

## AN INTERVIEW WITH HARTMUT KLIEMT ON JAMES M. BUCHANAN OPERA OMNIA

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### On ‘conceiving’ Buchanan’s ‘Opera Omnia’

“*The Collected Works of James M. Buchanan*” (Brennan et al., 1999) were published between 1999 and 2002 by Liberty Fund Indianapolis. They form not literally opera omnia but a thematically structured selection of about two thirds of what James M. Buchanan had published with various co-authors in the 50 years from 1949 to 1998. Buchanan did not direct the editorial process. But it was most convenient that the editors H. Geoffrey Brennan, Hartmut Kliemt, and Robert D.

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Tollison could ask him for information and advice through the some two years leading up to the delivery of the full set of material to the Publisher.

The editors assigned papers to volumes, wrote short introductions to each volume for which they were separately responsible and a joint general introduction to the full series that went into the first volume. After leaving out “Academia in Anarchy” (Buchanan & Devletoglou, 1970), see also the comment in (Hall, 2020)) 9 monographs emerged, 9 thematically focused volumes of selections of papers and a first volume in which “the logical foundations of constitutional liberty” were laid out in thirty-one papers written by Buchanan and co-authors. The index to the full set which was produced by JoAnn Burgess and meticulously double checked by Buchanan was to form volume 20 after printing the preceding 19 volumes. The tasks of proofing and printing were discharged by the publisher with impressive speed and precision in the years of 1999-2002.

I personally recall experiencing a feeling of disbelieve that we were ahead of the deadline when the full set of material was sent off to the publisher in 1998. We had more than “a little help of our friends” James M. Buchanan, the librarian JoAnn Burgess at the Center for Study of Public Choice and the outstanding support of Liberty Fund Indianapolis.

After Buchanan departed to ‘the Great Library above’ in 2013, Tollison in 2016 and Brennan in 2022, I am quite literally the last man standing of the collected works team. So, when answering the questionnaire provided by Serdar Yay my answers will be given in the spirit of an eyewitness of the editorial process and of some thirty years of operation of the operator behind the opera omnia, i.e. James M. Buchanan.

### **Q. Who was James M. Buchanan?**

**Kliemt.** Before the Center for the Study of Public Choice moved from the Virginia Polytechnic Institute, VPI, in Blacksburg Va., to George Mason University, GMU, in Fairfax Va., Buchanan had spent 12 years in Blacksburg where he felt at home since 1970. In the early 1970 he worked on topics that would lead up to the publication of his “The Limits of Liberty” in 1975. That year, the leading German philosopher economist, Hans Albert, who knew Buchanan quite well and was the driving academic force behind the European Forum at Alpbach (the Tyrol) invited Buchanan to give a plenary lecture on “the limits of liberty”. Werner Becker with whom I was writing my philosophical dissertation in Frankfurt got the wind of this and took me along. I thoroughly enjoyed Buchanan’s lecture but had no personal contact with him at that time.

Oceans away Geoffrey Brennan whom I would get to know through Buchanan more than a decade later had had contact with Buchanan. Brennan visited the Center for the Study of Public Choice at VPI 1976-1977 and became a regular faculty member there from 1978 on. This was a game-changer not only for Brennan but also for Buchanan. Their co-authored “The Power to Tax” was published in 1980 while “The Reason of Rules” appeared in print when Brennan had already left for Australia in 1985. Since Geoffrey Brennan was of comparable intellectual stature as Buchanan it was a great loss for the Center that Brennan did not move to Washington. That he as only obvious intellectual heir of Buchanan was not on board anymore would make itself fully felt only after Buchanan’s retirement in 1999. This observation provides a first answer to the question of who Buchanan was: Until 1999 Buchanan was the spiritus rector of the Center for the Study of Public Choice.

Before I commence my own personal answer to the question of who James Buchanan was, I strongly recommend the charming recollections written by Geoffrey Brennan (Brennan, 2015). Like Geoffrey I remember two incarnations of James M. Buchanan, the ‘local’ who was living on a farm outside Blacksburg, Va. in the middle of nowhere and the academic who worked in Fairfax, Va. close to Washington. Maintaining his main residence at Blacksburg while working a four-hour drive away close to Washington Buchanan felt comfortable in both environments. But wherever he was, Buchanan always remained the self-declared ‘Tennessee farm boy’. The picture on the cover of a collection of auto-biographical essays “Better than plowing” shows Buchanan at ease – a sixty-seven-year-old who, clothed like a scare crow, is ‘rocking on the porch’ of his farm.

Many times, when I was sitting on the chair beside him, he would friendly wave his hand at the occasional familiar passersby while his two dogs would run along the fence barking. Strolling along on Buchanan’s farmland we would occasionally meet his friend Sid Oliver to whom Buchanan referred without any condescension as a ‘jack of all trades’. When at our first encounter Buchanan introduced me to ‘Sid’ as his fellow local the respect that he expressed for the man was not different from what transpired when Buchanan, the academic, introduced me to F. A. von Hayek.

Since the latter incident is so characteristic of Buchanan, I recap it with some detail. When Buchanan and I were taking turns as lecturers and discussion leaders at a ten-day long summer school event at the European Forum in Alpbach (The Tyrol, Austria), Hayek attended for a couple of days our morning and afternoon sessions. Buchanan arranged an extended dinner of the three of us (at the Böglerhof, the leading hotel at Alpbach where Buchanan and Hayek both had checked in).

