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Are Two Knaves Better than One? Every Man a Knave: Hume, Buchanan, and Musgrave's View on Economics and Government

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Are Two Knaves Better Than One? Hume, Buchanan, and Musgrave on Economics and Government

Andrew Farrant and Maria Pia Paganelli

You must only take care to remove all the vices. If you remove part, you may render the matter worse. . . . For whatever may be the consequence of such a miraculous transformation of mankind, as would endow them with every species of virtue, and free them from every species of vice; this concerns not the magistrate, who aims only at possibilities. He cannot cure every vice by substituting a virtue in its place. Very often he can only cure one vice by another; and in that case, he ought to prefer what is least pernicious to society.
—David Hume, “Of Refinement in the Arts” (1752)

We may think of a problem in at least two ways. We may ask what the best-possible scenario is, or we may ask what the worst-possible scenario is. We may therefore base our theories on the best-possible assumptions or on the worst-possible assumptions. Thinking in terms of the former is generally considered best-case theorizing. Thinking in terms of the latter is generally considered worst-case theorizing.

Worst-case theorizing about government has a long and distinguished history in political economy (Levy 2002; Toma and Toma 1984).¹ David

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1. Toma and Toma (1984, 93) note, “[The] Leviathan assumption appears to be at the heart of the classical conception of constitutional government.” Brennan and Buchanan ([1980] 2000, 220) acknowledge that their Leviathan model of government marks a return to “the [worst-case] spirit of the classical liberal political economists.” James Mill’s 1820 model of

Hume provides the classic statement of worst-case thinking in political economy: “Political writers have established it as a maxim, 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” ([1742] 1985a, 42–43). Hume models public choosers as self-interested knaves pursuing their private interests, rather than as angelic public-spirited creatures (best case).

Reference to Hume’s worst-case model of government is commonplace in the contemporary constitutional political economy literature (see, e.g., Brennan and Buchanan [1985] 2000; Sutter 1998; Faria 1999). James M. Buchanan—a founding father of that literature—is considered responsible for the revival of worst-case thinking about government in modern political economy (Levy 2002).² Buchanan argues that one ought to model both the private chooser and the public chooser symmetrically (see, e.g., Buchanan 1987, 85, 89–90; Buchanan and Musgrave 2001, 127). If private interest is pervasive in private choice, then it is also likely to prove pervasive in public choice. What generates market failure in one context will similarly generate government failure in the other (Buchanan and Musgrave 2001, 126–27).³

In stark contrast, however, Richard Musgrave (1997, 156) models private and public chooser asymmetrically. Private choosers are akin to Hume’s knaves, whereas public choosers, by contrast, are rather more akin to public-spirited angels (Buchanan and Musgrave 2001, 82).

In this essay, we argue that Buchanan’s analysis of government has more in common with that of Musgrave than it does with that of Hume. Despite the proclivity in the constitutional political economy literature to point to Hume as an inspiration for modern-day worst-case theorizing, we suggest that modern constitutional political economy is another example of best-case thinking; its analysis ultimately relies on angelic

government as slave driver writ large is remarkably similar to the Leviathan model of government provided by Brennan and Buchanan in the late 1970s. Indeed, the suggestion that one should model government as slave driver was not unique to Mill: “Every Monarch is a Slaveholder upon the largest scale” (Bentham [1822] 1989, 171). Toma and Toma (1984, 93) suggest that the Brennan-Buchanan Leviathan model “seems to apply naturally to a monarchial form of government.”

2. “If the purpose is one of drawing the constitutional limits on the taxing power, would it not be meaningful to utilize a worst-case scenario and to see model governments, anywhere and everywhere, as revenue-maximizing? That is, given any revenue source, would it not be best to assume maximal exploitation?” (Buchanan 1992, 105).

3. “The economist who utilizes *homo economicus*, who can identify market failure . . . is under an obligation to identify government or political failure” (Buchanan 1979, 77).

behavior—even if on a rather different level than that of Musgrave. Hume instead is consistent in his worst-case theorizing about government, thinking that the only feasible solution to political knavery is yet more knavery.

Whether contemporary political economy is an example of best-case or worst-case modeling is relevant because the performance of a model depends on whether its underlying suppositions hold in reality or not. If the rules of the game governing both private (market) and public (government) choice alike are structured in accordance with the assumption that all men are knaves, and if men are indeed knaves, nobody is worse off. If men are angels, the institutional arrangements will either simply prove unnecessary (assuming they are not binding) or, if binding, will generate some loss in efficiency. Similarly, if institutions are designed in accordance with the supposition that men are angels, and if that supposition proves accurate, the first-best outcome will result. But if all men are knaves, large suboptimality will surely reign.

