

Laurence E. Lynn, Jr.

Bureaucracy and its Critics in America and Germany: In Defense of the "Bureaucratic Paradigm"

The student of administration must ... concern himself with the history of his subject, and will gain a real appreciation of existing conditions and problems only as he becomes familiar with their background.

*Leonard D. White*¹

Abstract

Contemporary critiques of traditional government in both America and Germany are based on serious distortions and misunderstandings of the rationale and the dynamics of its creation. This misunderstanding concerns how and why governing institutions evolved, the essential path dependence of national institutional development, and the purposes bureaucracy has and continues to serve on behalf of liberal democracy. The consequence is misguided efforts at administrative modernization that are doomed to failure. The historical reality is that both the American administrative state and the German *Rechtsstaat* were devised to serve liberal, republican purposes. That such institutions endure is less a reflection of the well-known pathologies of bureaucracy—although such pathologies are always present as institutions evolve—as of their continuing value to the preservation of civil society, an endurance that has accommodated change within flexible frameworks of law and practice.

Key words: bureaucracy; bureaucratic paradigm; *Rechtsstaat*; traditional public administration; managerialism

1. Introduction²

On both sides of the Atlantic, public administration scholars have been proclaiming the transformation of governance: new paradigms replacing old ones. In America, announcing the arrival of the new has long been popular. John Gaus announced the "new administration" in the early 1920s, Leonard White celebrated the "new management" and John Pfiffner the "new public administration" in the 1930s. More recently, American authors have proclaimed a "new public personnel management" and a "new public service". Scholars in the Old World hold their own, having proclaimed the "new public management" (NPM), the "new city management", and, in Germany, the "new steering model". In both America and Europe, a "new governance" is said to be emerging.

While there is often disagreement about what exactly it is that is new—both NPM and "governance" have become conceptually shapeless as they are endlessly redefined to

be more general—there is hardly ever disagreement about what is “old” and in need of replacement: the traditional “bureaucratic paradigm”, that rigid, legalistic, undemocratic, self-aggrandizing and thoroughly outmoded form of public administration. These denunciations, less fervent in Germany than in America, contain ironies. America’s traditional administrative state, the creature of a Progressive democratic reform movement that rejected Prussian-style administration, is now held to be emblematic of the Weberian ideal. In Germany, the traditional *Rechtsstaat*, regarded, by Hegel among others as a way of institutionalizing the liberal constitutional state, is now criticized by some as being the antithesis of liberal ideals.

Contemporary critiques of traditional government are based, this paper argues, on serious distortions and misunderstandings of the rationale and the dynamics of its creation. This misunderstanding concerns how and why governing institutions evolved, the essential path dependence of national institutional development, and the purposes bureaucracy has and continues to serve on behalf of liberal democracy. The consequence is misguided efforts at administrative modernization that are doomed to failure.

The following sections review both the contemporary critique of traditional ideas and those traditional ideas themselves: the thinking that motivated the development of the administrative states of the United States of America and the Federal Republic of Germany. Though opposite in important ways—bureaucracy preceded democracy in Germany, while the opposite is the case in America—both America and Germany are shown to offer inhospitable preconditions for “managerialism” and related new paradigms, but, as will become clear, for very different reasons rooted in the two countries’ respective paths of institutional development, each of which devised bureaucracies to ensure democratic accountability.

2. Critics’ Perspectives on Traditional Paradigms

In creating the characterization of what they call the “Neo-Weberian State”, *Christopher Pollitt and Geert Bouckaert* (2004) have provided a brief, contemporary sketch of the traditional bureaucratic paradigm that can serve as a point of departure for analyzing its significance. According to them, a Weberian state has the following elements:

- reaffirmation of the state as the main facilitator of solutions to the new problems of globalization, technological change, shifting demographics and environmental threat;
- reaffirmation of the role of representative democracy (central, regional, and local) as the legitimating elements within the state apparatus;
- reaffirmation of the role of administrative law—suitably modernized—in preserving the basic principles pertaining to the citizen-state relationship, including equality before the law, legal security, and the availability of specialized legal scrutiny of state actions; and
- preservation of the idea of a public service with a distinctive status, culture, and terms and conditions (*Pollitt/Bouckaert* 2004, p 99).

This benign, Eurocentric characterization of the bureaucratic state is in sharp contrast to critical perspectives in the literatures on Weberian and neo-Weberian states and organizations in political science, sociology, and administrative science. These critical perspectives on bureaucratic institutions combined with a global wave of activity on behalf of

administrative modernization induced by economic globalization and pressures for democratic reform have inspired the fever for identifying new paradigms to replace old administrative orthodoxies.

2.1 "Old Orthodoxy" in America

In America, the assault on traditional thinking began in the 1940s with critical analyses by *Herbert A. Simon* (1946, 1947) and *Robert A. Dahl* (1947).³ *Dwight Waldo's* devastating attack was arguably the most influential, however. In *The Administrative State* (1948), he wrote that "[t]he indictment against public administration can only be that, at the theoretical level, it has contributed little to the 'solution' or even the systematic statement of [fundamental] problems (p 101), producing instead a spate of shallow and spurious answers" (p 102). Later, in 1968, *Waldo* insisted that postwar intellectual challenges from the social sciences had "brought public administration to the point of crisis, of possible collapse and disintegration" (p 4). In a similar spirit, *Wallace Sayre* argued that traditional thinking constituted "a closely knit set of values, confidently and incisively presented" (1951, p 1): a politics-administration dichotomy, scientific management, the executive budget, scientific personnel management, neutral competence, and control by administrative law. Such values, *Sayre* and numerous other critics declared, were now obsolete.

