

Public Choice and Public Life

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In the fall of 1977, I entered the University of Oregon's graduate program in political science. My undergraduate education was in behavioral political science and I went to graduate school planning to study public opinion polling. But then John Orbell introduced me to James Buchanan's book, *Freedom in Constitutional Contract: Perspectives of a Political Economist* and Bill Mitchell introduced me to Gordon Tullock's book, *The Social Dilemma: The Economics of War and Revolution*. I did not read *The Calculus of Consent* until later, but these two books began the lessons I learned from the Buchanan and Tullock Virginia public choice enterprise. Buchanan and Tullock made me completely rethink the direction of my graduate education. By the time I completed my degree, I had been baptized and confirmed into Virginia public choice.

My political science professors had taught that loving my neighbor is good policy. Buchanan noted that the New Testament does not answer the question of who is my neighbor and explained how rational people will and often must adopt different ethical rules when moving from small to large groups. My undergraduate economics professor had taught that economics was the study of choice within constraints. In "Law and the Invisible Hand," the second chapter of *Freedom in Constitutional Contract* (1977, p. 25), Buchanan explained that studying choice should not be the purpose of economics at all:

I have often argued that there is only one principle in economics that is worth stressing, and that the economists' didactic function is one of conveying some understanding of this principle to the public at large. Apart from this principle there would be no basis for general public support for economics as a legitimate academic discipline, no place for economics as an appropriate part of a liberal education. I refer, of course, to the principle of the spontaneous order of the market which was the great intellectual discovery of the eighteenth century.

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Notice that I said, “my undergraduate economics professor.” There had only been one, as I took only one undergraduate economics course--an introduction to macroeconomics course taught from a Keynesian perspective. I got a “C.” As soon as I read some of Buchanan’s essays, I realized I needed to understand at least the language of economics and went to the economics department head, who did me a huge favor. Rather than suggest courses, he gave me a copy of Alchian and Allen’s *University Economics* and told me to read the chapters and work through the problem sets at the end of each chapter. If I did that, he said I would know more about economics than anyone in his department. I think he was joking, but teaching myself economics through Alchian and Allen allowed me to read Buchanan, which had been my goal.

I had taken an undergraduate two-course sequence on American constitutional law in which we read the text of the constitution and relevant case law. It was descriptive and only analytical in the sense of comparing different interpretations of the constitution. Buchanan began and ended his book discussing the importance of constitutional contract for human freedom. He discussed how different rules produce different outcomes. He asked why majority rule has any moral authority over any other decision rule. He asked how and why different rules emerge, all questions we had not asked in Constitutional Law.

The overriding issue in my undergraduate political science education was “the public interest.” Buchanan and Tullock explained that we can only understand government outcomes if we concentrate on private interests operating within governmental structures. For my professors, government existed to promote the public

interest. They had no theory of government failure. Some feared that elites were too powerful and called for elite excesses to be controlled by more politics. There were concerns about corruption and the perennial “waste, fraud, and abuse,” but no systematic way for understanding exploitation by government officials. There was some understanding of government as a venue where competing interests reached agreement, but agreements were seen as being achieved through a kind of invisible hand of political competition. If the government was not meeting the values of a particular interest, the reason was usually that the interests were underrepresented in the polity. Solution? Expand the number of competing interests. The prevailing view among political scientists was that government is generally benevolent, often benign, and seldom dangerous. To them, politics is where conflicts of values are resolved, inequalities narrowed, inequities solved, and character developed. .

Buchanan and Tullock confronted these beliefs head-on. They echoed Bastiat’s claim that government is a form of organized plunder—hence Buchanan’s call for constitutional contract. He said, “Individuals can secure and retain freedom in constitutional contract; they cannot do it in any other way” (1997, p. ix). By tying human freedom to constitutional contract, he explicitly rejected anarchy. They adopted a self interest-based theory of political interaction. Buchanan explained, “Once we so much as acknowledge that the unit of consciousness is the human being (that it is Buchanan and not “society” that writes this sentence), explanation of interaction among separate persons by a model of self-interested motivation necessarily becomes acceptable to a degree” (1977, p. 5). Tullock simply rejected public interest claims and said that all actors, private or public, act out of self-interest. He said that coups, revolution, war, and

providing public goods are best understood by identifying private benefits to organizers and joiners.

