

INTRODUCTION

PETER J. BOETTKE AND SOLOMON STEIN

James M. Buchanan was one of the premiere political economists of the 20th century. Intellectually, he served as a cofounder of the Virginia School of political economy identified with him and the work of his colleagues and students. Organizationally, he directed the academic centers¹ through which the interdisciplinary strands composing the field were woven together. Indeed, Buchanan was at the heart of the emergence of public choice and the reintroduction of politics to academic economic analysis. His contributions extend to many of the other research programs contributing to the gradual rediscovery of political economy in the post–World War II economics profession, including experimental economics, law and economics, the UCLA property rights tradition, his defense of pre-Keynesian public finance, the radical subjectivist post-Keynesianism of G. L. S. Shackle, and Austrian economics. This may seem like a disjointed portfolio given contemporary disciplinary boundaries, but it reflects the continuity between Buchanan and the Old Chicago School of his mentor, Frank Knight. The contribution most distinctively Buchanan’s own, *constitutional political economy*, was recognized by his receipt of the Nobel Prize in Economics in 1986. This constitutional project emerges from Buchanan’s scholarship in public finance, constitutional economics, and contractarian political philosophy.

Buchanan’s early works on public finance, as contributor to this volume Richard E. Wagner has recently explored in detail (Wagner 2017), already contain the components from which his later constitutional project would be assembled. Inspired by the work of Swedish economist Knut Wicksell, Buchanan criticized the prevailing approaches to public finance for their implicit assumption of a benevolent autocrat, effortlessly and flawlessly willing and able to implement whatever scheme of taxation or regulation was determined to be socially optimal within a

model. Such a construction not only led to policy recommendations based on comparison of the costs associated with actual economic activity against a fictitious alternative, but it also obscured why and how a group of individuals not already subject to an autocratic political order would ever engage in political action. In the alternative, Buchanan argued for a view of politics as exchange, understanding the provision of public services as determined via agreement among the political community. Buchanan's vision was that rather than provide technical implementations imposed upon individuals, political economists would offer potential proposals whose desirability would (and could) be known only when deliberated upon and chosen or rejected (see Buchanan 1959). It was also necessary to understand the operation of democratic processes as they, in fact, occur, populated by individuals with their own interests, which do not vanish upon entrance into political life. Understanding the operation of political institutions when populated entirely by self-interested actors is critical to assessing the robustness of such institutions when confronted with the frailties of humanity.²

Study of the pathologies that result from the institutional incentives at play in political institutions forms one prong of the research program of public choice economics, providing the omitted theory of government failure required to engage in comparative institutional analysis and lacking in conventional welfare economics. The constitutional project that is associated distinctively with work done by Buchanan and numerous coauthors, however, attempts to step back from the opportunism associated with individuals acting within relatively known institutional environments and looks at how the rules governing those environments might best prevent those undesirable results internal to the system. Constitutions, in creating procedural constraints on later political behavior-as-usual, take center stage in Buchanan's work. Constitutional political economy's explanatory component rests in Buchanan's project alongside its justificatory, normative elements. The project of constitutional political economy looked to understand the products of the constitutional environment and the outcomes that result from various constitutional implementations. Constitutional economics provides a crucial input into Buchanan's program of classical liberal contractarianism, an understanding of how best to promote, justify, and protect a social order of free and responsible individuals. The program of constitutional political economy Buchanan articulated and contributed to for over a half-century remains ongoing and incomplete, as Buchanan recognized. The essays in this volume engage with that program by exploring tensions within Buchanan's project.

What, however, does it even mean to identify and explore a tension within a scholar's work? The range of explanations for the presence of tensions, and the consequences that might (or might not) flow from those different types, is covered

by the preliminary remarks to Wagner's essay. Tensions may be unrecognized problems, incoherence, or inconsistency problematic for an argument; but this does not exhaust the possibilities. They could reflect shifts in thought or, more fundamentally, dialectical elements, by nature refractory to treatment through simple, definitive assertions. Wagner discusses the use of aggregates in Buchanan's treatment of the burden of public debt as an instance of a contradictory, problematic tension in Buchanan's work. A contrasting, dialectic tension arises between two opposing visions of political society, one "sentimental," resting on the productive potential of mutually coordinated individuals, and one "muscular," in which strife plays a dominant role in human affairs. Buchanan's ebb and flow between these two visions is a reflection of the liberal project's uncertain relationship with the political more generally.