The flogging of the old orthodoxies began anew in the 1990s. In *Breaking Through Bureaucracy* (1992), *Michael Barzelay* depicted a bureaucratic agency as focused on its own needs and perspectives and on the roles and responsibilities of the parts. It defines itself both by the amount of resources it controls and by the tasks it performs; controls costs; sticks to routine; fights for turf; insists on following standard procedures; announces policies and plans; and separates the work of thinking from that of doing (pp 8-9). In their immensely popular *Reinventing Government* (1992), *David Osborne* and *Ted Gaebler* explained the original rationale for the bureaucratic phenomenon: ever wary of rapidly growing but unaccountable bureaucratic power, "American society embarked on a gigantic effort to *control* what went on inside government In attempting to control virtually everything, we became so obsessed with dictating *how* things should be done—regulating the process, controlling the inputs—that we ignored the outcomes, the *results*" (p 14). Releasing public administration from the tight grip of controls in favor of results-oriented public administration—*Barzelay* termed it a "post-bureaucratic paradigm"—was now, they said, in the ascendant.

Scholarly critiques of bureaucracy piled up. From a public policy perspective, *Mark Moore* (1995) dismissed traditional public administration as "politically neutral competence", asserting that it "did not focus on 'purpose and value or on the development of legitimacy and support' but concentrated instead on 'instruments of internal managerial influence: organizational design, budgeting, human resource development, and management control'" (p 74). From within public administration, *Robert B. Denhardt* and *Janet Vinzant Denhardt* (2000) similarly dismissed "old public administration" as neutral, hostile to discretion and to citizen involvement, uninvolved in policy, parochial, and narrowly focused on efficiency. The essence of traditional public administration, in the critics' view, was the design and defense of a largely self-serving bureaucracy that was to be strictly insulated from politics and that justified its actions based on a technocratic, one-best-way "science of administration." Above all, it was profoundly anti-democratic.

2.2 “Legalism” in Germany

The narrative of recent developments in Germany differs in tone and stridency from that of America. While the traditional state has its critics, German academic discourse has remarked upon the possibility and extent of change within the traditional *Rechtsstaat*.

Change within the traditional framework of governance has been extensive in Germany. Between post-World War II reconstruction and the beginnings of the era of Managerialism some three decades later, a new episode in the public management story unfolded in Continental Europe. Sustained by the strengthened powers of the executive inherited from the interwar period, the post-war period saw the rapid expansion of the welfare state (on both sides of the Atlantic, to be sure). This expansion, say *Jos Raadschelders* and *Theo Toonen*, brought about “an interdependence between government and society the likes of which have not been seen in history” (1999, p 39). Changes of this magnitude required extensive adaptation of public administration structures and processes, practices and institutional values in the light of the new demands of government-civil society relationships. The result was what is now known as the European Social Model.

These kinds of developments encouraged a revival in Germany of the study of public administration as separate from that of law (*Rutgers* 2001). It was not until the 1970s and 1980s, however, that field exhibited any of the vigor that had characterized the administrative sciences of the cameralist era.

This intellectual vigor was to produce nuances in German discourse about traditional institutions. The high degree of internal differentiation of administration in Germany, *Klaus Goetz* (1999) argues, requires strong integrative institutions, a function which, at both intellectual and practical levels, *Rechtsstaat* fulfills. In a similar vein, in discussing the appeal of NPM, *Klaus König* (1997, p 226) argues that the strength of the *Rechtsstaat* tradition is that legalistic reasoning, even political reasoning, may be superior to economic reasoning: “[a]ssessments of effects and successes, analyses of costs and benefits fall short of what legal argumentation is able to perform.”

In contrast, critics pointed to the tendency to overstate the legitimizing power of continental public administration. As *Peter Lindseth* puts it (2004, p 1414), “[b]y necessity, the normative output of the administrative state still needed to be channeled through political and judicial bodies that were understood to possess a constitutional legitimacy in some historically recognizable sense; negotiation among executive politicians, administrative officials, and corporatist interests was not enough.”

Christoph Reichard (2008) offers a comprehensive analysis of German institutional traditions. He notes that in Germany bureaucracy is older than democracy, a sequence that has had severe consequences for the role and position of democracy against bureaucracy (*König* 1997, p 56). According to *Reichard*, the legalistic culture of the civil servants, rule-based steering, entrenched patterns of thought, the legalistic emphasis of mid-career training, and the favoritism toward lawyers in the senior ranks of the civil service, *Reichard* argues, seem to be “a major hindering factor for strengthening managerial thinking in public administration. ... Thus, to think and to behave in managerial categories is by no means a relevant value or attitude for most of the public sector personnel” (2008, p 49).

Reichard also emphasizes the fact that, “there has been no integrative support of reform initiatives from central (federal) government. As a result, there is a wide variety of public management approaches in the German public sector. The style of implementation

also showed some particular characteristics; several reform elements were introduced in a rather perfectionist way. ... Pragmatism was not a common trait of German public management reforms. As may be expected in a legalistic system, several governments enacted specific reform laws to provide the necessary regulations for practising the new instruments” (2008, p 49).

3. Traditional Thinking: A Reconsideration

Did the traditional orthodoxies, the anti-democratic Weberian and legalistic paradigms, in fact characterize the habits of thought of those who designed the traditional state? To know what traditional thinking was about requires a reconsideration of its literature. As is the case with the tenor of contemporary critical thought, American and German intellectual traditions differ, albeit in the opposite way. The emergence of the American administrative was relatively uncontentious among reformers, whereas sharp criticism accompanied the perfection of the German Rechtsstaat.