One part of Buchanan's analysis that appealed to me was his explanation of his project in that book (and more generally in all his work). He had two purposes. First, he wanted "to cause economists" to think about the political nature of economic order—to think about the laws and institutions within which economies function. He wanted to impose what he called "conceptual order on the institutional complexities." He noted that it is easy to derive a logic of order in people's everyday economic lives but that it is immensely more difficult to derive a logic of politics. Second, he wanted to "widen understanding of the fundamental principles of economic order among social scientists and social philosophers generally" (1977, p. 6). Notice that he did not say he wanted to widen understanding about economics. Rather, he said he wanted to cause economists and non-economists to recognize "fundamental principles of economic order." He and Tullock had laid out some of those principles in *The Calculus of Consent*, but they had certainly not been adopted or even understood by any of the political scientists that I had encountered.

Although he proposed a revolutionary way to understand the reasons for rules, the effects of rules, and ways in which they emerge, Buchanan claimed that he was not revolutionary. "I am modest in my claims," he said. He went on, "If my general explanatory arguments are persuasive, some progress toward extended discussion of constitutional reform should be guaranteed" (1977, p. 8). His modesty seems somewhat false since he also claimed that the economic profession's emphasis on choice was

wrong-headed—that economists were practicing a discipline that “did not merit general public support.”

Although Buchanan at least pretends to be modest, Tullock is neither modest nor pretends to be. In print as well as in person he delights in making astonishing statements. He starts the chapter titled “The Paradox of Revolution” with this statement: “It is the purpose of this chapter to demonstrate that the image of revolution that we find in the literature is a false one. I shall also, I hope, demonstrate why this false image is so appealing to intellectuals and historians” (1974, p. 36). He ends the chapter by saying, “Revolution is the subject of an elaborate and voluminous literature and, if I am right, almost all of this literature is wrong” (1974, p. 46). He says that by examining the utility calculus of the participants we can understand that any public goods produced by the revolution will be byproducts of the pursuit of self-interest.

Tullock taught lessons that I have used in class for years. In discussing the roots of conflict, he lays out one of the most fundamental, that often government is an inefficient transfer engine. A political decision that costs you \$10 might make me better off by just \$5, or it may make us both worse off, even if one of us wins the competition. I demonstrate this principle in the classroom by selling a dollar bill. Bidding starts at a nickel and goes up in 5 cent increments. The winner gets to purchase the dollar bill, but I get to keep the money from the top two bidders. I have always sold the dollar bill for more than one dollar. Bidding always devolves into two students bidding until they reach the dollar, but then keep bidding in hopes of minimizing their loss from losing and still having to pay their most recent bid. The game provides great opportunities for discussing Tullock’s point elsewhere that rent-seeking often results in the losses of the

losers outweighing the gains of the winners, and worse, the gains of the winners are less than the value of the policy they achieve. I have had bidders offer a bribe to the other to stop the bidding, but only after bidding exceeds \$1. As Tullock said about the \$10 loss and \$5 benefit, the outcome could be improved if a bribe of \$7.50 were offered, but institutional structures usually make such bribes impossible.

Tullock described such situations as the \$10 loss, \$5 benefit and the sell-a-dollar game as “social dilemmas,” situations in which conflict is socially inefficient but it is rational for players to enter the game. He explains, “The social dilemma, then, is that we would always be better off collectively if we could avoid playing this negative-sum game, but that individuals may make gains by forcing the game upon the rest of us” (1974, p. 4).