The essay is organized as follows: in section 1 we review Hume's worst-case model of government. For Hume, knavery (private interest) checks knavery in the context of public choices. We suggest that one ought to read Hume as providing a second-best-type argument. The first-best outcome, the wholesale elimination of knavery is, Hume argues, utterly unattainable. Knavery is simply part of the backdrop provided by human nature. Thus the partial elimination of knavery is likely to make matters far worse, as the partial removal of knavery only weakens any existing checks against whatever knavery still remains. As Hume puts it in a slightly different context—two vices are better than one, in that each tempers the ill effects resulting from the other. Section 2 describes the Buchanan-Musgrave debate. Buchanan argues that knavery checks knavery within a private choice scenario typified by high-quality rules of the game (e.g., the logic of entry and exit within a competitive market, and the rule of law and security of property rights). The knavery of public choosers is constrained by high-quality rules of the game as well (e.g., constitutional rules). On the other hand, Musgrave relies on angelic government agents to check the excesses of private-choosing knaves, thereby correcting for market failure and the like. Musgrave requires no constitutional checks on the said angels' uses of discretionary power: as angels are not knaves, in the realm of public choice there is no need for any checks. Thus Musgrave's view suggests that first-best efficiency obtains in both the private- and public-choosing spheres. The antidote to private-choosing knavery is angelic public spirit. In section 3 we claim that

Buchanan implicitly sidesteps the question of how knavery is checked within a public choice context. He sides with Musgrave on “the constitution based on public spirit” side of the barricade. Buchanan argues for constitutional constraints to check the knavery of public choosers, thus implicitly abandoning the assumption of motivational symmetry at the constitutional level—and we argue—thereby supposing angels both write and enforce the constitutional rules of the game. In this respect Buchanan differs from Hume. Hume relies exclusively on knavery even at the constitutional level. The example of a successful constitution that Hume provides is the British constitution, a constitution that no angel wrote, but which emerged from centuries and centuries of knavery clashing against knavery.

1. Hume’s Second-Best Theory of Constitutional Equilibrium

David Hume, like the modern constitutional political economist, argues for the fixity of agent-type.⁴ Knavery and pervasive self-interest are descriptive of humanity’s “present depraved state” (Hume [1742] 1985a, 609). Private interest is, for Hume ([1742] 1985b, 38), a “great weakness,” but a weakness that is “incurable in human nature.” Hume ([1742] 1985a, 42) argues 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.”⁵ Plans of government that assume otherwise or that

4. Hume ([1772] 1999, 150): “There is a great uniformity among the actions of men, in all nations and ages, and that human nature remains still the same, in its principles and operations. The same motives always produce the same actions: the same events follow from the same causes. . . . Would you know the sentiments, inclinations, and course of life of the Greeks and Romans? Study well the temper and actions of the French and English. . . . Mankind are so much the same, in all times and places, that history informs us of nothing new or strange in this particular. Its chief use is only to discover the constant and universal principles of human nature, by showing men in all varieties of circumstances and situations, and furnishing us with materials from which we may form our observations, and become acquainted with the regular springs of human action and behavior.” On constitutional equilibrium, William Paley ([1785] 2002, 337) writes, “This security is sometimes called *the balance of the constitution*: and the political equilibrium, which this phrase denotes, consists in two contrivances—a balance of power, and a balance of interest.”

5. While Hume does not deny human benevolence, he does stress that it weakens with social distance. As society increases in size and complexity, such benevolence becomes increasingly attenuated: “Men being naturally selfish, or endow’d only with a confin’d generosity, they are not easily induc’d to perform any action for the interest of *strangers*, except with a view to some reciprocal advantage, which they had no hope of obtaining but by such a performance” (Hume

suppose any “great reformation in the manners of mankind, are plainly imaginary. Of this nature, are the *Republic* of PLATO, and the *Utopia* of Sir THOMAS MORE” ([1752] 1985a, 514).

Given the inadequacy of modeling with any supposition of dramatically changed agent-type or angelic-type men (514), Hume proposes to use institutions (or rules) to align private interest with public interest. Good rules of the game serve to induce even those agents who are “knaves” to act such as to further the public good. Indeed, “republican and free government would be an obvious absurdity, if the particular checks and controuls, provided by the constitution, had really no influence, and made it not the interest, even of bad men, to act for the public good” ([1742] 1985c, 15–16; see also 24).

Thus it is by private “interest [that] we must govern him [man], and, by means of it, make him, notwithstanding his insatiable avarice and ambition, cooperate to public good. Without this, say they [political writers], we shall in vain boast of the advantages of any constitution, and shall find, in the end, that we have no security for our liberties or possessions, except the good-will of our rulers; that is, we shall have no security at all” ([1742] 1985a, 42). Elsewhere, Hume ([1742] 1985c, 15) laments that were it otherwise, were rules an inadequate substitute for agent-type, he “should be sorry to think, that human affairs admit of no greater stability, than what they receive from the casual humours and characters of particular men.”