3.1 The Traditional Paradigm in America

From its beginnings, American administrative thought and practice have evinced a managerial spirit, and it might be supposed that managerialism is in fertile soil there.⁴ First alluded to by *Alexander Hamilton* as “energy in the executive,” American managerialism was authoritatively endorsed by *Leonard White* in his seminal 1926 textbook *The Study of Administration* and by President Franklin Roosevelt’s Committee on Administrative Management, the so-called Brownlow Committee. The scientific management movement originated in the United States, and among the most successful of American administrative reforms is the city-manager form of local government. It is understandable that American public administration and management are often viewed in Europe as a manifestation of the business-corporate style that enjoys a favored place in the American practical imagination.

Overlooked in this narrative, however, is another, equally important Hamiltonian precept. To ensure that citizens enjoy “safety” from tyranny, administration must, said *Hamilton*, exhibit a “due dependence on the people in a republican sense, ... a due responsibility.” The authors of America’s Declaration of Independence had complained that “[King George] has erected a multitude of new offices and sent hither swarms of officers to harass our people and eat out their substance.” America’s Founders were determined that the new nation not recreate European-style central institutions that might threaten liberty and property. Instead they created a formal separation of powers, *trias publica*, and a *de facto* system of checks and balances, including a form of federalism in which the national government exercises enumerated and implied powers and all remaining powers are reserved to the states and to the people.

The story of public administration in America is about implementing a complex constitutional scheme that is contrary in spirit and practice to corporate-style governance because it is fundamentally Madisonian. That is, American governance reflects the dynamics of constraining faction and power in order that government and its managers may always exhibit a due dependence on citizens who express themselves through representa-

tive institutions and a sense of responsibility to America's constitutional principles. While traditional thinkers seemed to write approvingly of a separation of politics and administration and other features of a Weberian state, "politics" usually meant the kind of corrupt partisanship characteristic of the nineteenth century spoils system. Reconciling the emerging tensions between creating adequate administrative capacity and ensuring that administration was under firm democratic control became the intellectual project facing scholars concerned with defining the field of public administration.

Frank Goodnow, for example, the seminal thinker in American public administration, offered a subtle view on the relationship between politics and administration. While arguing that politics and administration constitute separate spheres of governance, he disavowed the implication that each sphere was the sole province of a separate branch of government, suggesting that powers are separate but, at the same time, overlapping. *Goodnow* perfectly expressed the dilemma of implementing such a scheme:

[D]etailed legislation and judicial control over its execution are not sufficient to produce harmony between the governmental body which expresses the will of the state, and the governmental authority which executes that will. ... The executive officers may or may not enforce the law as it was intended by the legislature. Judicial offices, in exercising control over such executive officers, may or may not take the same view of the law as did the legislature. No provision is thus made in the governmental organization for securing harmony between the expression and the execution of the will of the state. The people, the ultimate sovereign in a popular government, must ... have a control over the officers who execute their will, as well as over those who express it (1900, pp 97-8).

In a similar spirit, *Goodnow's* contemporary, *Frederick A. Cleveland*, introduced his book *Organized Democracy* emphasizing the role of citizens. "The picture drawn [in this book] is one of the continuing evolution of the means devised by organized citizenship for making its will effective; for determining what the government shall be, and what the government shall do; for making the qualified voter an efficient instrument through which the will of the people may be expressed; for making officers both responsive and responsible ... government should exist for the common welfare" (1913, v).

Scholarship on the emerging administrative state came to focus on the desirability and inevitability of legislative delegations of authority to "unelected bureaucrats" and to the necessity, if harmony were to be achieved, of responsible exercise of discretion by public administrators. Such discretion was emphatically not to be exercised in a legalistic way, however. Said *John Dickinson*, "[i]t would be unfortunate, if it were possible, for men to commit all their decisions to minds which run in legal grooves. The needs of the moment, the circumstances of the particular case, all that we mean and express by the word 'policy,' have an importance which professional lawyers do not always allow to them" (1927, pp 150-1).

In an incisively argued book, *Charles Hyneman*, concerned that bureaucracy might otherwise act in a manner inimical to the public interest, argued that elected officials must be our primary reliance for direction and control (1950, p 6). There must, he said, be "a structure of government which enables the elected officials really to run the government" (p 15). Why? *Paul Appleby* supplied the answer. "Public administration," he said, "is policy-making. But it is not autonomous, exclusive, or isolated policy-making. It is policy-making on a field where mighty forces contend, forces engendered in and by the society. It is policy-making subject to still other and various policy-makers. Public administration is one of a number of basic political processes by which this people achieves and controls governance" (1949, p 170).

The logic of administrative responsibility with the American constitutional scheme was summarized by *Emmette Redford* in his 1958 book, *Ideal and Practice in Public Administration*. He argued that “[t]hrough administration is permeated and circumscribed by law, discretion is vital to its performance. ... Discretion is necessary in administration [because] law is rigid, and policy must be made pragmatically” (p 43). Integrated and hierarchical structures, he argued, are essential to ensuring that bureaucracy is subject to control from outside. In other words, hierarchical control of administration is not anti-democratic but the opposite: bureaucracy under active democratic control is a vital instrument for fulfilling the popular will.

It is America’s peculiar constitutional scheme of governance that explains why *Dwight Waldo* believed traditional European administrative thought and practice to be inappropriate for the emerging American administrative state and why *Walter Kickert* and other Europeans argue that American administrative thought and practice are not automatically transferable to European and other non-American contexts.