In *The Social Dilemma*, Tullock identified a core problem of politics: very often person A wants something person B owns. If A and B are in a market, then voluntary transactions can lead to peaceful outcomes. But when A wants what B has and uses politics to get it, each must spend resources that never get recaptured. Coercion becomes the means of accomplishing A’s ends, and B must invest in lobbyists or politicians to fend off A’s efforts. They are in a form of the sell-a-dollar game in which one person’s losses may be less than the other’s gains, or that each spends more resources than B’s property was originally worth.

Tullock reaches out well beyond the confines of mainstream economics to apply the rational choice model to issues of autocracy and war and peace. By downgrading the relevance of romantic, utopian thinking and introducing a much-needed dash of

realism, Tullock provides a wake-up call for all individuals who cherish and seek to defend individual liberty.

Besides providing the paradigm that guided my academic life, Virginia public choice provided some preparation for the ten years I spent in city government, six years as a member of the city council and four years as mayor. It gave me models for understanding local politics, as well as cognitive dissonance from being both a public choice theorist and an elected official. Local politics really can be politics without romance, and not just because much of what local government does is the unromantic chore of building and maintaining sewers and collecting garbage.

Although I knew about the importance of rules and the dangers of rent seeking, I assumed problems would be relatively minor in the politics of a city of just 6000 people. I assumed that government close to “the people” might be somewhat exempt from some of the politics without romance analysis I had learned from the Virginians. What I learned is that government is government whether large or small. The public choice analysts who assume that local politics is superior to state or national politics should spend more time in local politics before making such a claim. Most, if not all, of the basic lessons from Virginia public choice applied equally to local as to state and national politics. Tullock’s essays in *The Social Dilemma* were, in fact, about decision-making among small groups of elites and much of local government is by elites.

In a training session for members of city councils and planning commissions, an official of the Utah League of Cities and Towns sounded a bit like Tullock when he said, “The Bill of Rights was written to protect citizens from people like you.” Although The Bill of Rights was written to protect citizens from the national government, the League of

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Cities and Towns official captured a useful truth about city government, which is that mayors and city council members are the same kinds of people Tullock wrote about in *The Social Dilemma*. They are often tyrannical, self-serving, ignorant of the effects their decisions have on citizens, and sometimes just mean. Citizens are no better. They hold naïve views about democratic processes, organize their neighbors to steal property rights from other neighbors, are self-serving, and mean-spirited. The amazing thing about all this is that elected and appointed officials and the citizens they represent often are well meaning, conscientious people who are pleased to be in “public service.”

I observed behaviors in local politics that were just like those in the Virginia public choice models. One difference between local and national politics is that at the local level the politics are far more personal. At the local level you see those your actions might hurt. On the one hand, that means that you see those who might be harmed from your actions and might feel worse than harming faceless others. On the other hand, you see those who might be harmed *and* you want to harm them. Personal animosities show up in city council meetings on a regular basis. I have joked that being a small town mayor is somewhat like being a parish priest. In each case you find out things about your neighbors you wish you did not know. In the priest’s case, he encounters people who feel badly about things they have done and are trying to improve. In the mayor’s case, he or she encounters people who are trying to use government to take advantage of their neighbors. These people never explain that they are trying to take advantage of others, and most do not believe it of themselves. But, a non-romantic view of local politics demonstrates that they are, in fact, engaged in the politics of theft.

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Although the primary *business* of cities is providing infrastructure—water, sewer, roads—and public health and safety, the primary *activity* of city councils is making land use decisions. City councils spend most of their time debating what can be built where, how close buildings may be to the street and property lines on side and back yards, minimum lot sizes, minimum and maximum building sizes, maximum building heights, whether street trees are required and of what species and size, allowable plantings between curbs and sidewalks, whether curbs and sidewalks are required, whether basketball standards are allowed in the driveway, how many pets a family may have, what animals are considered pets, how many unrelated people living together are considered a family, and on and on. One way to understand these activities of local government is to use Tullock's example of A wanting something owned by B. Lot sizes, planting, building heights, etc. all affect what choices B can make with his property. They are ways of granting A some of B's property rights.