Roger D. Congleton's chapter considers an additional category of tensions that one often confronts when faced with work of the scope and depth of Buchanan's constitutional economics: the apparently problematic tension that, when given a more extensive critical analysis, is not in tension at all. Understanding the resolution to such superficially inconsistent issues ultimately offers insight into the structure of the arguments as a whole. Congleton considers Buchanan's seemingly disparate assumptions regarding the importance of individual ethical norms as precisely such an apparent, but merely apparent, tension. Although Buchanan's view of political behavior as dominated by rational opportunism on the part of self-interested actors is what we would expect from the founder of public choice economics, in his study of individual behavior in general Buchanan sees individual ethical commitments as significant. Buchanan, a champion of behavioral symmetry in modeling the conduct of private and public actors, thus appears to be in violation of his own precept. A closer inspection of Buchanan's model of individuals and their moral aspects, Congleton argues, reveals the amorality of politics to be a consequence of Buchanan's picture of ethics rather than of problematic arbitrary assumptions.

For Buchanan, the individual adoption of ethical norms resides within their creative and open-ended capacities; but, particularly with respect to interpersonal ethical commitments, their adoption is grounded on the expected benefits of reciprocal cooperation. Ethical norms, once adopted by individuals as internal rules of conduct, tend to be followed even where opportunistic violations would be advantageous, reinforced by communal sanctions for norm violations. Buchanan's perspective on individual ethical commitment is, as Congleton points out, one in which the adoption and adherence to norms of civil conduct largely stem from internalized ethical beliefs but remain contingent on the institutional environment. The institutional differences between one's immediate social context, the

large-scale interactions of post-constitutional politics, and the quasi-anonymity of the constitutional moment are the basis for the differences in the importance of individual ethical norms between those settings.

Buchanan's divergent attitudes toward constitutional and post-constitutional politics create a tension considered in Peter J. Boettke and Jayme S. Lemke's chapter as well. Both constitutional craftsmanship and post-constitutional political activity confront what is, in Wagner's terms, certainly a dialectical tension between the capacity to design rules to facilitate certain outcomes and the recognition that all rules will result in unintended and unforeseen consequences. Why, Boettke and Lemke ask, was Buchanan cautiously optimistic regarding the potential for constitutional design to generate rules that effectively structure political interaction, in contrast to the pessimism with which he viewed post-constitutional political designs? They conclude that there is less tension between Buchanan's reflections on the prospects for design at these two levels than initially thought. Boettke and Lemke examine Buchanan's efforts to negotiate those underlying tensions confronted by rational designs within complex, evolutionary orders in relation to similar efforts by F.A. Hayek and Elinor and Vincent Ostrom. The reconstructed project of constitutional political economy drawing on all three of those perspectives resolves one additional bonus tension, showing that Buchanan was not as incompatible with Hayek's evolutionary thinking as Buchanan's own comments often suggested.

Randall G. Holcombe's chapter concerns tensions between Buchanan as a constitutional theorist and Buchanan's constitutional project for a classical liberal social order. The project of constitutional political economy within the context of Buchanan's classical liberalism is instrumental, searching for those rules that prevent the dynamics of political interaction from generating an unchecked expansion of governments at the expense of individual citizens. This differs in uncomfortable ways, for Holcombe, from when Buchanan describes his project of constitutional analysis in terms of its contractarian, justificatory elements. The creation of constitutional rules within the contractarian side of Buchanan's thinking emerges from the agreement on the rules through which those engaged in the constitutional bargaining process are able to exit the perpetual conflict of the Hobbesian state of nature. The outcomes of this bargaining are those procedures for making particular subsequent rules on which the individuals involved are able to agree. Individuals consent to a given set of rules for political decision-making that result in benefits that warrant adherence to the outcomes of the post-constitutional politics, just as individuals choose to suffer costs that result in some cases of application of a particular rule to acquire the benefits of the rule in general. These two perspectives are often in tension when assessing post-constitutional developments: as a contrac-

tarian, Buchanan must view the adoption of illiberal policy within a constitutional system whose procedural rules for policy making were the product of agreement as a justified result of the contractual process.

Other tensions between these two programs emerge, Holcombe argues, when Buchanan's justificatory framework makes the necessary move from explicit agreement to a social contract to understanding why nonparties can be seen as having offered such consent. The justifications for the conceptual abstraction of bargaining between rational equals escaping the state of nature also has troubling implications regarding assessing proposals for subsequent constitutional reforms, which are never proposed under the conditions of uncertainty assumed for the initial contract. The justification may also prove too much: as Holcombe points out, Buchanan suggests the contractual order is justified so long as it is preferred to renegotiation from the state of nature. Buchanan-as-contractarian seems thereby reduced to silence regarding nearly all of the concerns involving political and economic liberty expressed by Buchanan-as-classical-liberal.

The limitations Buchanan places by his own admission on the project of constitutional political economy are what concern Stefanie Haeffele and Virgil Henry Storr. Along with abstracting to the relative uncertainty of interests of the constitutional moment, Buchanan proposes the ability to restrict the contract's agreement to unanimity among the "reasonable" and suggests that excessive heterogeneity among the contracting agents could frustrate the attempt to find a mutually acceptable social order. As limiting circumstances for the applicability of constitutional political economy, these restrictions curtail its value in what, as Haeffele and Storr point out, are precisely those circumstances (intractable disagreement among diverse individuals) in the real world where the need to find livable rules to structure political activity is most pressing. These caveats also threaten to subvert the normative and justificatory effort to constrain the scope of political activity to what can attain constitutional consent. Absent a non-post hoc unambiguous notion of when disagreement becomes not only unreasonable but also excludible-unreasonable, or in the case of a proposed social and political community that possesses too few commonalities to share a single political order—neither of which they find provided by Buchanan—Haeffele and Storr see these as ready-made facades for political tyranny.