Assuming knavery in both private- and public-choosing spheres implies that in both spheres the “allurement of present, though often very frivolous temptations” ([1742] 1985b, 38)—namely, what Buchanan calls the lure of the “off-diagonal” in any canonical prisoner’s dilemma (PD) scenario (see Buchanan and Congleton 2003, 35–54)—will induce pervasive suboptimality whenever individuals interact within a poor-quality incentive structure.

Immediately on having stated the maxim that one ought to model political agents as if they were knaves, Hume ([1742] 1985a, 43) suggests

1978, 519; emphasis added; see also Yellin 2002, 378–79). While suggesting that benevolence reigns within the family, thus explaining why property is held in common within the family, Hume argues that any theory of government resting on an idealized assumption of benevolent public officials is “plainly imaginary” (514). On benevolence and Hume’s theory of property, see Levy 1992, 92–106. On Hume and benevolence, see Marciano, this volume, and Yellin 2002. On the role of social distance, see, among others, the experimental results of Elisabeth Hoffman, Kevin McCabe, and Vernon Smith (1996). We thank *HOPE*’s reader for drawing our attention to the possible role of benevolence in government in Hume.

“it appears somewhat strange, that a maxim should be true in *politics*, which is false in *fact*. But to satisfy us on this head, we may consider, that men are generally more honest in their private than in their public capacity, and will go greater lengths to serve a party, than when their own private interest is alone concerned.” Thus the way in which knavery rears its ugly head is not invariant to institutions. Why might the prevalence of knavery systematically differ in private and public choice contexts? Hume’s argument rests on the insight that approbational incentives systematically differ in politics and everyday life.

Hume’s argument, couched in modern economic language, is more or less the following: a knave (whether engaging in public or private choice) maximizes his utility subject to his constraints. His utility depends on both material income and good reputation. In a private choice context (an exchange) his constraint is transparency, meaning a nonnoisy signal of one’s behavior. Transparency ensures that one’s cheated trading partner knows *ex post* by whom he was cheated (see Levy 1992), though income increases if one cheats. One’s defection in any simple PD situation will generate material income, but at the cost of a loss of reputational utility, and perhaps, in a repeated game, potential future income. Hume ([1742] 1985a, 43) notes that, indeed, “honour is a great check upon mankind.”

In any large numbers–type situation, however, the tight connection between personal cheating and reputation may weaken. Where opacity rather than transparency prevails (where any signal of individual cheating is noisy), “this check is, in a great measure, removed” (43).⁶ Thus Hume argues that “men are generally more honest in their private than in their public capacity” (43). In the public choice context Hume envisages, reputational utility accrues to the individual as a member of a group (party or faction) rather than as an individual *per se*. Group reputation is thus akin to a public good and suffers from a public good–type problem. Free riding will occur as the reputational costs otherwise fully borne by an individual who cheats are largely externalized onto others. Therefore one’s own loss of reputational utility is subject to a $1/n$ -type problem: with large numbers, defection generates reputational externalities—all

6. Madison’s discussion of “respect for character” as an inadequate check against faction draws heavily on Hume: “However strong this motive may be in individuals, it is considered as very insufficient to restrain them from injustice. *In a multitude its efficacy is diminished in proportion to the number which is to share the praise or blame*” (emphasis added; see Adair [1974] 1998, 145). On Hume and Madison, see Adair [1974] 1998, 132–51. The possible links with the federalist literature is an important potential future development of the present essay.

members of one's own party or faction suffer the loss of a fraction of their own reputational utility when any single member cheats—thus every individual (only bearing a $1/n$ share of any subsequent reputational loss) has the incentive to cheat. Hume argues, indeed, that where self-interest prevails wholly unchecked by rules or where its workings are actively encouraged by poor-quality rules, as where any large numbers—induced opacity prevails, “the whole senate . . . [will act] . . . as if it contained not one member, who had any regard to public interest and liberty” (43). Hume concludes that where the rules of the game are inadequately aligned with self-interest, they guarantee suboptimality: where “separate interest be not checked . . . we ought to look for nothing but faction, disorder, and tyranny from such a government. In this opinion I am justified by experience, as well as by the authority of all philosophers and politicians, both antient and modern” (43).

Hume proposes a surprising but viable solution to the weakening of the constraints caused by large-group situations: a mixed government similar to the British system. This mixed government differs from the ancient conceptions of mixed government proposed by figures like Cicero or Tacitus because here “one rank [house of commons], whenever it pleased, might swallow up all the rest, and engross the whole power of the constitution. . . . For so great is the natural ambition of men, that they are never satisfied with power; and if one order of men, by pursuing its own interest, can usurp upon every other order, it will certainly do so, and render itself, as far as possible, absolute and uncontrollable” (43–44). And this odd form of mixed government works, for Hume, by a logic similar to that at play in any large numbers PD situation: individual knavery checks collective knavery. Just as it is human nature (knavery) that generates the original problem, so it is human nature (knavery) that provides the solution.⁷