Through the dinner, Buchanan sought to show Hayek and not himself at his best. In the conversation, Buchanan induced Hayek to talk quite extensively about personal recollections of Keynes. Of course, it was common knowledge among the three of us that Buchanan and Hayek were both critical of Keynes. But prompted by Buchanan Hayek seized the opportunity to express his admiration for Keynes' intellectual brilliance. He was telling anecdotes about interactions with Keynes before the conversation turned to other matters.

The more than two hours at the dinner table were as Jim put it later, 'good for our education' (in particular mine, of course). If in anything he believed in life-long learning. At the time of the summer school Hayek was, Buchanan was not yet and I clearly would never be a Nobel Laureate. Buchanan was 64, I was 34, and Hayek beyond 80. Of course, Buchanan must have felt honored by Hayek's willingness to attend our classes at Alpbach. He particularly appreciated that Hayek attended without special invitation as a regular participant of the European Forum (Karl R. Popper being another regular visitor was not attending the Forum at all that year.). When, in later years, occasionally remarking that 'Hayek was our student', Buchanan was not expressing pride concerning his own accomplishments but esteem for Hayek (and presumably sympathy for me). As is obvious from the title of Buchanan's recollections of Hayek, 'I did not call him Fritz', his relationship to Hayek was somewhat more complex than that to Mr. Oliver whom he did call 'Sid'. In any event Buchanan was not distancing himself from Hayek by not calling him Fritz. He simply expressed his respect for the older scholar.

Through more than twenty years Buchanan and I – except for decadal events – celebrated Buchanan's birthday on October, 3. We spent a few days before and after, together on his farm in the North of Virginia. That I got myself settled in anticipation of my retirement on an old farm in the North of Germany in 2009 is testimony of the impact that had on me. Turning 90 Buchanan was too old to visit me in the German North. But he visited me at the business school in Frankfurt where I was working since 2006. Teasing me with the remark "if you can't make it in economics you must go to a business school" we seized the opportunity to organize a little conference at which Jim could meet up with old German and Italian friends like Peter Bernholz and Francesco Forte. Of the then somewhat younger old German friends Viktor Vanberg and Hans Monissen attended as did their wives. Buchanan felt very much at ease in female company. Since in later years his wife was a victim of dementia she could not travel with him. But Buchanan stood by her and cleverly organized keeping an eye on the personnel at the institution where Ann Bakke Buchanan spent her last years.

Of those mentioned, academically Viktor Vanberg, who after his time on the faculty of the Center for Study of Public Choice in Fairfax held Hayek's former chair in Freiburg, was Buchanan's closest contractarian ally and co-author of those years. It seems again characteristic of Buchanan that he contrary to Brennan and Vanberg, was not a religious believer. He was not broadcasting his dis-belief. But demonstrative religious symbolism could irritate him. The anecdote of a clash between him and Geoffrey Brennan over the ash cross that Geoff was wearing when coming to the office at Asher Wednesday was well known and rehearsed in Public Choice circles. Buchanan had blown his top in response to what he regarded as inappropriately ostentatious behavior. He explicitly compared it to sexually 'exhibitionist' behavior. The same day he had later appeared in Brennan's office expressing regret. Brennan happily accepted the excuse. And that was the end of it. But with respect to the question of who Buchanan was the incident shows two characteristics, Buchanan's proclivity to get outraged – a character trait that he self-critically sought to control – and his (Bu-)Kantian resentment against any overt symbolism that would divide humans into "we and them" (Greene, 2013).

The emotional response was a matter of thinking fast the endorsement of Bu-Kantian universalism one of thinking slow (Kahneman, 2012). His atheism was a matter of both. Being as much an atheist as I but unwilling to talk about this, Buchanan – other than most in his local community – would not attend church service. Yet, he donated to help renovate a local church building close to his farm out of respect for local traditions. Indulging the comforts of country life Buchanan took me to several fish fries organized by local church communities. Buchanan was a true local also in ways that irritated me at least initially. Like his local friends, Buchanan was habitually watching Fox News in the evening. When I visited him, I would join him occasionally. I even got used to listening to Rush Limbaugh on the radio during our drives to Washington. But Buchanan would also read the Washington Post, the New York Times (in particular the New York review of books) and the London Times literary Supplement.

Buchanan had nothing but scorn for the political correctness show of the self-declared elites of "East Coast liberals". But he adopted the practice of mixing randomly he and she in his writing. He had to get used to this practice but since he deemed it wrong to identify humanity with the male sex in language even if that tradition was so deeply rooted as in the English language, he made that effort. He was conservative in respecting traditions but at the same time anti-hierarchical. He was not an authoritarian but an egalitarian who accepted the authority of order that emerges 'agreeably' within a constitutional democracy under the rule of law.

My preceding personal account of who James M. Buchanan was, is very different from the one presented in the 2017 book ‘Democracy in Chains’ by Nancy MacLean (MacLean, 2017). Since reading the book may be too painful for decent readers of good taste, consulting a youtube video sponsored by “the office of news and communications” of Duke University (<https://stories.duke.edu/cracking-code-duke-historian-discovered-architect-radical-right>) can serve as a brief substitute.