I thought of Tullock when a retiree called me to talk about the home being built next to his. He lived on the hillside on one side of our valley and had an exceptional view of the mountains twenty miles away. He took me out on his deck, showed me the view, and then pointed to the house being built just below his. He explained that the roof on that house was going to block part of his view and that a realtor told him the lost view was worth \$80,000. He asked me to stop the builder from building the house so high. I asked if he had made the request to the builder and he said he did not want to cause problems. The family building the home seemed like nice people and he did not want to upset them. But, it was apparently fine for me as mayor to upset them. To me, it seemed like the perfect Tullock example of A bribing B so they each get something they

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want. I suggested he offer to purchase a view easement that would make it worth their while to reduce the height of their home. I tried a Buchananesque discussion about the importance of rules and process and that the home being built met the city code for height restrictions, that the zoning ordinance did not contain view restrictions, and that his deed did not contain a view easement on his neighbor's property. Rather than negotiate and use market processes, he really wanted me to somehow use my "powers" as mayor and stop them.

At my very first city council meeting as mayor, the council chambers were packed with citizens opposing proposed rezones that would allow a twenty-acre alfalfa field and a ten-acre non-productive fruit orchard to be developed for home building. The twenty-acre parcel produced alfalfa and the owners grazed horses on it part of the year. The ten-acre parcel had not been farmed for more than fifty years. The rezone opponents were vocal and emotional about the affected properties. A neighbor to the twenty-acre piece objected to the bucolic scene from his porch being replaced with a series of backyards along his property line with noisy kids. A woman across the street said there would be so many homes and children she would be able to hear mothers yelling at their children "like fishwives." Each of these said they preferred that the property remain in agriculture, but if it had to be developed, it should be at a density of no more than one home per acre, which would reduce the number of available lots from fifty-six to sixteen and the value of the property by about three-quarters.

Each of these proposed developments was consistent with city zoning ordinances and the general plan. The general plan had been in place for about twenty years and the zoning ordinances followed the general outlines of the plan. A city's

general plan might be viewed as a property rights constitution in which the owners contract with the city government to protect or obtain certain development rights to their property. That understanding of property rights is clearly not a Lockean understanding, but is a practical understanding of how government and property rights interact in practice. A general plan and subsequent zoning ordinances are often thought of by property owners as a statement of the owners' rights. They allow owners to anticipate the future and make investment decisions accordingly.

The opponents to the developments had a much more fluid understanding of the nature of property rights. They assumed that they could simply force their view on the owners because they showed up in force to city council meetings. They were not swayed by the city attorney's explanations about what was legal. In *Freedom in Constitutional Contract* (1997, p. 85), Buchanan suggested that such actions are nothing more than people saying that they want something and if the state has the power to make it happen, it ought to happen. Such an approach is certainly not a constitutional one and has great potential to violate individual freedom

A neighbor to the ten acre property understood that she was engaging in unethical politics. She said, "Opposing this development may not be very Christian, but when it comes to my money, I have to speak up." She was afraid that the new houses would obstruct her view of the mountains and would take away the privacy she had enjoyed in her backyard.

Others tried to wrap their arguments against development in public interest claims. One citizen, a PhD economist, claimed that the new development would create negative externalities in the form of more traffic and lost open space. She complained

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about the potential for increased traffic in front of her home on “her” street. I asked if her deed included the city street in front of her home, or a clause establishing a maximum number of cars passing per day. I also suggested that Ronald Coase would suggest that externalities were two-way, that if she stopped the development, she was creating an externality for the property owners and potential home owners in the developments. She did not understand. It was clear she was the kind of economist that Buchanan wanted to educate.

