of particular substantive purposes and values, will inevitably come to be seen as repressive by those who do not share these purposes and values” (101). Spicer (2003, following Berlin 1969) distinguished between negative freedom and positive freedom. Negative freedom is about leaving people alone so long as they are not interfering with anyone. Positive freedom is a more proactive version of freedom, entailing the development of human potential through the use of political power. Communitarians, it seems to us, have downplayed negative freedom in their enthusiasm for positive freedom. Negative freedom is more than a defense of laissez-faire individualism; it is an indispensable part of the language against totalitarianism.

So far, then, we have noted several tendencies against public administration orthodoxy. We have noted that neoliberal managerialism tries and to some extent succeeds in deregulating the bureaucracy, and also functions to limit and in some cases dismantle government as well. Otherwise, neoliberalism preserves or extends status quo power relations. Despite the market rhetoric of neoliberal reform, the norms of orthodoxy—efficiency, rationality, and the legitimacy of the loop model of democracy

—retain their status. Nor were we entirely pleased with the conservatism of the constitutionalist alternative, and thought its referencing a vanishing founding to be frustrating. Finally, we thought civism to be an unlikely solution amidst an apathetic citizenry despite the strengths of its communitarian underpinnings. The potential for a smothering conformity to group norms also gave us pause, despite its concurrent and welcome retreat from orthodox individualism.

In the next chapter we contemplate a new problematic that complicates and makes more difficult any alternative reform proposal: *hyperreality*.

Notes

1. We would like to thank Michael Spicer for informing this discussion.

2. This is not the place to gather up all critiques of orthodoxy. Hierarchy and scientific management have been savaged by vast literatures, ranging from efficiency orientations of organization theory to the ambient health of the collective unconscious of Jungian psychology. We are also bypassing the literature on bureaucrat bashing to avoid casting the discretionist school as an ill-tempered reaction formation.

3. Rohr (1993) is certainly right to complain in a *PAR* symposium on this matter that Spicer and Terry have misread him. It is not the character of the particular founders that is at issue. They are but a conduit to a higher Truth. He is, as they are, looking for a certain underlying, or rather, superordinate calculus. This calculus is not the logic of formalized self-interest à la Buchanan and Tullock (1962), but the *telos* of a *polis*; the appropriate arrangements for the development of virtue.

4. Although this interpretation is well grounded in Rohr's texts, we must confess to a little exegesis ourselves. This is an unauthorized interpretation.

5. Despite their professed reliance on constitutionalism, much of the manifesto could be salvaged if they would abandon it. Goodsell's case for the public interest, that part of the agency perspective that is not wedded to institutions as given, and White's discourse on authority not only can stand alone, but, in our opinion, would be improved if they did (both essays in Wamsley et al. 1990).