On the webpage containing the video Nancy MacLean is quoted as stating: “I call James Buchanan the critical missing piece to understanding what’s happening to our democracy right now,” ... and ... “I think we can’t stop what’s being done to our democracy unless we understand the ideas shaping this strategy and moving it forward. I try to provide that by getting into the mind of the person who created the roadmap.”

Whatever Nancy MacLean understands “by getting into the mind of the person” of James M. Buchanan the result of her assault was not an understanding of the theories of constitutional democracy which Buchanan had ‘on his mind’ through his career as a local and as an academic. These theories were associated with the Federalist Papers (Hamilton et al., 1787/88//2001). In this greatest document of the American – and I personally believe of all – Western political theory tradition, Hamilton, Madison and Jay were going out of their ways to propose checks and balances that would impose constitutional limits on constitutional powers by putting “democracy in chains”. Like populists of all stripes left or right, democratic or republican Nancy MacLean was and still is unable to comprehend that it were the bounds of law that made America great.

Due to the limits of her understanding Nancy turned into Fancy MacLean. In a passage of “Democracy in Chains” Fancy MacLean frames Buchanan as a parasitic connoisseur of expensive wines stating: “The man who still called himself a country boy, and railed against liberal ‘elitists’ did not stint on frills, personally pre-selecting wines, such as a 1966 Château Lafite-Rothschild that today would retail for \$300 to \$ 1000 per bottle.” ((MacLean, 2017), p. 146) Acting as if a decent academic historian Nancy MacLean adds in note 70 that “the wine listing was in Buchanan’s hand” (notes to chap. 9, p. 276).

Being in a pile of personal correspondence it is likely true that the wine listing had indeed been in Buchanan’s hand at some point in time. Yet, without circumstantial evidence we cannot conclude from this what Fancy MacLean wants to make us believe. From her report we learn only that she shortly after Buchanan’s death in January 2013 had gotten her own hands on the list. Since this was possible only by

intruding into the private sphere of a recently deceased man, we can indeed conclude something from this self-confessed circumstantial evidence: we can diagnose the serious character defect of a lack of elementary decency.

“The office of news and communications” of Duke University shows a comparable lack of tact by broadcasting in its youtube video photos of the chaotic situation at ‘Buchanan house’ directly after Buchanan’s death in 2013. I recall that the last time I had been there in 2012 JoAnn Burgess was very worried about finding the resources for setting up an orderly archive (a project that was completed some ten years later <https://aspace.gmu.edu/resources/c0246>). But even before archival order was imposed on them the academic resources must have served their primary purposes rather well.

That scholars from all over the world flocked to Buchanan house in pursuit of their academic projects is testimony to that. At the Buchanan house, true to Buchanan’s own disposition, fellow academics were habitually treated with trust. As a professor of Duke University Nancy MacLean must have been included in this trust. That she photographed the chaos at Buchanan house in 2013 is perhaps not a grave breach of that trust. Nobody had the feeling that the disorder had to be kept concealed. However, that, as documented by one of the photos in the youtube-video Nancy MacLean must indeed have made her way, certainly illegitimately. into the sanctuary of Buchanan’s private office is a breach of trust.

For those who knew Buchanan in person and not only by an indecent ‘post mortem’ intrusion into his personal sphere, the assumption that he would have been “personally pre-selecting wines” sounds funny. His friends would not have tasked him with making a wine-selection. The wine listing in a staple of personal correspondence would have puzzled those who knew him as enjoying a glass of cheap ‘Sutter home’ with simple food at home. His puritan resentment against ‘conspicuous wine consumption’ was commonly known among his friends. The explanation that Fancy MacLean insinuates would not have come to mind of any who knew who Buchanan was. I would speculate that most likely somebody with some knowledge of wines – like Geoffrey Brennan who, however, did not recall the incident – had made Buchanan suspicious of what might have been going on at dinners of academic colloquia he had helped to organize. If so, Buchanan would have felt the urge of expressing his embarrassment to Neil McLeod an influential officer of Liberty Fund (<https://www.libertyfund.org>) to whom he had strong ties.

Academic observers have repeatedly pointed up academic weaknesses in professor MacLean’s account of Buchanan (for a rather recent such statement

<https://thedailyeconomy.org/article/everything-nancy-maclean-doesnt-like-is-a-conspiracy-theory/>). Yet, academic criticism does not bother self-righteous minds like that of Nancy MacLean who practice ‘lying for the truth’. The higher truth that guides the Fancy of Nancy MacLean is a concept of democracy as unconstrained government by the people. The wisdom of a truly great historian that “power tends to corrupt and absolute power corrupts absolutely” (<https://www.acton.org/research/lord-acton-quote-archive>) is obviously beyond Nancy MacLean’s comprehension. Where for Buchanan the locks and bolts put into the American Constitution by the founding fathers formed the secret of America’s success, professor MacLean can see only a conspiracy aiming to put democracy in chains.

That a professor of history at an institution like Duke was completely ignorant of the fact that the work on history of economics at this university is of outstanding quality is quite implausible. That she ignored that knowledge willfully is exceedingly likely. That at Duke University first rate academics like John Aldrich, Michael Munger, and Georg Vanberg work in public choice theory and constitutional economics in the spirit of Buchanan she has certainly intentionally ignored. That at the time in which the book was written Geoffrey Brennan was teaching at Chapel Hill and Duke in the newly founded PPE program must also either have been deliberately sidelined by or been unknown to her. In any event, her unwillingness to correct at least obvious mistakes and mis-quotes when those have been brought to her attention suggests that she is taking a free-ride on the good reputation of academics employed by Duke University.