3.2 The Traditional Paradigm in Germany

Waldo was essentially correct about the incompatibility of American and European public administration. In the maturing German *Rechtsstaat*, harmony was the responsibility not, as *Goodnow* would have it, of institutions of popular control, but of the state conceived as separate from the people.⁵

Beginning in 1640, a succession of Hohenzollern kings created an absolutist state. According to *Reichard* (2008, p 44), “[p]ractically in parallel in Bavaria and Prussia, the absolutist rulers established a professional civil service (*Berufsbeamtentum*), the basic principles of which are still in operation today. ... The principles of the German system of *Beamte* were, and indeed remain, the following: neutrality, devotion to the state, lifelong tenureship, compensation according to the social status of the servant.”

The period 1780-1850 saw the absolutist state transformed into a constitutional state. Royal servants were to become state servants (for example, in Prussia’s Legal Code of 1794), state servants were to become public officials, government by officials became synonymous with bureaucracy, and bureaucracy became both inordinately powerful and sufficiently controversial to arouse concerns for democratic control. The process was accelerated after the popular revolutions of 1848, when liberal democracy began to prevail and governments confined their tasks to legislation and execution, in which, it was believed, mainly juridical expertise was needed. Following the territorial consolidations among German states, the completion of the process of transformation in Germany awaited Bismarck’s creation of the first German Reich in 1870, after which it took until 1900 for legal codes to be unified in the *Bürgerliches Gesetzbuch*: “deep, exact and abstract” (*Kickert/Hakvoort* 2000).

Throughout the nineteenth century, administrative adjudication was expanded, which further justified legal preparation for administrative officials. The bureaucracy was “the carrier and guardian of the general interest of all against the structured clash of particular interests within ‘civil society’” (*Miewald* 1984, p 18).⁶ According to *Reichard* (2008), “[t]he normative and positivist orientations of *Staatswissenschaft* and law became increasingly dominant in the study of the public sector in Germany. The empirically and practically oriented public administration disciplines disappeared to a greater or lesser

degree" (p 50). Gradually the prestige of judicial officials rose at the expense of administrative officials such that the training of the latter tended to approximate the training of the former.

Thus, during a century marked by revolutions in the name of popular sovereignty, the primary institution of public administration became bureaucracy, albeit within a *trias publica* (Lindseth 2004, p 1343). Continental bureaucracies were widely admired. *Lorenz von Stein*, following *Hegel*, expressed high esteem for bureaucrats, who represented unselfish service to the state against the opposing power of special interests. Russian, Austrian and other European writers regarded the bureaucracy as indispensable to reform and good government, the "aristocracy of capacity" (Anderson/Anderson 1967, p 175).

A dominant intellectual "memory" of the era is *Max Weber's* positive analysis of legal/rational bureaucracy. In *Weber's* ideal bureaucracy (Bendix 1977), official business is conducted on a continuous basis in accordance with stipulated rules by an administrative agency in which personnel have defined duties, authority to carry them out, strictly defined powers, and appropriate supervision. They have no property rights in the resources at their disposal or in their offices. Official business is conducted in writing. Without these features, "there cannot be a system of legal domination in which the exercise of authority consists in the implementation of enacted norms" (Bendix 1977, p 424).

The power of *Weber's* work has obscured the intellectual ferment that preceded it, however. The increasingly powerful and indispensable German bureaucracy came to be seen as a problem. "As the economic and social transformation associated with industrialism advanced, the bureaucracy refused to alter its leisurely pace, and even more irksome, to diminish its paternalism" (Anderson/Anderson 1967, p 178). *Robert von Mohl's* definitive analyses tended to fuse the term bureaucracy with the system of state administration that was inherently unresponsive to public concerns (Albrow 1970). *Otto Hintze* cited the weaknesses of bureaucracy as "corruption and laziness, excessive ambition, servility toward superiors, brutality toward inferiors, conceitedness, and narrowmindedness" (quoted by Anderson/Anderson 1967, p 183). Said Austrian scholar *Josef Redlich*, "[t]he combination of parliament and a traditionally authoritarian bureaucracy evoked the worst qualities of each body" (quoted by Anderson/Anderson 1967, p 184).

With the introduction of parliamentary government and confronting articulate criticism, bureaucracy "learned to protect itself and to guard its power" (Anderson/Anderson 1967, p 181). Political struggles over the control of these bureaucracies "partly fed upon arousing popular indignation against the bureaucracy itself" (Friedrich/Cole 1932, p 3). By the end of the nineteenth century, the idea that bureaucracy and democracy are incompatible had become popular with the critics of "imperial bureaucracy" (Friedrich/ Cole 1932).

Rechtsstaat, as distinct from bureaucracy, also came under criticism. According to *Jos Raadschelders* and *Mark Rutgers*, "[o]ne of the last to attempt to develop a generic study of public administration in Europe was *Lorenz von Stein*. He was also the first to describe the modern state as an administrative state (*Verwaltungsstaat*)" (1999, p 84). Somewhat later, *von Stein* argued that *Rechtsstaat* "left no room for a proper conceptualization of administration" (Lindenfeld 1997, p 201). In *von Stein's* view, according to *Lindenfeld* (1997, p 201), "administration was the wave of the future," a view that found its way to the heart of *Goodnow's* seminal American treatises. *Gustav Schmoller* attempted a revival of the sciences of the state in the form of social science, and despite the opposition of many law professors, a doctorate in the sciences of the state was established in 1880 (Lindenfeld 1997).