Gerald Gaus's contribution highlights the internal tension faced in the accounts of Buchanan and others of the contractual exit of rational opportunists from the state of nature. Although the gains from exiting the perpetual war of all against all and forming a society provide a motivation for a contractual bargain, the actual implementation of a political order presupposes regularities in other spheres of interpersonal conduct, such as the norms that compose the "moral order." Buchan-

an's contractarian vision attempts to address this problem, Gaus argues, through a program he refers to as "comprehensive Hobbesianism," in which the underlying moral orders are, themselves, the result of opportunistic agents rationally choosing to constrain their behavior to capture gains from cooperation. Gaus's evaluation of both Buchanan's version of this recursively rational account of social order's emergence and the literature on the moral order in actual human activity leads Gaus to conclude that comprehensive Hobbesianism is ultimately an untenable project, and he offers some avenues through which constitutional political economy can be loosened from its initial Hobbesian moorings.

The perceived severity of the tension for Buchanan's constitutional project increased incrementally from Roger Congelton's tension—revealed to be apparent rather than substantial—to Gerald Gaus's reassurances that Buchanan's constitutional project can survive the amputation of its original Hobbesian origins.³ And then there is Christopher J. Coyne's essay on the protective state, which offers a distressingly severe challenge to the viability of the constitutional project itself. The *protective state*—Buchanan's term for the provision of law enforcement and territorial defense from which derives the legitimacy of the government's monopoly on coercive force—is prior even to the productive state's Wicksellian politics as exchange. For some classical liberals, the protective state is the exclusive duty within which constitutional rules should contain political decision-making. If, as Coyne argues, the erosion of constraints on government power is an inherent consequence of the performance of those protective functions, the project of constitutional political economy might offer at most the possibility of postponing, rather than averting, the erosion of liberal societies within the context of nation-states.

David M. Levy and Sandra J. Peart's chapter examines a tension within Buchanan's project that emerges within the context of the underlying methodological and analytical ideas that give the project its unifying characteristics, more than its internal fault lines, and that connect Buchanan's project with his colleagues composing the Virginia School. The four points that define the research space of the Virginia School—the endogenous nature of group goals, analytical egalitarianism, reciprocity as the basic feature of group compromises, and the importance of trade—resulted in a basis upon which to examine social interaction at odds with the prevailing matrix of institutional attitudes in the rest of academia. As the experiences of the Thomas Jefferson Center documented by Levy and Peart here show, the Virginia School's distinctive character was explained by many external observers as having one, somewhat more mundane, cause: ideology. Levy and Peart push back on this interpretation of the Virginia School and, in developing their four aspects, illuminate the tension between the application of analytical egalitarianism to the agents in the explanatory framework and the resistance to the reflex-

ive application of that same framework to explanation of the political economists themselves.

Exploration of tensions within James Buchanan's political economy, where they are amenable to some resolution but even more so where efforts to do so have as of yet failed, is a constructive and critical endeavor. The essays in this volume, and more broadly the scholarly careers of the contributors, illustrate Buchanan's presence in political economy's extended present, that long conversational moment extending back at least to Adam Smith and oriented toward the open-ended future. As Buchanan would say: onward and upward!

NOTES

1. Both the Thomas Jefferson Center at the University of Virginia as well as its successor organization, the Center for the Study of Public Choice at Virginia Polytechnic Institute and State University and, after 1983, George Mason University.
2. F. A. Hayek's description in "Individualism: True and False" of Adam Smith and the classical political economists could apply equally well to Buchanan—thinkers whose "chief concern was not so much with what man might occasionally achieve when he was at his best but that he should have as little opportunity as possible to do harm when he was at his worst" (Hayek 1948, 11).
3. Amadae (2016), in a volume critiquing the logic of game theory in political economy, also explores similar tensions in Buchanan's project.

REFERENCES

- Amadae, S. M. 2016. *Prisoners of Reason: Game Theory and Neoliberal Political Economy*. New York: Cambridge University Press.
- Buchanan, James M. 1959. "Positive Economics, Welfare Economics, and Political Economy." *Journal of Law and Economics* 2: 124–238.
- Hayek, F. A. 1948. "Individualism: True and False." In *Individualism and Economic Order*, 1–32. Chicago: University of Chicago Press.
- Wagner, Richard E. 2017. *James M. Buchanan and Liberal Political Economy: A Rational Reconstruction*. New York: Lexington Books.