Hume's theory of constitutional equilibrium makes use of the tension between individual and collective self-interest. No single institutional power alone will prevail because the institutional powers are “balanced” against each other. The knavery of one institution will hit the wall of the knavery of another institution. Tyranny will not emerge, and individual liberty can therefore prevail. Similarly, within each institutional

7. Hume ([1742] 1985a, 44–45) asks “by what means is this member of our constitution [house of commons] confined within the proper limits; since from our very constitution, it must necessarily have as much power as it demands, and can only be confined by itself? How is this consistent with our experience of human nature?”

power, competing knaveries play a self-checking role. We would expect that politicians would realize the benefits of collusion. By colluding they may generate enough power to prevail against a competing institutional power. But knavery weakens collusion (see Cowen and Sutter 1999). Thus one PD game helps trump another. The self-interest of any single parliamentarian helps check the self-interestedness of Parliament as a whole. Though the self-interest of Parliament viewed as a collective body or unitary entity lies in engrossing all power (and concomitantly, all available surplus or rents) to itself, the self-interest of any single parliamentarian lies in defecting: voting against Parliament in support of the Crown for a suitable reward. Self-interested knavery, defection, or what Tyler Cowen and Daniel Sutter (1999) term “cooperative inefficacy,” is the very glue that ensures that the “antient constitution” sticks. Hume ([1751] 1985, 45) argues therefore that corruption has a beneficial albeit unintended consequence: “Some degree and kind of it are inseparable from the very nature of the constitution, and necessary to the preservation of our mixed government.” We can read Hume as suggesting that political knavery (cooperative inefficacy) has second-best efficiency properties.⁸

2. “Politics without Romance”?

The Buchanan-Musgrave Debate

The Buchanan-Musgrave debate centers on whether to follow Hume, when Hume claims that public choosers ought to be modeled as pursuing their private interests.

James M. Buchanan characterizes public choice as the study of politics without romance (see, e.g., Buchanan 1979, 211) by endorsing

8. Hume’s worst-case essay had an immense influence on James Mill’s ([1820] 1978) slave-driver model of government. Mill utterly rejects Hume’s pregnant theory of constitutional equilibrium on worst-case grounds. Mill simply treats it as axiomatic that any single party (Crown, Lords, or Commons) will ultimately enjoy supremacy—subjugating the other two parties to the constitutional settlement. The unitary polity thus extracts all surplus above subsistence from the hapless populace. Where self-interest (political knavery) short-circuits the logic of cooperative efficacy, however, the populace retain a greater than subsistence share of the social surplus. T. B. Macaulay’s famous attack on Mill’s worst-case theorizing argues, just like Hume, that it is the very self-interest of the relevant parties that makes the British constitution stick. Any single party is willing to defect from any agreement made with another party to cooperate toward the end of weakening the power (and ultimately subjugating) the remaining party. Macaulay argues that any such agreement is highly unstable in the face of incentives to cheat. Paley ([1785] 2002, 339–40) similarly argues that any collusion between parties to the constitutional settlement is highly unstable in the presence of incentives to defect.

Hume's view that all people are to be presumed knaves in politics. Richard Musgrave, on the other hand, openly rejects Hume's views when he claims, "I do not join Hume's proposition that in viewing government 'everyone ought to be considered a knave.' . . . I would rather draw on people's capacity to serve as responsible members of the community, so that government may do its important tasks and do them well" (Buchanan and Musgrave 2001, 82).

The debate may be summed up by Buchanan himself:

Sometime after *The Power to Tax* was published . . . Richard Musgrave and I were at a conference somewhere, and I raised this question: Don't you feel that under certain circumstances, you would want to constrain the government? And I said, for example, suppose you had a tiger, a pet tiger. Wouldn't you want to have a muzzle on that pet tiger in case that he might bite somebody? So you put him on a muzzle. And Richard Musgrave said, oh I wouldn't want to do that because I might want the tiger to eat the grass.⁹ (Buchanan and Musgrave 2001, 89)

Geoffrey Brennan and James Buchanan's *Power to Tax* ([1980] 2000) is a classic in worst-case political economy, modeling government as a revenue-hungry Leviathan.¹⁰ Brennan and Buchanan suggest that constitutional rules will constrain Leviathan's taxing proclivities, placing a constitutional "muzzle" on government's discretionary power. Buchanan's position could not perhaps appear any further removed from that of Musgrave. Indeed, Buchanan suggests that "politically, there is a dramatic difference between the way we [Buchanan and Musgrave] implicitly model what politics can do" (Buchanan and Musgrave 2001, 251).

David M. Levy (2002) argues that Buchanan's worst-case philosophy of constitutional political economy is similar to J. W. Tukey's worst-case philosophy of mathematical statistics: they both focus on worst-case thinking rather than best-case thinking, and they both look at how to

9. "Important contributions have been made by public-choice analysis. But too much of its work—especially in the United States—has been in the Hobbesian image of Leviathan with an ever-growing and abusive government. Such need not be the case. . . . bureaucrats (why not civil servants?) may be public-spirited as well as selfish, and political leadership may be constructive as well as destructive" (Musgrave 1997, 156).