By the end of the nineteenth century, German public administration had become pre-occupied with the *de facto* separation of policy and administration and the resulting tensions between an institution, bureaucracy, which exhibited imperialistic proclivities, and the revolutionary idea of popular sovereignty, with its expectation of democratic accountability (Lynn 2006). Toonen and Raadschelders argue that “[t]he advent of labor unions and political parties in the second half of the [nineteenth] century, as well as the extension of the suffrage in the 1880-1940 period, are testimony to the degree to which representativeness and participation became considered as the capstone of the development toward democracy” (1997, pp 5-9). Controversies notwithstanding, the bureaucratic state had held its own and would continue to do so.

4. Different Paths, Similar Destinations

Because, as noted earlier, the creation of bureaucracy in Germany preceded the creation of democratic institutions, ensuring democratic control of bureaucracy has been accomplished in different ways than it has in America. A pre-existing bureaucracy in Germany became the foundation for the emergence of the modern *Rechtsstaat*. In America, the modern administrative state was a creature of Madisonian politics, and administrative institutions incorporated the political compromises reached during the legislative process (R. Moe 1990). The ironic effect in America, however, has been that democracy tends to breed bureaucracy as administrative rules and structures are devised to ensure that political compromises can withstand changing regimes (Morone 1990, Nelson 1982).

In both countries, therefore, liberal democracy has authored bureaucratic institutions of considerable durability, but the theoretical foundations and political dynamics of their creation have been altogether different. As noted earlier, “harmony” has been a goal in both countries but it is achieved in very different ways: through a separation of politics and administration and *Rechtsstaat* in Germany, and through the inseparability of politics and administration and institutions of popular control in America.

The result, however, is that, in sharp contrast to *Whitehall* governments that have no formal separation of powers and thus greater freedom to implement broad reforms, both America and Germany have, despite having taken separate paths, proven relatively inhospitable to aggressive implementation of various post-bureaucratic paradigms, including popular forms of managerialism.

4.1 Managerialism in America

Owing to intensified competition for control over executive agencies following World War II (Rosenbloom 2000, Bertelli/Lynn 2006), American public administration became the object of a seemingly continuous but disjoint sequence of reform initiatives. As Paul Light (1997) sees it, these reforms reflected various themes: “scientific management”, “war on waste”, “watchful eye” and “liberation management”, each with its own distinctive theory of what kinds of reforms might improve government performance. Initiatives reflecting these differing emphases have not so much succeeded each other as created additional, poorly-articulated layers of governing structures and values.

At the same time, governments at all levels in the 1960s had begun to utilize a variety of new tools of action: privatization, hybridity, deinstitutionalization, devolution, revenue sharing (or block grants), and personnel reform. The several varieties of new tools were soon labeled “third-party government” by *Lester Salamon* (1981). *Donald Kettl* (1988) explored the increasing reliance of the federal government upon a variety of intermediaries—nonprofit organizations, hybrid entities, other levels of government, the proprietary sector (including banks and insurance companies): in effect, a “quasi government”—to implement national policies. Policy implementation in general and the phenomenon of third-party government in particular were among the early staples of what was emerging as a managerial movement in American universities.

The recognizable beginning of contemporary managerialism in America was initiated by and administration of Ronald Reagan. With a kindred spirit, British Prime Minister Margaret Thatcher, providing an inspiring example, Reagan embarked on his own “war on waste” with the goal of shrinking the size and increasing the economic efficiency of government. Although neo-liberal in spirit, Reagan’s reform strategy was quintessentially American and bore little resemblance to what was soon to become known, as Thatcher’s initiatives evolved, as New Public Management. Reagan’s chosen instrument, a throwback to the kinds of initiatives launched by Presidents Theodore Roosevelt and William H. Taft early in the twentieth century, was the President’s Private Sector Survey on Cost Control in the Federal Government, known as the Grace Commission after its chair, businessman J. Peter Grace.

The Commission’s objective was to demonstrate how the intrinsically superior methods of the private sector might save billions of dollars by eliminating waste, fraud and abuse (*Downs/Larkey* 1986, *Grace* 1984). Its 1984 report called for measures such as objective-based management, goal clarification, better planning, and the development of performance measures without, however, acknowledging that prior reforms of similar character had not accomplished much by way of changing a government dominated by separated institutions sharing power (*Downs/Larkey* 1986).

Beginning in 1993, Vice President Al Gore led an eight-year effort, first known as the National Performance Review and then “reinventing government”, to create a government that was smaller, cheaper, and more effective. Its four themes were cutting red tape, putting customers first, empowering employees to get results, and cutting back to basics. “[T]he people who work in government are not the problem,” proclaimed *Osborne* and *Gaebler*, “the systems in which they work are the problem.” Echoed Vice President Gore: “The Federal Government is filled with good people trapped in bad systems: budget systems, personnel systems, procurement systems, financial management systems, information systems. When we blame the people and impose more controls, we make the systems worse” (1993, p 2).

It is important to note, however, that while the American “reinvention movement” was managerial in its ideological orientation (*Aberbac/Rockman* 2004), it placed far less emphasis on the kinds of neo-liberal, market-mimicking reforms than were featured in NPM. Reinvention-inspired reforms employed strategies emphasizing the “liberation management” theme of managerial deregulation, quality, and managerial entrepreneurship. Moreover, as *Guy Peters* (1997, p 255) notes,

[p]erhaps the one defining feature of reinvention is a disregard of some of the conventions associated with traditional public administration and an associated desire to rethink government operations from the ground up. ... These practices certainly would not be acceptable to more legalistic

administrative systems such as those found in Germany and other countries operating in the Germanic administrative tradition.

Peters continued (1997, p 255): “The deregulatory movement differs from the widespread use of market models in Europe in part by not having any clear substitute for the rules and hierarchy that are being abolished by reform.”