I suggested that this could be a perfect example of Coasean bargaining and suggested that the opponents purchase the development rights from the owners. Property rights were clear and there were not enough people involved to make transaction costs very high. They got angry at the suggestion and accused me of being in the developers’ pockets. My attempts to explain that property rights were clear and that the way to accomplish their ends was through the market were, to them, simply more evidence that I favored development over preservation. My further attempts to describe how constitutional contracts worked got nowhere, and telling them they were simply rent-seeking thieves (I used more polite words) further upset them.

Soon after the public hearings on these two developments the Planning and Zoning Commission members asked me to come to one of their meetings to explain my “vision” for how the city should develop. My inner public choice analyst, who by this time had followed Buchanan’s footnotes to Hayek, immediately started raising questions. Why should politicians have visions? Who had sufficient information about people’s wants in the present and in the future to know the best uses of parcels of land? Would there be substantial changes in preferences about home and lot sizes as there were

shocks to the economy? I went to the planning commission and explained that I wanted a city where people could plan their own lives, where order could emerge rather than be planned, and where government could not be used to force one group's values on other groups. They were not amused, as they had sought appointment to the Planning and Zoning Commission precisely because they did not agree with any of my preferences. Planning commissioners, it turns out, are not interested in constraints on them, just in the constraints they can impose on others.

Gordon Tullock has often said in informal conversation that he has never voted because it is simply irrational. He noted that one's vote is inconsequential in a national election. I have never asked him if that model of voting would predict that an election in a city of just 6000 people (1800 registered voters) might be at least somewhat more rational. The chances of being the 901st voter are substantially better than the chances of being the deciding vote among millions. It turns out that in local elections across the United States, and in my city, voting turnout averages only about twenty percent, far below the average for national elections. It may be that voting at all levels of government is not based on rational calculation, but is an emotional activity, and in most city elections there is little to get emotional over. Local elections tend to be about non-emotional subjects--sewers, roads, garbage, and water systems. They care if the services are provided, but believe ideological differences do not have much to do with how they are provided. As one mayor told me, "There is not a Republican or Democratic way to fill a pothole." Local elections tend to be relatively boring compared to races for national offices, and so they do not stir the emotions necessary to get voters to the polls.

If that is the case, however, what about all the emotion stirred over zoning issues? Among the 1800 registered voters in my city, only about thirty were upset by the proposed developments I described above. One reasonable expectation is that all thirty voted in the next election when some of them ran for office (they all lost). But the heat, excitement, and anger they expressed was limited to just them, and not to voters in general.

Local government, it turns out, is not the site of principle triumphing over interest. It is populated with the people in the Virginia public choice models. There is often language about principle, but there is much more “there oughta be a law” reaction to perceived problems. “There oughta be a law” easily leads to “doing the right thing,” which opens wide the doors for self-interest, sometimes wrapped in principled language, and other times not. Local, part-time politicians are usually motivated, at least in part, by a sense of civic duty, but that sense is seldom constrained by an ideological yardstick for measuring policy proposals. Without that yardstick, proposals based in moral language and promoted by respected people, make it appear that “doing the right thing” is, in fact, doing the right thing. The ineffectiveness of ideological constraints on local government power leads me to conclude that politicians at all levels need to be constrained by something approaching Buchanan’s constitutional contract. Without enforced constraints, politicians will pursue all sorts of actions that reduce freedom.

Cities and towns like mine do survive and thrive, despite the public choice problems of local politics. Politics may be less important than the more organic, spontaneous, informal interactions among citizens. Local order may be much less about voting and governing and more about the ongoing actions of people volunteering to help

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each other through churches, clubs, neighborhoods, sports leagues, or sometimes just by themselves; sharing garden produce; bringing in meals for people they do not even know just because they want to help; crying for and helping the family with the fatally ill child. I saw all these things during my time in local government and they made me realize that politics is a feeble substitute for the spirit of volunteerism, of being a good neighbor, of being part of a community of neighbors that is the core of self-government and liberty.

References

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