10. See also, among others, Forbes and Zampelli 1989, Ross 1983, Shapiro and Sonstelie 1982, and Oates 1985.

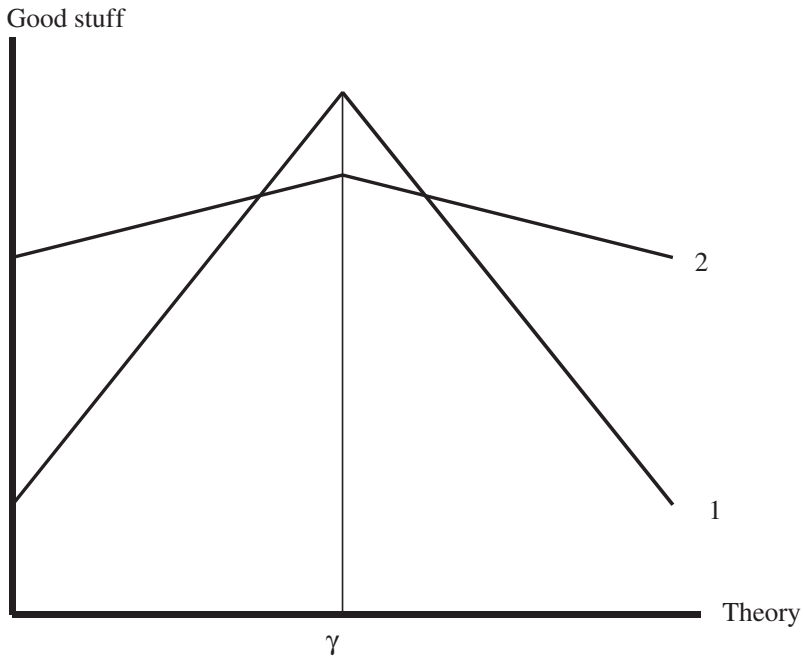


Figure 1 Fragile and robust political economy

avoid disasters rather than at how to achieve the best theoretical (even if not necessarily feasible) outcome. “The use of heavy-tailed distributions as paradigm—without worrying overly much about descriptive accuracy *as well as the ‘unrealistic’ use of Leviathan models*—are defended by the desire to avoid disaster” (Levy 2002, 131; emphasis added).¹¹

Levy translates “worst-case” thinking in political economy (especially worst-case theorizing about government) into the “*lingua franca* of robust statistics” (131). Figure 1 maps the performance of two institutional frameworks (sets of “rules of the game,” to invoke a favored public choice term) as a function of the putative state of the world, for example, one’s assumptions with regard to agent-type.

Let us suppose that the state of the world is that represented by γ . Where γ represents the state of the world (or supposition of the model), institution 1 generates a greater amount of the metric “good stuff”

11. See, for example, Brennan and Buchanan [1985] 2000, 35, 62–63.

(Levy's terminology) than does institution 2. If γ holds, then 1 outperforms 2 in terms of generating our desirable metric "good stuff."

Levy's analytical machinery allows insights into the (Hume)-Buchanan-Musgrave debate. Institution 1 represents Musgrave's position—roughly akin to what Buchanan calls "benevolent despot" public finance theory (see, e.g., Buchanan 1987, 56, 303). Institution 1 may represent Hume's absolute monarchy as well. Institution 2 represents Buchanan's worst-case philosophy of constitutional political economy, as well as Hume's "antient constitution." Supposition γ represents the "benevolent despot" assumption—the assumption that some individuals (particularly those in government) are not knaves.

Levy (2002, 131) notes that "von Neumann's minimax loss approach to decision making is absolutely central to robust [worst-case] thinking." The maximax approach to decision making, however, is utterly central to best-case thinking about government, leading us to favor 1 over 2: The possible failure of γ does not impact on the choice between 1 and 2. Indeed, traditional public finance theory (1 in the graph) is superior to "public choice" (2 in the graph) where the envisaged "despot" is wholly public-spirited (where γ holds). Similarly, for Hume "absolute monarchy" (1) is superior to "mixed government" (2) where the monarch is wholly public-spirited. Weaken the supposition of public-spiritedness (γ), however, thereby modeling the monarch as more akin to Hume's "knave," or the government as more "despot" than "benevolent," and deadweight losses are utterly pervasive, or, in Hume's framework, tyranny inevitably results.

Worst-case thinking (minimax), however, necessitates that we take the possible failure of γ rather more seriously. Robust institutions (2) are designed to place a bound on the loss of "good stuff" that results on supposition γ 's failure (Levy 2002, 134). And therein, or so we argue, lies a problem.

