The Settecento’s Fundamentals: Five Structures That Define ‘Constitutionalism’

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THE SETTECENTO’S FUNDAMENTALS:
FIVE STRUCTURES THAT DEFINE ‘CONSTITUTIONALISM’

2 OCL 225

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ABSTRACT.
From Year One to Year Eleven (1776-1787) Americans went to work adopting two national charters and fifteen state constitutions, totaling nearly 90,000 words. Our Constitutional Logic surveys these accomplishments by detailing the five structures – each an instance of consciousness – by which systems committed themselves to develop (each of them) their relationships with consumers. These five modes are gathered as Group III modes of relating system and consumer.

KEY WORDS: arenas of consciousness.

A. INTRODUCTION. What are the top five structural choices that Americans made in the 1770s and 1780s when charter-writing was all the rage?

Pride of place goes to the Constitution of the Year Four followed by the Constitution of the Year Eleven, with supporting rôles going to the state constitutions of the Years One through Ten.

Merely pointing to the adoption of a single text barely launches the beginning of the inquiry, if more detail can be had. OCL offers five ‘structures’ or five ‘fundamentals.’ I prefer the ‘arenas of consciousness,’ but have to admit that this terminology is not likely to catch on.

B. FIVE FUNDAMENTALS LISTED. These are, to name them with a short definition to follow:

Bibliotheticity: Privileged words are sourced according to this dimension. These words exist in (a) natural language sentences or (b) near-natural language sentences or (c) semi-regimented statements; the latter are the acquired talent of lawyers and judges. OCL likes the phrase ‘most privileged text’ or MPT for the source of bibliotheticity.

Accountable: Diffuse accountability is the desiderata. When things go wrong fingers need a ‘pointee.’ Constitutionalism supplies multiple overlapping targets for blame. In short diffuse accountability platforms a confused account, saving to officeholders a measure of immunity in garden variety bumbling.

Paradosis. Here issues are handed off from one venue to another. In other words, the transport of Shouldness from one venue to the next. Paradosis, in other words, implies everybody has a/their say. Venue-to-venue transfer is structured so that reasons are given for rules: hence a reason for this species of meta-text to exist. If you’re doing your job, you’re also supposed to be talking about doing your job. More words may not be the answer but once the custom of talking about your job is fairly launched, it’s hard to put a stop to it. From this meta-text official and public experience is developed and made portable.

Density. When a lot of offices are created, many officials will have a chance to compete for their chances at the honors and payroll that come with taking their chances at getting the government’s work done.

Dispersed. Constituents acquire, hold, divide, share, compete for, compete against government offices/officers along fault lines already fixed in constitutional structure. The kinetic effort they assign to accomplishment (measured a constituency at a time) is a
measure of their commitment to this structure. In short, lines are taken quite seriously.

C. INDEPENDENCE. What could any one of these five fundamentals have to do with any other? Especially if viewed as framed by permanent dimensions of systems, the connections, much less the joint spotlight supplied by two, seems tenuous.

But here is an instance from the early 1980s, which, from a reverse angle – a system insisting that two dimensions are irreconcilable – proves OCL’s point. Automobile manufacturers argued publicly that good looking cars had to be unsafe. Lee Iacocca got on TeeVee and argued that he couldn’t make a car that satisfied the two predicate phrases is good-looking and is safe.

In short, if you take predicates that seem disconnected and ‘connect the dots’ you might have a starting place for exploration.

Playing off one predicate against another has a distinguished heritage; Plato exploited it in the Cratylus when he exhausts the reader’s patience with the etymologies (a word’s sound suggests a predicate) and then deploys the concession that word usages, i.e., conventions, matter. In the David Sedley translation:

I myself prefer the view that names should be as much like things as possible, but I fear that defending this view is like hauling a ship up a sticky ramp, as Hermogenes suggested, and that it may be unavoidable to add the use of this nasty thing, agreement, for the correctness of names.” (435a5-c7)[emphasis supplied].

OCL has created a table in which all five fundamentals/structures are played against one another.

D. RESOURCES. For the Table Annexed hereto and for on-line access to Peter Aschenbrenner’s articles, tables and charts see the following resources: purdue.academia.edu/PeterAschenbrenner or works.bepress.com/peter_aschenbrenner/ The table annexed hereto exploits the same technique, without exhausting the reader’s patience.

E. WHAT IS TEXT WORTH? The adoption of the fifteen constitutional texts referenced, see Selected Details of State Constitutions Adopted Before 1787, 2 OCL 312; OCL surveys the fifteen state constitutions (including those adopted and replaced) from 1776 through 1786. This survey encompasses both of Vermont’s constitutions. The total word count is 81,893 words with 3,894 unique words.

In addition, A Compendium of American Constitutions: Counting Constitutions and Constitutional Text in the Early American Republic, 2 OCL 378, supplies (for the first time) a complete and consistent taxonomy for national charters with word counts. The subject is further developed in Surveying the 831 Unique Words in the Philadelphia Constitution, 2 OCL 180.

That these texts were of interest to the settecento is demonstrable from this: a London publisher sandwiched national and state constitutions into one volume. All three editions of The Constitutions of the Several Independent States [first edition, 1780; second edition (London, 1782); third edition (Boston, 1785)] combined national and state constitutions in one volume.

As embodied in our two national charters, the American project was grand in dimension. Constitution I counted 3,453 words, itself replaced by Constitution II at 4,321. At the time Constitution I appeared in draft (August, 1777), nine states had completed drafting new constitutions, at the urging of the Continental Congress via its resolution of May 10, 1776. Journals of the Continental Congress 4:342.