But management deregulation foundered because it wandered too far from America’s path of institutional development. The Clinton administration sought to imitate Great Britain’s Next Steps reform by promoting the creation of Performance Based Organizations (PBOs). But, as *Andrew Graham* and *Alasdair Roberts* note (2004, p 146), the separation of powers meant that “an influential third party—Congress—threatened to complicate negotiations over the content of annual performance agreements.” Regarding funding predictability, performance agreements required commitments to budgets for the period covered by the agreements, but future Congresses cannot be bound by the decisions of a sitting Congress. A third problem was terms restricting the termination of Chief Operating Officers for other than performance-related reasons; Congress “may not limit the ability of the President to remove appointees, unless those appointees exercise quasi-legislative or quasi-judicial functions that require some independence from the administration” (p 147). The three PBOs that were created were pale imitations of the British model.

The more important, and surviving, American public management reform of the 1990s was the Government Performance and Results Act (GPRA). Enacted in 1993 largely on the initiative of Congressional Republicans, GPRA is now a routine aspect of public management at the federal level and a key building block of America’s expanding practice of performance management at all levels of government (*Radin* 2001). The Act requires each federal agency, in cooperation with Congress and in coordination with the budget process, to formulate forward-looking performance plans and to conduct performance evaluations using agreed-upon performance measures.

But this is far from an act of managerialism. *John Rohr* (2002, p 84) sees GPRA as an example of traditional legislative preeminence within the American separation of powers: “By law it requires nothing less than close cooperation between executive branch agencies and congressional subcommittees, first in developing goals and plans and then in evaluating performance measured against these same goals and plans.” The U.S. Government Accountability Office (GAO), an agency of the U.S. Congress tasked with monitoring implantation of GPRA, was less than pleased after a decade of executive branch effort, viewing with concern the less-than-whole-hearted use of performance information in government-wide or agency management (USGAO 2004a).

In the most recent of America’s uncoordinated public management reforms, the just-elected administration of President George W. Bush promulgated the President’s Management Agenda (PMA), which emphasized performance-driven, outsourced management in federal departments and agencies. Little publicized by the administration and only slowly acknowledged by the professional field, the Bush administration’s approach featured the quarterly scoring of all federal agencies against PMA priorities and other administration initiatives and a Program Assessment Rating Tool (PART) to evaluate individual program accomplishments in coordination with preparation of the president’s annual budget. The GAO somewhat haughtily declared that PART assessments are “not a substitute for GPRA’s strategic, longer-term focus on thematic goals, and department and government crosscutting comparisons” (USGAO 2004b, summary), thus revealing the separation-of-powers tensions that pervade American public management.

From *Theo Toonen* and *Jos Raadschelders'* Eurocentric vantage point, American reforms such as the ones just described represent a continuation and refinement of earlier attempts to improve government by professionalizing the policy process (1997). Reinventing government, in their view, represented a rediscovery of classical American public administration. What was new with reinventing government was its pro-government spirit as against what went before, especially in the Reagan administration. In sharp contrast, American *Ezra Suleiman* (2003) sees the same reforms as a landmark in combining sweeping scope with an anti-government agenda associated with the political right wing. "[A]t the heart of the reinvention-of-government movement lies a skepticism about the existence of a public-service institution (Suleiman 2003, p 47; cf. *Frederickson* 1996).

From yet another perspective, *Joel Aberbach* and *Bert Rockman* (2004) argue that, while some reinvention recommendations were unarguably good ideas, the main thrust comprised slogans and nostrums that could not withstand critical scrutiny. For example, they note that, although many of the inefficiencies and restrictive rules decried by the National Performance Review were legislatively mandated, it largely ignored the need for legislative reforms, de-emphasizing the role and importance of Congress. As for successes, they cite claims concerning "more contracting out, streamlining the hiring process, use of various devices to gauge agency customer opinion and respond to it, greater and more effective use of information technology, streamlining some aspects of procurement, and attention to a variety of internal agency management reforms" (p 31).

These conflicting assessments highlight the difficulty of appraising managerialism in America. *James Thompson* undertook a more systematic analysis of the accomplishments of the National Performance Review. He notes that ANPR incorporates a diverse set of interventions directed toward the achievement of multiple objectives (2000, p 509). First, he summarized and classified the objectives of the National Performance Review as of first, second, and third order importance. Of first order importance were downsizing, reducing administrative costs, and reforming administrative systems. Of second order importance were decentralizing authority within agencies, empowering front-line workers, and promoting cultural change in agencies. Of third order importance were improving the quality of public services and improving the efficiency of agency work procedures. *Thompson* conducted a broad review of the results of NPR in terms of satisfying these objectives based survey research conducted by a US government personnel agency. A broad conclusion, he says (2000, p 510), is that while some success has been achieved with regard to lower, first-order goals, only limited progress has been made toward critical, higher second- and third-order reinvention objectives. Thus, downsizing and cost reduction objectives have been substantially achieved. ... but there is no evidence of any significant, systemic improvement in quality of services or culture.

Despite the ideological appeal of managerialism in America, therefore, its successes have been broadly limited by the enduring institutions of constitutional governance. Against the tendencies of managerialism to separate politics from administration stand the separation of powers and the competitive, Madisonian politics that inevitably result.

4.2 Managerialism in Germany

A similar containment of managerialist enthusiasm is evidence in Germany. Argues *Eckhard Schröter* (2004, p 72) every effort has been made at the Federal level "to keep any

organisational change as compatible as possible with the existing machinery of government.” Since 1989, moreover, the Federal government has been preoccupied with creating a democratic public service in the former German Democratic Republic and moving the capital from Bonn to Berlin.