3. Robust Institutions: Romance by the Backdoor?

Gordon Tullock (1987, 87) identifies a problem in constitutional political economy: "The view that the government can be bound by specific provisions [constitutional rules] is naïve. Something must enforce those rules, and whatever enforces them is itself unbounded." Is the constitutional political economist à la Buchanan ultimately something of a

best-case thinker? Does constitutional political economy allow romance back into the analysis?¹²

We suggest that Buchanan and Musgrave are both best-case thinkers of a sort. Hume is a consistent worst-case thinker. Buchanan differs from Musgrave simply as to at which stage of the analysis he allows best-case theorizing to enter the picture. Musgrave (1997, 156) allows best-case thinking to enter the analysis center stage when suggesting that government intervene to rectify market failures. Buchanan allows best-case thinking to rear its head at the constitutional stage—implicitly suggesting that angel-designed and -enforced constitutional rules mitigate government failure. This is not to say that best-case thinking per se is to be avoided at all times, but simply that political economists ought to readily admit to themselves that best-case thinking is perhaps inescapable within their models.

In terms of figure 1, we suggest that constitutional political economy implicitly makes something akin to a maximax (best-case) assumption when drawing institution 2. Constitutional political economy readily limits the supposition of γ (public-spiritedness) to one point for institution 1 (e.g., government discretion) while making a tacit supposition that γ (or some very close approximation to γ) holds true at all points when drawing institution 2 (e.g., constitutional constraints).

Levy's analogy between constitutional political economy and robust statistics allows us to pinpoint the difference between robust estimators and robust institutions. The robustness of any estimator, while contingent in a certain sense—namely, the presence or absence of certain technical conditions—is a noncontingent feature of statistical reality. Rules of the game, however, may be contingent. The properties of estimators are simply what they are irrespective of human wishes or desires that they prove otherwise (Levy 2002, 132). The robustness (or otherwise) of sets of rules of the game, are, by contrast, not simply akin to a datum to which agents passively adjust. Yet it is in precisely just such a fashion that we suggest worst-case political economy views sets of rules of the game: constitutional political economy appears to presuppose that constitutional rules are akin to a kind of noncontingently robust “enforcement technology.” Brennan and Buchanan's ([1980] 2000, 240) remark that “we *need not predict that each child will fall off the cliff to justify*

12. On the presence of romance or knavery in politics, see, among others, Frey 1997 and Brennan and Hamlin 2000.

the installation of railings” (emphasis added) is especially apposite. The noncontingent rules analogy is further illustrated as follows:

“It is costly to build a fence or to purchase a chain. It is possible to prove that the *no-fence, no-chain* solution is more efficient than either, *provided* that we model the behavior of our dog in such a way that respects the boundaries of our property” [γ]. . . . [Is the example] really very different from that procedure which argues that tax structure *X* is more “efficient” than tax structure *Y* provided that we model the behavior of government in such a way that it seeks only to further efficiency in revenue collection? (225; emphasis added)

Railings, fence, and chain, however, just like Buchanan’s “tiger muzzle” (Buchanan and Musgrave 2001, 89) are all examples of a purely noncontingently robust “enforcement technology.” All are physical technologies, which, once actually put in place, *do* provide a highly effective constraint against whatever particular undesirable behavior it is that we wish to reduce or otherwise eliminate. The rules of the game are, as such, wholly binding: agent-type (γ or otherwise) is irrelevant.¹³ The “robustness” of any constitutional constraints, however, is utterly predicated on their design and enforcement by human agents.¹⁴ We suggest that as interpreted from figure 1, institution 2 involves the acceptance of some γ -type supposition about constitutional design and enforcement. It presumably ill suits the constitutional political economist (of all people) to invoke a supposition of public-spiritedness (γ) regarding the agent ultimately charged with the task of designing and enforcing the constitutional rules of the game. Without such an assumption, however, we suggest that it is unclear—at least in terms of Levy’s “insurance” metaphor—why the constitutional “insurance” will actually pay off when “worst-case” disasters threaten.¹⁵ We suggest that constitutional

13. Constitutional political economy emphasizes “setting up rules or constraints within which politicians must operate, rules that will make it a *relatively trivial matter as to the personal characteristics of those who happen to be selected as governors*” (Buchanan [1981] 2001, 47; emphasis added).

14. “There is . . . one *crucial assumption* which clearly underlies the whole constitutional construction—that of *enforceability*” (Brennan and Buchanan [1980] 2000, 13; emphasis added). “Faith in rules [cannot] replace the exercise of responsible policy choice” (Musgrave 1997, 159).

15. Levy (2002, 131) argues that constitutional rules provide “insurance” against the potential “worst-case” disaster (loss of “good stuff”) that results when supposition γ fails. Constitutional norms may “prove acceptable as embodying a minimax strategy aimed at securing protection against the worst-case outcomes that might emerge” (Brennan and Buchanan [1985] 2000, xxiii).

economics—like Musgrave’s advocacy of governmental intervention—has at its very foundation a best-case supposition.