How the conduct of Duke University as an institution is to be evaluated is slightly more complicated. As an unavoidable consequence of academic freedom there must also be heterogeneity in academic standards. Therefore, defenders of academic freedom should not demand university management to intervene in such matters as the publication of “Democracy in Chains”. However, that Duke University’s “office of news and communications” takes sides in the way documented by the youtube video and that the video stays online even after revelations showing its doubtful academic credentials like trivial factual errors that are not corrected does not speak well of Duke University.

I can wrap up my account of who Buchanan was with the observation that he was not the man the Fancy of Nancy MacLean wants to make a broader public believe. On a very personal level I must add that I am partisan for him. He had the magnanimity to invite me -- a rather obscure critic of the normative foundations of



his approach -- to teach some six or seven two weeklong summer schools precisely because he genuinely liked to look at the world through different windows (see on this (Dekker, 2025)). Something of which the Nancy MacLeans of this world have no clue.

Buchanan was a model of academic good behavior in that he always sought to encourage other in particular younger scholars to go their own ways rather than his. For example, like any scholar Buchanan was pleased to see his work cited. Yet, he would not himself draw attention to his own work in personal interaction. He would argue and would encourage the use of an argument that he had used, but he would not share the information that he himself was a seasoned user of the argument if somebody else came up with it (see (Lehto & Meadowcroft, 2021) where surprise is expressed that I did not cite Buchanan on the point they and I are interested in).

**Q. Looking back over the past half century and even more, what do you think are some of the most important contributions that James M. Buchanan has made in the social sciences?**

**Kliemt.** Though Buchanan had written important papers in the early 1950s (e.g. on potentially positive consequences of cycling majorities in the democratic process) his academic career really took off after he went to the University of Virginia, UVA, in 1956 where he stayed until 1968. Together with Warren Nutter, he initiated the founding of the Thomas Jefferson Center for the Study of Political Economy there. Of the twelve year stint at UVA “The Calculus of Consent” (Buchanan & Tullock, 1962) is certainly the best known book. The comparative institutional analyses of pros and cons of alternative decision rules from the point of view of an assumed individual choice maker established Vickrey-Type welfare theory in political and constitutional economics (Vickrey, 1948).

Buchanan’s for a long time most frequently cited work was not the Calculus of Consent but rather a paper in which he laid out his economic theory of clubs (Buchanan, 1965a). The theory of clubs is dealing with goods that are not fully rivalrous in consumption (Buchanan, 1965a; Cornes & Sandler, 1996). If these goods are excludable, incentive compatible contracts to provide them as common pool resources exclusively for club members is possible. Pay tv services are one instructive example, emergency rescue services form another. Here Buchanan’s theory of clubs has been raising follow up questions of great interest. For instance, it seems natural to wonder why pay tv is frequently provided privately while emergency rescue services are typically organized by state sponsored organizations. Due to Buchanan’s path breaking work the domain of collective goods and services

allegedly non-accessible to private contracting became an orderly topic of economic analyses of contracting under some specification of private law or other.

Here Buchanan must be seen as one of the founders of the modern ‘law and economics’ movement. Most economists at this point would think of Ronald Coase. Moreover, they would associate Coase with Chicago rather than UVA. Yet, Buchanan’s and Coase’s time at UVA overlapped between 1958 and 1964. Of course, Buchanan had studied in Chicago but when he and Coase did their path-breaking work on law and economics they were affiliated with UVA.

Buchanan and Coase were both working on issues of “exchange” and contracting within institutional frameworks fulfilling what Hume – tongue in cheek – called “the three fundamental laws of nature”. What sounded like a traditional natural law theory was not in the case of Hume. Contrary to material natural law theories Hume was not claiming that the substantive conventions of a society could be right or wrong. What could, however, empirically be corroborated like other descriptive laws of nature was for instance that the specific conventions of a society can have exchange enabling properties only to the extent that they bring about guarantees “of the stability of possession, of its transference by consent, and of the performance of promises” ((Hume, 1739), Bk. III, Part II, sec. vi.).

Since the present discussion is devoted to Buchanan rather than to Coase, I will leave the latter aside from here on. The Buchanan enterprise can be characterized as an extended effort of teasing out the implications of exchange-enabling conditions. This holds for his ideas on club formation as well as for his ideas on ‘politics as exchange’.

Buchanan was not the first to emphasize exchange but he infected many people with the ‘exchange virus’. Brennan and I (Brennan & Kliemt, 2018) ‘contracted’ the disease through Buchanan. Around the time of Buchanan’s death in 2013 we were already ‘suffering’ from an acute bout of the endemic infection and started working on a book entitled ‘on exchange’. Some ten years later in 2022 the time of the untimely death of Geoffrey Brennan the book was basically done.