F. UNIQUE WORDS COUNTED. At the time the Philadelphians crafted Constitution II eleven states had drafted at least one constitution and the Philadelphia convention could draw on a total of 81,893 words from a total of fifteen state constitutions as a resource. These extant and superseded state charters employed 3,894 unique words. Constitution I itself employed 774 unique words, while Constitution II’s counts 831 unique words. Constitution II recycled 408 of Constitution I’s unique words.

We can’t understand the seventeen texts adopted unless we have a way of teasing into them and withdrawing structures or fundamentals from them, for contrast and comparison. The table accomplishes this, at least, by playing predicates in two’s one against the other.
G. THE METHODOLOGIES. The table annexed accomplishes a second purpose.

The explorers of the *settecento* were able to fashion and deploy two methodologies:
- The methodology of encounter.
- The methodology of error.

First, explorers learned how to consciously go back and forth between the analytic and the synthetic. Each visit required one encounter.

These explorers learned how to think through problems to the point that either their taste for the elegant solution had been satisfied or the risk of failure in the real world beckoned and could not be resisted.

Solutions – especially procedures – were then tested in the real world before the aesthetic urge overwhelmed the kinetic and the explorer returned to the analytic side of the divide.

To repeat each exit and entrance is an encounter experience.

Second, explorers learned how to sample from the real world enough data to test what they proposed as solution or procedure (on the way to solving a problem). In so doing, they had to manage error in sampling and, ultimately, error in crafting the hypothesis to be tested.

That the *settecento* was able to deploy this level of sophistication – twin methodologies available to be leveraged one against one another – can be explained in a number of different competing, overlapping and intersecting narratives.

What OCL now finds of interest is teased out through a naïve or unified theory of logic and statistics. Logic and statistics parted one from another by the end of the XIXth century. Expect to find received wisdom (mis)informing the reader that classical logic degenerated to a moribund state at the end of the *settecento*.

H. IN A WORD: ‘SYSTEM.’ The word does not appear in the federal constitution. Plenty of other high count words appear therein, such as Constitution, Government, Power, Republic, Nation, and so forth. (You can argue ‘federal’ either way, since a cousin appears in Article VI’s ‘confederation’.)

But the word with the highest count featured in, for instance, the University of Virginia’s Rotunda Project ‘Early Founders Access’ Database which does not appear in Constitution II is ‘system,’ scoring 385 hits versus ‘constitution’ at 493 in that database.

‘System’ also makes very frequent appearances in the works of James Madison and Alexander Hamilton, such as their *Federalist* essays, writings in their bank bill debates, Hamilton’s public letters (from his retirement as Secretary of the Treasury to his death in 1804), and, for comparison, Madison’s works which Farrand included in his volume 3 (*Records of the Federal Convention*) trimmed to post-retirement. The count there is 204 hits in 143 works. See *Table Annexed to Article: Hamilton and Madison Deploy ‘System’ In Works Dated from 1787 to 1836*, 2 OCL 701.

In this interval (Hamilton died in 1804) 321 works of Hamilton were surveyed along with 94 works of Madison for word totals of 254,935 and 110,139 respectively. Hamilton deploys ‘system’ once every 1,888 words, with Madison’s hits averaging once every 1,508 words.

I. ‘SYSTEM’ WAS THE SETTECENTO’S GO TO WORD. When a writer used system s/he indicated to the reader that one might engage in armchair analysis or set the kinetic wheels flying, come disaster or triumph in the real world. In short, ‘system’ assured the reader that either (or both) the purely aesthetic faculty was to be exploited or the kinetic possibility of success or failure was to be chanced. System heralded encounter and error management at work.

It was the quintessentially popular word for writings counted as demotic elaboration or appearing in ordered discourse. When the conventioneers used ‘constitution’ 574 times in 386,049 words at the federal convention, the reader need not be well versed in the daily grind to be impressed with the count. That’s a lot of talk about constitutions.

And constitution wound up with 18 mentions (including words in its family) in the 5,224 words of the Early Constitution. No surprise, I assume.

In contrast, ‘system’ garnered 253 hits at Philadelphia. Half the time delegates were talking about the text they were writing or text others had written or arrangements of interest,
they were also speaking of ‘system’ or ‘systems’ and said so explicitly, without putting the word into the federal constitution itself.

The settecento was so crazy about systems that they pressed other words into service to satisfy the urge to talk about stuff that worked because its moving parts fit together, considered intellectually or as if it were a machine. See Our Constitutional Kinesis: Words that Can Go Like a Machine, 2 OCL 549. So they pressed dozens of words and phrases into ‘machine’ metaphors. OCL credits and expands three scholarly efforts to chase these usages into searchable lists. When the databases promised to Congress are fully operational, OCL will take another crack at the catalog.

J. MUTUAL PRODUCTION AND DESTRUCTION. It was David Hume who wrote that the perceptive activity of human beings was to be considered as a ‘system.’ “The true idea of the human mind, is to consider it as a system of different perceptions or different existences, which are linked together by the relation of cause and effect, and mutually produce, destroy, influence, modify each other.” Treatise of Human Nature, 4,6,19 (1739-1740).

If the reader is curious as to how this sentence would play out if ‘constitution’ were substituted for ‘human mind,’ she might read Madison’s TF No. 51.

If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself. A dependence on the people is, no doubt, the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions.

The settecento’s fascination with test procedures error tested through encounters in the real world is on display and at either end of the century no less. The former Captain of Artillery was fond enough of firing off ‘system’ but Madison outscored him by 20% and in fewer works no less.