Buchanan has overtly sought to distance his own worst-case constitutional political economy from the implicit best-case theorizing pervasive in others’ writings, such as in libertarian anarchist writings (e.g., Rothbard 1996): “My practical society . . . moves one stage down from the ideal [anarchy] and is based on the presumption that individuals could not attain the *behavioral standards* required for such an anarchy to function” (Buchanan 1977, 11; emphasis added). In recognition of this “frailty in human nature,” individuals agree to “enact laws, and to provide means” for their enforcement (11). Buchanan’s apparent *prima facie* insistence that the rules of the game adequately substitute for agent-type is illuminated by his analysis of a “Two-Stage Utopia” (11–12). “Stage 1” order (anarchy) is only feasible if we envisage an appropriate “modification of human nature” (12). On this point, Buchanan agrees with Hume ([1752] 1985a, 514) that the “plainly imaginary” nature of any plan of government necessitating “great reformation in the manners of mankind” is particularly applicable to the case of libertarian anarchy. The attainment of “Stage 2” order, namely, that represented by constitutionally constrained government, however, only requires a change in the rules of the game (institutions of governance) rather than any re-making of agent-type. Thus rules apparently substitute for agent-type (e.g., Buchanan [1981] 2001, 47). But the original problem, however, reappears: how can we assure that the constitutional rules are the “right” ones? And how do we assure that the “right” rules will be enforced?

Buchanan is aware that agent-type might prevent any change in the rules of the game from sticking *ex post*. Where the populace are clearly “incapable of adopting the requisite set of constitutional attitudes,” they are “incapable of evaluating their long-term interests” (Buchanan 1977, 12–13). The public is thus unwilling to engage in nonconvex optimization, unwilling to exchange their current rents (thus reducing their current utility) in return for a higher payoff at a future date (Levy 1992).¹⁶

16. Elsewhere, Buchanan ([1981] 2001, 42) argues for the necessity of a “widespread adoption of a ‘constitutional attitude,’ a proclivity or tendency to examine issues from a constitutional perspective, as opposed to the pragmatic, short-run, utilitarian perspective that seems to characterize . . . day-to-day political discussion and action.” How, though, does constitutional political economy propose to mitigate the PD-type logic intrinsic to large-numbers politics? A simple example is illustrative. Envisage politics as a simple 2×2 matrix. The lure of the off-diagonal (Buchanan’s term) is pervasive. The situational logic intrinsic to the matrix as drawn (namely, row and column dominance) suffices to generate suboptimality (envisage the

At this juncture, Buchanan (1977, 14) cedes that anarchist and constitutional political economist alike face the same dilemma. Brennan and Buchanan ([1985] 2000, 166) are refreshingly candid in admitting to their hope that something akin to a “new civic religion” will emerge, one placing great emphasis on the “skepticism of the eighteenth century concerning politics and government.” The hope for a new “civic religion,” however, belies Buchanan’s ([1981] 2001, 46) remark that constitutional political economy displays little “or no concern with replacing ‘bad,’ ‘evil,’ or ‘incompetent’ politicians with others who may be ‘good.’”¹⁷ Even if Buchanan works with the presumption of universal knavery at the postconstitutional level (everyday politics), he seems to reintroduce best-case thinking and its “angelic” or public-spiritedness assumptions at the preconstitutional and constitutional level, to generate the solution to government failure.

Moreover, what assurance do we have that the rule designers will not provide constitutional rules that will enhance their personal interests at the expense of societal well-being? Buchanan seems unable to avoid relying on the angelic nature of the constitutional writers.

loss of potential value as rent-seeking waste). Buchanan suggests that a constitutional “generality norm” be implemented, thereby eliminating the lure of the off-diagonal and restricting the potential outcomes to cell 1 or cell 4. Thus suboptimality (cell 4) is eliminated. Unfortunately, however, little attention is paid to why any such norm is binding *ex post*. The rules are envisaged as akin to a physical constraint *or* they are more akin to a potential constraint—any such potentiality only being realized when the rule is actually enforced. Enforcement, however, is subject to precisely the same situational logic as the original predicament for which such enforcement is thought to provide a potential solution. Enforcement is a public good—society is made better off when cells 2 and 3 are simply not available options (even though if chosen they are never actually realized). Public goods are classic nonconvexities. Thus enforcement is privately costly—one is made worse off at least initially. Why suffer any short-term “pain” for long-term “gain”? Constitutional political economy, while *prima facie* appearing a political economy decrying any reliance on preaching as a means of social salvation, appears to ultimately have no recourse to any alternative other than preaching: namely, attempting to inculcate what Buchanan elsewhere refers to as a “constitutional attitude.”