We were still quite in time for the anniversary year of the birth of Adam Smith, yet I could not bring myself to the point of finishing the book then. After giving it three years pause the book should come out in 2026. If so it will be testimony of the importance of Buchanan for an economics that does justice to the fact that “(m)ost markets and marketplaces operate in the substantial space between Adam Smith’s invisible hand and Chairman Mao’s five-year plans.” ((Roth, 2016), p. 7). As a

theory devoted to scrutinizing the substantial space between “Adam Smith’s invisible hand and Chairman Mao’s five-year plans” Buchanan proposed his theory of clubs and Roth formed his analyses of matching.

In social science major contributions are often criticisms of other theories. As far as such criticisms are concerned, I personally think particularly highly of Buchanan’s criticism of collective choice approaches to welfare economics (see for some details (Kliemt, 2006)). Buchanan’s discussion of Sen’s theory of the so-called liberal paradox came back to collective choice (see (Buchanan, 1975 /1996)). Buchanan’s arguments were parallel in some regards with Robert Sugden’s work on the topic (see (Sugden, 1985)). They also anticipated certain criticisms made by social choice scholars (see (Gaertner et al., 1992)).

Yet, Buchanan was not only challenging the arguments of other social theorists. His willingness to challenge his own theories is remarkable. The widely ignored booklet “property as a guarantor of liberty” (Buchanan, 1993) is a fine example of this. It contains an extended essay (also reprinted as such in one of the volumes of the collected works) that explores the tensions between individual dependence on the market and the individual desire for autarky and independence.

Contrary to prevailing currents in social science, like Popper before him in his “The open society and its enemies” (Popper, 2020), Buchanan resented taking the rule of law for granted. Beyond Popper he criticized those who invented all sorts of new rights while engaging in their favorite activity of dividing a cake that nobody has baked. Yet, Buchanan accepted that -- despite the efforts of collectivists of all stripes --, living conditions of humans had improved fundamentally in the time since 1776 (death of David Hume and date of first publication of the wealth of nations). As an explanation of that ‘great escape’ (Deaton, 2013) Buchanan underlined the importance of (a) increasing productivity driven ultimately by (b) increases in specialization and the division of labor enabled (c) by increasing the extent of the market.

On top of this Buchanan observed that for a long time the insight that “Adam Smith’s elementary notion that the division of labor must depend on the extent of the market, ... can only be sustained in the presence of generalized increasing returns, was somehow relegated to analytical irrelevance.” (Buchanan & Yoon, 2000), 43 f.) There must be a kind of structural source of wealth, a synergetic effect that can be tapped by increasing the extent of markets. In his efforts to correct that neglect Buchanan, at 70, had in fact turned to a new field of interest. Since 1990 he reflected on the theoretical relevance of *generalized* increasing returns to scale. He

started from the quasi-Weberian intuition that Puritan work ethics may be a productivity enhancing factor; e.g., if people were to increase their working hours the size of the market would increase without adding additional people to the exchange nexus. From this additional chances of division of labor and specialization might arise and this may lead to increasing returns to scale (Buchanan & Yoon, 1994).

Buchanan at that time would frequently remark that “all wealth is social rent”. What he meant is that paying lip service to the statement that humans are social animals was not enough. There was something special about human as opposed to the sociality of other animals. Exchange and markets were a driving force behind the emergence of what Sugden should later aptly call “the community of advantage” (Sugden, 2018). But constituting this community required that its members would become dependent on each other. It was pure coincidence that around 1990 Charles Rowley had solicited the discussion of “property as guarantor of liberty”. Writing this essay enhanced Buchanan’s awareness that his own ideal of living in splendid isolation on a farm corresponded to the classical ideal of autarky (of an oikos, of the city state etc.). This was directly orthogonal to his Smithian view that all wealth resulted from the division of labor and specialization which in turn implied dependency on the social nexus.

Quite in line with what had already been laid out in the Calculus of Consent, Buchanan acknowledged that markets are no more natural than politics. ‘Conceivably’ we can choose not only between market and state but also between participating or opting out of the market. The constitution of markets is as variable as is the constitution of politics etc. (see in this spirit (Brennan & Kliemt, 2019)).

Of course, Buchanan preferred markets to hierarchies. His laconic remark ‘Better in the West!’ was a reminder of this preference directed against so-called ‘east coast liberals’ who took the rule of law and its exchange enabling properties for granted. Yet, he observed that by opting out of the market nexus in favor of reducing his personal dependency he might have been exerting a potential negative externality on others as well.

**Q. Would you please comment on the breadth and the depth of Buchanan's contributions on social and economic philosophy?**

**Kliemt.** I do not believe that normative welfare economics is a legitimate project of economic science at all (see (Albert, 1958, 1985)) since it violates the methodological norm of value neutrality (Robbins, 1932). Welfare economics is

incompatible with the practices that characterize “the *invention of science*” and its institutions as emerged since 16<sup>th</sup> century (see (Wootton, 2016) and (Albert, 2010)). Within my perspective, much of what Buchanan has done is social philosophy rather than economics in the evidence-based sense. “The calculus of consent” and “the reason of rules” are from this point of view major contributions to social philosophy but not to economics.

I am in a difficult position here myself, since I am a critic of violations of value neutrality in both science and philosophy. So, I personally tend to count the *normative* thrust of the Calculus of Consent as a legitimate contribution to philosophy (that is, as philosophy is practiced nowadays). According to the standards of the field of social philosophy I see Buchanan on a par with Karl Popper and F.A. Hayek. All are not scientists in the evidence-oriented sense of the new economics practiced after the ascent of econometrics and experimental methods and the new natural science practiced since Brahe, Galileo and Newton.