As is the case in America, there have been numerous German reform initiatives in recent decades. A “first wave” (*Wollman* 2002) included the Federal Project Group for Governmental and Administrative Reform (1969-1975), the Independent Federal Commission for Legal and Administrative Simplification (1983), the Federal Commission for Administrative Efficiency, and a Deregulation Commission (1988). *Helmut Wollman* characterizes the goal of this wave as a politically controversial amalgamation of local units of government to create larger, more efficient units, to which *Land* functions were delegated (deconcentrated), as well as intra-administrative reforms within local governments.

A “second wave” of reforms included the Lean State Advisory Committee of 1995, the Action Program for the Further Improvement of the Effectiveness and Efficiency of the Federal Administration of 1997, the “activating state” theme of the twenty-first century Schröder government, and, most significantly, the NPM-influenced New Steering Model (inspired by the Dutch Tilburg reforms) in local government. The second wave of reforms was motivated in large part by budgetary pressures, including those brought about by the 1992 Maastricht criteria, and gained momentum from European Union deregulation and market-liberalization policies (*Wollman* 2002).

As noted, however, these reforms have done little or nothing to change the machinery of government. For example, the Lean State Advisory Committee ultimately proposed only cautious departures from the status quo, remaining “caught in the grid of the traditional accounting rules and civil service laws” (*Schröter* 2004, p 62). To the extent that there were structural changes, the impetus was provided by moving the seat of parliament and the government from Bonn to Berlin, as well as by rising budget deficits. The bargaining over the relocation resulted, according to *Schröter*, in “the worst of both worlds”, a “combination model” that left functions in both locations but did not seriously call into question existing bureaucratic structures.

These existing structures are generally criticized as incorporating non-ministerial functions that could be hived off to executive agencies or the private sector. “Viewed in terms of their reform objectives,” concludes *Wolfgang Seibel* (2001, p 86), over the last fifty years it is the administrative response to dealing with the aftermath of war and the establishment of federal ministerial administration which are the notable successes among reforms. In *Seibel*’s view, the same can be maintained, albeit with less conviction, of the 1969 financial reforms, the territorial reforms of the late 1960s and early 1970s, and of the construction and reorganisation of public administration in eastern Germany since 1990. The failures, on the other hand, include the attempts to reform the organisation of ministries in the late 1960s and early 1970s and the bid to reform public-service law, which in fact turned out to be an unmitigated disaster.

That significant efforts at public management reform arose at the local level of government reflected the dissatisfaction of German city managers with the administrative system (*Reichard* 2003). As was the case with many federal reform initiatives, local government reform was not inspired by politicians, citizens or the central government, where managerialism and neo-liberalism had never really caught on. “[I]t is precisely the lack of attention for neo-managerialism and ‘new public management’ and sweeping reforms,” argue *Toonen* and *Raadschelders* (1997, pp 1-5), “which is a striking feature of the Ger-

man case.” Economic and business management concepts have, however, inspired operational reforms in Germany at the local level throughout the postwar period, including post-war reconstruction, the PPBS concepts of the 1960s, cost-benefit analyses and policy analysis and evaluation concepts in the 1970s, and quasi market and managerial concepts in the 1980s and early 1990s (*Toonen/Raadschelders* 1997).⁷

In 1991, a *Neues Steuerungsmodell*, New Steering Model (NSM), was published by the Joint Local Government Agency for the Simplification of Administrative Procedures and, according to *Christoph Richard*, “disseminated like brushfire” (*Reichard* 2003, 349). The primary external influence was the Dutch city of Tilburg, which had adopted a corporate-management model involving a product orientation, responsibility centers, performance indicators, separation of politics and administration and internal contract management. With very little influence by political/administrative science or business management academics (*Reichard* 2003), the NSM involved decentralization and autonomy of resource management and responsibility, cost-efficiency mechanisms, strengthening the influence and control of local elected councils through reshaping the budgetary process, while restricting local government to an enabling role through marketization, outsourcing and privatization. All of these measures encountered serious problems (*Wollmann* 2002).

The reforms were controversial. “Critics of NSM,” says *Werner Jann* (1997, p 90), “stress its pre-occupation with concepts and visions, its affinity to commercial consultants, its naive reform-euphoria, its neo-liberal belief in the market and its neglect of the cultural premises of public administration.” After 10 years of reforms, moreover, “there are not many visible results; too much is still moving and is ‘on the way’” (*Reichard* 2003, p 356), although there is some evidence of improved customer satisfaction in survey results.

In general, external pressures, administrative innovations and internal dynamics are largely accommodated within existing German managerial structures, which means that only policies and standard operating procedures change and then only gradually (*Toonen/Raadschelders* 1997). The substance of public sector activity may change considerably within a given framework, however. The model of “cooperative federalism” has so far illustrated that stability can be a dynamic concept, not to be confused with immobility or absence of change (*Toonen/Raadschelders* 1997). Germany is “the archetypical example of a system that pairs dynamics, flexibility and innovation to a gradualist, and adaptive mode of public sector reform” (*Toonen/Raadschelders* 1997, p 1-6).

Other observers emphasize the extent of change, however. *Klaus Goetz* argues, for example, that “the two main pillars on which bureaucratic legitimacy has long rested [rationality and orientation to the public good] are crumbling” (1999, p 168). He continues: “outside the realm of the Federal ministerial administration, the signs of advancing privatisation, corporatisation and economisation are unmistakable” (p 168), albeit with an unfortunate consequence: “[o]pportunities for organisational choice and the diversity of administrative organisation at the Länder level are ... diminished” as legal and practical frameworks for action narrow (p 170).