17. “Formal constraints on behavior, as laid down in legal and constitutional structures, can *never alone* be sufficient to insure viability in social order. An underlying set of ethical norms or standards seems essential, although we recognize that formal and informal constraints become substitutes at some margins of adjustment” (Buchanan and Musgrave 2001, 25). “Perhaps more *important than formal constitutional changes are changes in ethical attitudes that would make attempted reforms workable*” (Buchanan [1996] 2001, 275; emphasis added). Elsewhere, Buchanan intriguingly remarks that economists neglect “the ‘constitution of private man,’ which roughly translates as ‘character,’ as well as the ‘constitution of public men,’ which translates into the necessary underpinning of a free society, the ‘character’ of society, if you will” (1979, 102).

Constitutional political economy makes creative use of Rawlsian-type “veil of ignorance” arguments. No good explanation is provided, however, as to why the rules chosen behind any such veil are binding *ex post*. Moreover, a knave has no incentive to go behind any veil (real or imagined). Using the Buchanan-Musgrave metaphor of tiger and muzzle, why would any knave volunteer to muzzle his or her own self-interest? Only angels would sacrifice themselves for the well-being of others.

Hume, on the other hand, offered a solution that consistently assumes knavery at all levels. Hume does not need to rely on angels writing the British constitutional rules, as the “antient constitution” was not written by anybody. The “antient constitution” emerged from centuries of compromise, bargaining, and negotiations between rival parties and political bodies, which is to say, the constitution seemed to have emerged from centuries of clashing knavery.

Hume, therefore, avoids Buchanan’s problem at its root. The British system works, and works rather well, according to Hume, because it does not rely at *any* level on angelic behavior. The constitutional rules allow knavery to check knavery by maintaining a multiplicity of competing self-interested parties both at the enforcement level and, especially, at the rule-writing stage. Having only one person writing the constitution would be a disaster. The knavery of the constitutional writer would be unchecked by other knavery, thereby resulting in tyranny.

If any single person acquire power enough to take our constitution to pieces, and put it up a-new, he is really an absolute monarch; and we have already had an instance of this kind [Oliver Cromwell], sufficient to convince us, that such a person will never resign his power, or establish any free government. (Hume [1742] 1985d, 52)

Knavery offers enough incentives to have constitutional rules that allow for knavery to check knavery. In fact, the British constitution does not have any single individual or body as its author. It is the unintended result of centuries of experience with self-interested behaviors. William Paley ([1785] 2002, 328) describes how the

constitution of England, like that of most countries of Europe, hath grown out of occasion and emergency; from the fluctuating policy of different ages; from the contentions, successes, interests, and opportunities, of different orders and parties of men in the community. It

resembles one of those old mansions, which, instead of being built all at once, after a regular plan, and according to the rules of architecture at present established, has been reared in different ages of the art, has been altered from time to time, and has been continually receiving additions and repairs suited to the taste, fortune, or conveniency, of its successive proprietors.

It is exactly this patchwork product of chance, rather than the wisdom of one or a few public-spirited angel-like individuals, that, for Hume, generates rules robust enough to keep decentralized and competing self-interests in check. Rules formed by the experience of knavery playing against knavery, rather than by the experience of one knave or a few colluding ones, are more robust examples of worst-case thinking because they are better able to cope and to learn how to prevent the knavery of one group from prevailing. Relying on one constitutional author implies that his knavery would go unchecked. On the other hand, if the players are many, there is a multiplication of knavery that would prevent any single knavery from wholly prevailing.¹⁸

For Hume, assuming angels write constitutional rules is just as much a mistake as assuming that angels would enforce a perfect constitution and rule a country. Knavery is for Hume the most efficacious check on knavery, given human nature. And the rules that allow knavery to play against knavery must be generated by the same unintentional and “accidental” process of competing knavery rather than by a self-proclaimed public-spirited mind.¹⁹

For Hume, therefore, knavery offers enough incentives to write, enforce, and maintain the rules. This of course does not imply that the checks which knavery provides against knavery are going to work every single time (as the Cromwell episode teaches), but that such checks as exist are the best we have available, given that attempting to remake man is not feasible.

18. For an exposition of the role of decentralization in forming robust rules, see Paganelli 2005.

19. “By a balance of power is meant, that there is no power possessed by one part of the legislature, the abuse or excess of which is not checked by some antagonist power, residing in another part” (Paley [1785] 2002, 337). Where “power is distributed among several courts, and several orders of men, we should always consider the separate interest of each court, and each order; and if we find that, by the skilful division of power, this interest must necessarily, in its operation, concur with public, we may pronounce that government to be wise and happy” (Hume [1742] 1985a, 43).

Conclusion

Buchanan argues that Musgrave's favored institutional structure is highly nonrobust in the presence of nonangelic public choosers. Buchanan's model, however, while providing a relatively robust institutional structure for private choosers, appears to leave humanity in the hand of blind hope in the public-choosing sphere. Hume, by contrast, while thinking consistently in terms of the worst-case (universal knavery in politics) offers a second-best solution. In Hume's view, because of the reciprocal check—or mutual antagonism—that multiple knavish agents provide on one another, two knaves are better than one.

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