Now, even if philosophy as practiced today should be abandoned, *eventually*, it does not follow that contributions to it are worthless. In view of the rise of PPE (philosophy, politics and economics) Buchanan’s aprioristic approach to social problems can be seen as a farsighted contribution to a practice of inquiry that is enormously successful today. Yet, I would still insist that despite its claim to be a kind of Moral Science it is not science in the sense of Hume and Popper. As the subtitle of the treatise states, this work was “An Attempt to introduce the experimental Method of Reasoning into MORAL SUBJECTS.” (Hume, 1739) Contrary to most philosophers, including those in PPE, I would tend to take the ‘experimental’ in Hume’s title literally. Studying history as a class of field-experiments with econometric methods and laboratory-experiments with – basically – bio-metric methods started since WWII to live up to Hume’s programmatic statement (i.e. with a time-lag of some 200 years). Hume felt that the traditional topics of philosophy could and should be dealt within an a posteriori, evidence-based way. As far as this is concerned, Buchanan did not contribute to science directly. He was preparing the ground for science. For instance, though the Calculus did not contain econometric or experimental work it paved the way for evidence-based public choice, likewise Buchanan’s rule-focus raises foundational issues concerning the feasibility of deliberate rule enactment and rule following that can be addressed experimentally (see at the coal face of experimental work on such issues (Gächter et al., 2025)). So, I would say that Buchanan was one of the great contributors to social philosophy. Yet, my proviso is that social philosophy like, say, general equilibrium theory is not science but pre-science that prepares the

ground for science proper or the moral science in the sense of the subtitle of Hume's treatise.

Practical philosophers of our days tend to accept contractarianism – in particular the Rawlsian variant – as the paradigm of modern political philosophy. Buchanan always has insisted on being a contractarian. More specifically he insisted that he was starting from the same basic philosophical premises as Rawls. Indeed, both Rawlsianism and Buchantianism are broadly Kantian in spirit (in case of Buchantianism the sound-bite might as well be spelled 'Bu-Kantianism'). The similarity goes further in that both Rawls and Buchanan seek to support norms of interpersonal respect without relying on precarious Kantian claims to knowledge a priori as far as possible.

Following up on his dissertation Rawls suggested to form moral judgements by linking them to a kind of 'moral case law' expressing itself in considered judgments of experienced impartial 'moral judges' ((Rawls, 1951)). Rawls was sticking to this general strategy when proposing the search for a reflective equilibrium, RE, as general meta-ethical justificatory strategy (see for an update of this (Daniels, 1979)). He claimed that the principle of what he calls the priority of liberty would be supported in RE by basic considered judgments of members of what we would call nowadays WEIRDS (Western, Educated, Industrialized, Rich, Democratic Societies, (Henrich et al., 2010)).

Buchanan was epistemologically less subtle than Rawls. He sometimes even seemed to confound norms of methodological individualism that guide economic theory formation with norms of interpersonal respect guiding ordinary social practice. Yet, his view that the unanimity of all individuals concerned must be conceivable if a normative proposal is to be regarded as justified very much serves the same functions as the Rawlsian priority of liberty in political theory formation. Buchanan's philosophical justification procedure is, however, much better integrated into the contingent premise of general acceptance of democracy.

In short, we can call Buchanan a great philosopher because he quite ingeniously incorporates his ideal of normative individualism into democratic communitarianism. He starts as a genuine democrat from the assumption that ultimately the authority of legitimate choice making rests with the body politic. Yet, since they are ultimately collective *all* choices must be justified under the democratic decision rule of unanimity. In this construction, whether somebody sleeps on her belly or back is a matter of *ultimately collective* choice making. Since no change of the collective status quo is legitimate unless each and every individual

could have vetoed the change but omitted to put in her or his veto all potential externalities are internalized by the universal omission of the veto.

Of course, Buchanan was aware that the requirement of unanimity cannot be fulfilled under real world conditions but he thought that ideally rational individuals would in a situation requiring unanimity come unanimously to the conclusion that they should give up the requirement of unanimity. The power to make certain decisions in the name of a higher order unanimous authorization would by this ultimate collective (!) decision be conferred unanimously by the democratic body politic on subsets of individuals (see for markets (Brennan & Kliemt, 2019)).

Buchanan's achievement of framing the communitarian ideal of democracy in ways that make it expressive of normative individualism is philosophically speaking a major one. Yet, conceptually, incorporating the individual veto into what is ultimately a collective decision comes at the price of having to accept two radical premises: originally every action must be 'forbidden' (i.e., illegitimate) unless authorized by unanimous consent of all members of a collectivity and the membership in the group of those who are endowed with a veto must be exogenously given (it is to begin with a community not a club membership).

It is quite surprising that most philosophers and economists seem to be quite unaware of how close the fundamental starting points of Rawls and Buchanan are. Buchanan always has explicitly stated so much. And Rawls, when invited to the founding meeting of what should eventually become the Public Choice society, intended to attend but could only make it to a later meeting. In the partisan politics which today seems to suck all oxygen out of public discourse Rawls certainly was more on the side of the Democrats and Buchanan on that of the Republicans. Yet, Buchanan and Rawls shared fundamental ideals of "the community of advantage" (see again (Sugden, 2018)), political ideals of the rule of law and individual liberty ((Hayek 1955), (Kliemt, 2024)). All these ideals were shared by Buchanan and Rawls as variants of so-called 'normative individualism' which is expressive of what is the basis of Kantian contractarianism.