In a similar vein, *Thomas Ellwein* (2001, p 44) argues that “[c]ompared with the 19th century, the ‘unity’ of administration has become more fragile, administrative management has become more difficult, the resulting need for internal coordination greater, and the scope of discretion in decision-making broader.” Such changes may well affect attitudes about what is mandated by law. “What results,” says *Ellwein* (2001, p 44), “is ‘ad-

ministration by negotiation', something which has always existed but has been veiled in a cloak of secrecy. However, this is now no longer history, but the current situation." Adds *Schröter*, "[t]his constellation of a highly decentralised and fragmented, but at the same time tightly interwoven politico-administrative systems may also help to explain the preponderance (and persistence) of political bargaining as well as legal rule-setting as instruments of political steering and coordination as opposed to managerialist contract management" (2004, p 70).

But this political bargaining is not at all like that in separation-of-powers America. Notes *Schröter*, the executive (at all levels) completely dominates the legislative branches in the field of administrative reform. For example, the parliament has no legal instruments to combine financial appropriations with binding performance goals. America's Government Performance and Results Act, enforced by an agency of the legislature, is inconceivable in Germany.

5. Bureaucracy and Liberal Democracy

In both America and Germany, then, the so-called "bureaucratic paradigm" obscures the underlying reality that the American administrative state and the German *Rechtsstaat* have devised bureaucratic institutions as means to serve liberal, republican purposes. That such institutions endure is less a reflection of the well-known pathologies of bureaucracy—although such pathologies are always present as institutions evolve—as of their continuing value to the preservation of civil society, an endurance that has accommodated change within flexible frameworks of law and practice.

The foundations laid by the absolutist state builders of the seventeenth and eighteenth century German states would adapt to and survive the revolutions, wars, and social and economic transformations of the nineteenth and twentieth centuries to provide stability and continuity to modern democratic governments. Thus, although Fifth Reich Germany (and Fifth Republic France) has been through numerous political transformations in the last two centuries, the stability of its public administrations is remarkable.

Stable institutions facilitate orderly change. The new welfare state agencies and programs tended to be oriented more toward clientele, provider and professional interests and values than toward universal public service values and democratic accountability in a classical sense. "Political officeholders increasingly have been forced to show that they could keep the ever-growing bureaucracy in check" (*Toonen/Raadschelders 1997, pp 5-1*). Ambitious efforts occurred in several countries to democratize the administrative system in the 1960s and 1970s, searching for more citizen participation, openness and other efforts to involve the public and "bring public administration closer to the people" (*Toonen/Raadschelders 1997, pp 6-5*). It was the public administration [in West Germany] that enabled the new democratic policy on East German soil to function beyond the peaceful revolution," notes *Klaus König* (1997, p 216).

In America, if there are assumptions that are taken for granted, or a paradigm, in traditional thought, it is that the structures and process of the administrative state, of America's bureaucracy, constitute appropriate instruments for achieving balance between administrative capacity and popular control on behalf of public purposes defined by electoral and judicial institutions, which are the primary constitutional means for the expression of the public will. In other words, preserving balance between the capacity

to effect the public interest and democratic accountability of governance through hierarchy was, and still is, the task of American democracy. That America has the world's oldest written constitution and has itself survived civil war, economic depression, world war, and upheavals in civil society testifies to the success of a public administration that accommodates change without compromising constitutional principle, the social contract on which it was founded, and the public service bargain that has been the result.

A reconsideration of traditional American literature leads to the insight that contemporary critics of traditional thought pose a greater threat to democratic values than the authors of the so-called "bureaucratic paradigm". Traditional habits of thought exhibited far more respect for law, politics, citizens, and values than customer-oriented managerialism or civic philosophies that, in promoting community and citizen empowerment, barely acknowledge the constitutional role of legislatures, courts, and executive departments. The idea of separating administration from politics is more clearly expressed in *Reinventing Government* (is not steering versus rowing a dichotomy?) and in contemporary attacks on "top-down" democracy than it is in traditional American thought. In the guise of "performance", efficiency as the ultimate value permeates the New Public Management more than it did traditional public administration.

State-centered Germany and legislature-centered America, following altogether different paths and altogether different interpretations of the rule of law, have produced institutional arrangements both adapted and adaptable to their changing histories and cultures. That such an allegedly rigid, nondemocratic instrument, bureaucracy, could enable these achievements is a remarkable and instructive story.

End Notes

- * *White* (1926, p 423).
- 2 This essay quotes and adapts material from *Lynn* (2001, 2006, 2008) as well as from the other sources cited herein.
- 3 The following paragraphs are adapted from *Lynn* (2001).
- 4 Parts of this section have been adapted from *Lynn* (2008).
- 5 The following material is quoted and adapted from *Lynn* (2006, 2008).
- 6 Note the sharp contrast between this view and that of the American *John Dickinson*, who argued (1930, p 295, p 304), that “[e]very representative is a potential mediator for the interest which has the strongest control over him in the face of other interests; and in this way opportunity is given for bringing interests into touch and convincing each of the advantage of accommodating itself to the others with which it has to live. ... Government ... is bound to be in the long run far more a reflection of the balance of interests in the community than an agency capable of making the community reflect the independent will and purposes of the governors.”
- 7 *Christoph Reichard* (2003) notes that the old cameralist book-keeping method, still in use in all German public sector organizations, is only now beginning to be replaced by modern resource-based accrual accounting and budgeting systems.

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Anschrift des Autors: Laurence E. Lynn, Jr., Sydney Stein, Jr. Professor of Public Management Emeritus, The University of Chicago, 4902 Fairfield Court, Bryan, TX 77802
E-Mail: llynnjr@gmail.com