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GOVERNANCE AND COMMUNITY

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I was greatly encouraged by the papers presented by Catherine Walter and Nick Greiner. As a scholar of business regulation and a criminologist, I do agree with Catherine Walter that there are profound limitations on how well legal prescription works as a way of solving our problems, so there is a need to shift the emphasis somewhat from legal prescription to ethical guidance or communitarian moral deliberation. The Trade Practices Commission, the community policing philosophy of the Australian Federal Police in Canberra, the self-regulation of the Australian Pharmaceutical Manufacturers Association provide examples of significant shifts of this sort occurring in Australia.

Some modest progress is under way in corporate Australia to shift from a shareholder to a stakeholder focus. However, impulses to vilify corporate critics in the environment movement, the trade union and consumer movements are still stronger than corporate impulses to engage in dialogue with them. Progressively Australian business leaders have ceased seeing Choice Magazine as an enemy of capitalism; more see it now as a watchdog on the quality of Australian products that helps make us more internationally competitive. Progress on creating less homogenous management and more trusting, cooperative work relationships has been slow, but at least in the direction advocated by Catherine Walter.

I was even more encouraged by Nick Greiner's paper, because in the past I tended to view Mr. Greiner as the kind of politician who has been an obstacle to the sort of change he advocates in his paper today. Probably this was unfair. Doubtless there were many areas where Nick Greiner Premier did follow the prescriptions in his paper. But I am a criminologist and criminal justice is one area where he did not. His solution to the crime problem was the big government solution, the coercive solution, not the communitarian solution. He locked more people up, built more prisons and substantially increased the size and powers of the police force. When the private and public security industry, one of our biggest industries, is massively in need of microeconomic reform, conservative microeconomic reformers continue to regard it as

untouchable. It has been established that one-officer police patrols are as effective and safe, perhaps more safe¹, than two-officer patrols. While the most dangerous cities in the United States are patrolled by police cars with one officer, in Sydney and just about everywhere else in Australia, we have two.

I was encouraged by Mr. Greiner's paper because I took him to be implicitly conceding that he had been in error in not translating his communitarian ideals to the domain of criminal justice. Of course, he was in the good company of Labor premiers like Carmen Lawrence in making this error. And again in fairness I must say that it was at the very end of Mr. Greiner's time as Premier that the New South Wales police began to lead the country toward community accountability conferences as a more decent and effective approach to crime. I refer here to the part of Mr. Greiner's paper where he says:

"In the field of juvenile justice, we are witnessing in various parts of Australia experiments that bring a strong community voice to bear when young people commit offences. As alternatives to jail or other forms of traditional penalty, various forms of community panels or tribunals are emerging which confront the young person not with the abstract idea of justice or punishment, but with the very real and intimate face of their own community. "

Conferences where the the offender, with the support of family and friends, engages in a process of apology, recompense and problem-solving dialogue with the victims and victim supporters is a communitarian approach par excellence. And it seems to work.

One of Robert Putnam's empirical findings was that the same institutions of civil society and habits of civic engagement that make for economic growth also make for the control of crime and corruption. Trust creates economic efficiency by reducing the transaction costs of doing business. But trust and respect for each other as citizens with obligations also enables us to cooperate to deal with violence and crime.

Mr. Greiner correctly diagnoses the trouble with the new right libertarianism that afflicted a good number of political leaders during the 1980s. This trouble was the

¹ Possibly more safe because single officers adopt a more persuasive, conciliatory demeanour than the confrontational demeanour more common in two-officer patrols. Single officers may also display less bravado in situations where it would be wiser for them to call for backup before going in.

assumption that all you needed to do was add strong individuals to strong markets and wait for beneficial results. Beneficial results have not come from this prescription in the old communist societies because the institutions of civil society had been destroyed in those societies. The libertarians saw consumer groups, environmental groups, trade unions, business and professional associations, even churches as menaces to the ideology of a totally free market. They saw strong governments as a threat to strong markets; so their agenda was to weaken government as much as they could. Conversely, socialists saw strong markets as a threat to strong government. Neither the libertarians of the Liberal Party nor the socialists of the Labor Party took civil society very seriously. There has been change for the better on both sides. And this does make the prospect of consensus on a sensible strategic direction for Australia brighter than at any time in our history.

Communitarians must avoid the mistakes of libertarians and socialists in thinking that the best way to make their favoured institutions strong is to make others weak. For example, strong governments can strengthen the institutions of civil society, as by providing infrastructure support for School Councils, standing for green or consumer groups to appear in court, and the like. If we don't need governments that are strong enough to row, we certainly need them strong enough to steer. What we should aspire to is a society in which government is strong, markets are strong, the institutions of civil society are strong, families are strong and individuals are strong. Each of these strengths entails the risk of different kinds of excess. The best approach to excess from one institutional arena is countervailing strength from the other institutional arenas, and from strong individuals. The mistake is to weaken families for fear of family violence, to weaken market competition for fear of externalities and exploitation, to weaken institutions of civil society for fear of corporatist domination.

Communitarianism need not be a threat to individualism. Individuation is social capital that strong families and strong civic engagement bequeath to our children. A strong state and a strong community can and should also assure multiculturalism. They can engender diversity through affirmative action. National unity can give birth to diversity. Moreover national consensus is needed in the protection of individual rights. Individual rights are the most active cultural accomplishments in communitarian societies that mobilise social disapproval against those who trample on the rights of others. In

summary, there is no contradiction between strong community and strong individuals, between collective duties and individual rights, between strong communities and strong diversity.

In all of this, I see both the Greiner and Walter papers as representing a civic republican political ideology. You can believe in the monarchy and still be a civic republican. Montesquieu, a monarchist and a Baron, remains, after all, the most important republican theorist.

The liberty, equality and fraternity of the French Revolution, the liberty that Jefferson and Madison believed in, has suffered profound corruption during the past two centuries. In Australia, that republican liberty also underwent significant further corruption within the Liberal Party during the 1980s. The ideal of liberty that progressively became more dominant in the West was the individualistic liberty of being left alone by others to enjoy free markets. Freedom to watch TV. As Philip Petit has argued so eloquently, it is the republican ideal of liberty as a citizenship status in a community that we need to revive. It is the liberty of communal assurance against arbitrary exercise of power over us. It is the liberty that also requires equality because the poor can never enjoy liberty, are always vulnerable to the powerful. It is the liberty that also requires fraternity because the rights and laws that protect against arbitrary power must be backed by a vigilant community. Our aspiration should not be for a lost 18th century agrarian republicanism, but for a 21st century urban republicanism. As I see it, this is the aspiration Catherine Walter and Nick Greiner struggle for in a rather practical way in their papers. It is an aspiration that might and should unite us.