**Q. Buchanan's overall argument has to do really with the kinds of arguments that should be made within a constitutional democracy. But constitutional democracy is dying, isn't it?**

**Kliemt.** That constitutional democracy is under siege is true but nothing new at all. It has always been. The memory of this has been refreshed for our times at the end of WWII in "The Open Society and Its Enemies" (Popper, 2020). For those who

endorse the ideal of *constitutional* democracy which is constitutional first and democracy only second, reading the federalist papers that formed the background theory of the second American Constitution can be most helpful (Hamilton et al., 2001). In the broadly Republican tradition – Republican in the Roman and British sense in which constitutional monarchy is a variant of Philosophical Republicanism – democratic voting mechanisms are simply one of the institutional safeguards of liberty. Provided that the domain of democratic decision making can itself be reined in (Pettit, 2014), democratic participation can help to control government. That democratic voting *can* get out of control itself and turn into a weapon of mass destruction of individual rights and liberties is an unavoidable risk since without it government will get out of control. The task of the adherent of rule of law and constitutional democracy is that of avoiding or at least postponing a dismal result.

**Q. Even if we have perfect constitutional and post-constitutional rules, what's the point of defending constitutional democracy if the electorate is flawed? Foolish, ignorant, myopic, amnesic and indecisive voters and failure of electoralism...**

**Kliemt.** Start with a common place, ‘a difference, to make a difference, must make a difference’ and recall that in large numbers’ interactions the individual typically acts behind a *real* ‘veil of insignificance’ ((Kliemt, 1986)). The paradigm case is voting in a large electorate. When participating in the polls concerning candidate A vs candidate B the opportunity cost of voting for A is not that B is elected; the probabilities that A is and B is not elected are only insignificantly increased respectively decreased as a function of individual behavior (Palfrey & Rosenthal, 1984). Buchanan had for a long time (Buchanan, 1965b) been thinking about large numbers’ dilemmas in politics as emerge if the probability that individual behavior can be exerting a significant causal influence on collective outcomes converges to zero. In his collaboration with Geoffrey Brennan, Buchanan returned to this topic (in a mimeo in 1982, published as (Brennan & Buchanan, 1984)).

Brennan should spend much of his later intellectual journey with spelling out the political philosophy implications of taking ‘the veil of insignificance’ seriously. Yet, the direct impact on Brennan and Buchanan was that they focused on the old idea of economizing on virtue as enabling well-working political institutions. Once we accept what we cannot control we might as well seek for ways of getting along with a flawed electorate etc. as well as possible. We can seek to focus on what we can control by enacting constitutional rules for the game of politics. Making use of established constitutional rules of rule change (see on rules in economics (Vanberg,



1994) and for a recent overview particularly on the role of rules of rule-change (Kliemt, 2024)).

In any event, in their “The Reason of Rules” (Brennan & Buchanan, 1985) Brennan and Buchanan came back to the old wisdom that David Hume had already articulated, “that, in contriving any system of government, and fixing the several checks and controuls of the constitution, every man ought to be supposed a knave and to have no other end, in all his actions, than private interest.” This meant that we should treat humans as if they were never intrinsically motivated by rules as such. But Hume adds, that “it appears somewhat strange, that a maxim should be true in *politics*, which is false in *fact*.” ((Hume, 1985), VI/I, 42-43). – The preceding also provides already part of the answer to the final questions raised in this questionnaire.

**Q. Do you think that we must focus on behavioral public choice to understand the defects of contemporary democracies?**

**Kliemt.** Absolutely! The future of improving the theories of the workings of constitutional democracies is dependent on better (future) theories of such workings. The workings of Constitutional Democracy can be understood only if the Public Choice processes are better understood in terms of behavioral institutional economics. The foundations of building knave proof institutions need be explored with experimental and econometric methods. This will take a long time. In the meantime we may have to do with cautious evaluations of existing experience as in Hume (see for some such science minded philosophy (Schmidt, 2023) and for the first steps towards evidence-based science in the econometric, experimental and anthropological sense (Acemoglu & Robinson, 2013; Henrich, 2020)).

**Q. Do you believe Buchanan’s research on the design of constitutional reform offers a sufficient framework for addressing today’s economic and institutional challenges?**

**Kliemt.** That we should study politics without romance was certainly good advice. This is all that is needed to get to work without illusions. However, we need empirical knowledge concerning institutional design. We need to run experiments on how market platforms and auctions actually work etc.

**Q. In today's world, many constitutions are subject to arbitrary manipulations by populist and autocratic leaders. How might Buchanan's notion of the constitution as a form of contract offer a theoretical safeguard against such practices?**

**Kliemt.** Trivially, a notion can as such not serve as a safeguard. Buchanan tended to forget that as we all do sometimes. As a constant reminder we might put on our office walls

“In proportion to the want of happiness resulting from the want of rights, a reason exists for wishing that there were such things as rights. But reasons for wishing there were such things as rights, are not rights; -- *a reason for wishing that a certain right were established, is not that right* -- *want is not supply* -- *hunger is not bread.*” (emphasis added to Jeremy Bentham, *Anarchical Fallacies*, vol. 2 of Bowring (ed.), Works, 1843, Article 2).

The ideal of a constitutional contract may perhaps shape our wishes in the direction of favoring constitutional limits to constitutional powers and the implementation of institutions that secure the rule of law. Yet, since an ideal is a demand and not the thing that satisfies the demand, something must be done to implement it. Theories as such cannot accomplish this.

**Q. In recent decades, we have witnessed a global rise in authoritarianism. How would Buchanan assess this trend in relation to the fragility of constitutional democracies?**

**Kliemt.** Buchanan was an anti-hierarchical conservative who had the fundamental conviction that it is “Better in the West!”. Being non-religious as far as the content of faith is concerned he would in all likelihood nevertheless enthusiastically have endorsed the work of Joseph Henrich on the unintended effects of the ‘family and marriage policies’ of the Roman catholic church (see (Henrich, 2016, 2020)).

Personally, I can imagine the two of us rocking on the porch and exchanging views concerning the empirical results reported in the books of Henrichs and the likes. Clearly the astonishing optimism that Popper expressed not only in the open society and its enemies and later in life would have played a role in such an exchange of views as well.

Buchanan was in some regards much less naïve than Popper in that he would have thought along the same lines as laid out in the Federalist Papers (of which Popper was obviously ignorant). He also would presumably have reiterated his verdict that

the worst enemies of liberty in academia can be found at the American Law Schools. From there on he would have endorsed the view that in the US case law went wild. But at the same time he would have hoped that citizens would stand in for the rule of law and equal generalized rights and rules (see in this spirit, (Buchanan & Congleton, 1998)).

**Q. In his writings, Buchanan warned about the Leviathan state. Do you think his fears about the expansion of government power have materialized?**

**Kliemt.** Buchanan like the present Republican party felt that the size of the state was unsustainable. For him public debt was not merely a financial problem but a problem threatening the sustainability of a polity in which the Political Ideal of the Rule of law provides the ultimate orientation. So balanced budgets are not only about book-keeping. Approaching bankruptcy, the ship of constitutional democracy may sink, unless it is kept ‘chained’.

**Q. Could Buchanan’s emphasis on constitutional rules and consensual politics be a counterweight to contemporary democratic backsliding?**

**Kliemt.** With extreme good luck Buchanan may become one of the Keynesian Scribblers: *“Practical men who believe themselves to be quite exempt from any intellectual influence, are usually the slaves of some defunct economist. Madmen in authority, who hear voices in the air, are distilling their frenzy from some academic scribbler of a few years back”* (Keynes, 1997), ch. 24)

**Q. Do you personally think that “constitutional demarchy” based on epistemic sortition is a strong alternative to constitutional democracy? Is lottocracy (demarchy) a conceivable solution to the legitimacy crises in today’s democracies? Could Buchanan’s thought be extended in this direction?**

**Kliemt.** Buchanan appreciated the survey on such measures provided in Scott Gordon’s book on “Controlling the State” (Gordon, 1999). Yet, he was primarily an adherent of the republican tradition of anti-hierarchy (see again (Brennan, 2015; Pettit, 2014)) rather than the view that some sort of collective preference of the demos should be represented. Buchanan’s conception of conceivable “collective unanimity in the shadow of individual veto power” as source of legitimacy should not distract from the fact that Buchanan’s main concern was not the power to do good – or to realize collective aims -- but that of controlling the power to do bad.

**Q. Do you think that “Rule by Sortition”, a system where political decision-makers are elected by a random lot is a better than Buchanan’s Rule by Constitutional Contract.**

**Kliemt.** Since I do not believe in the merits of the very idea of a constitutional contract – whatever my friends may say – there would not be much merit in being better than that. Rule by contract is a fiction anyway. Though the representation by lot with an equal chance to be elected appealed to Buchanan’s egalitarian instincts he did not think in terms of representing preferences and aggregating them at all. His early criticisms of Arrowian ways of thought are expressive of this skepticism.

Within Buchanan’s perspective “self-determination is always superior to co-determination” – and this is a fundamental view that I do share with him. Moreover, selecting politicians by lot would not make it unnecessary to treat them like everybody else, namely as knaves. Provided that the authority of those who are chosen by lot remains constitutionally constrained casting a lot may serve as an additional of the checks and balances against rent-seeking. Buchanan might have seen instrumental value in such uses of a lot – as in case of jury systems – but he would not have seen it as a source of normative legitimacy.

**Q. And the last question: How has your own thinking been shaped or challenged by Buchanan’s intellectual legacy?**

**Kliemt.** Buchanan influenced me in private and in academic interactions. Though I am not in any formal sense a student of his I was academically influenced by Buchanan since my student days. That I went to Alpbach in 1975 (as reported above) when my bread winning job was still teaching Operations Research to attend a lecture tells much of the story. Though like my intellectual mentor Hans Albert I have been in fundamental disagreement with Buchanan’s contractarianism as a source of justification I fully shared Buchanan’s ideal of living in a world in which people may be dominated by necessities but not by arbitrary orders of other individuals or democratic institutions. Like Buchanan who brought me on board to it I am a member of the Mont Pelerin society sharing the original Hayekian concerns that led to its foundations but not necessarily some of the more ideological views of its members.

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