

# A Note on *Democracy in Chains*

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*Democracy in Chains: The Deep History of the  
Radical Right's Stealth Plan for America*

By Nancy MacLean  
(Viking, 2017)

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The work of the late Nobel Prize–winning economist James M. Buchanan had profound effects upon the way we understand and analyze the institutions of government. Buchanan is remembered for his contributions to public choice theory, which uses economic tools to strip the political system of its romanticized image and to explain the often less-than-selfless behavior of political actors. He nonetheless remains relatively unknown outside the fields of economics and political science.

This circumstance is unfortunate given the portrayal of his life in Nancy MacLean's recent book *Democracy in Chains*. Although the book has become a flashpoint of controversy since its release this past summer, an undiscerning reader could easily arrive at the historically unfounded belief that the segregationist resistance to *Brown v. Board of Education* provided something of an intellectual wellspring for Buchanan's ideas and career. Indeed, many of MacLean's more credulous reviewers have presented the charge of racism as a primary interpretive takeaway of the book.

For such a strong and inflammatory insinuation, MacLean's evidence is shockingly

flimsy. Although she made use of Buchanan's personal papers shortly after his death in 2013, she uncovered no specific documentation that he ever stated a position on *Brown* and nothing to suggest he harbored animosity toward black people. What follows instead is a three-hundred-page exercise in poisoning the well against both Buchanan personally and the broader public choice tradition, achieved by means of reckless innuendos that lead the reader to conclusions MacLean stops short of making herself. A recurring target of her narrative is Buchanan's work at the University of Virginia, where he directed the Thomas Jefferson Center (TJC) for the study of political economy from 1956 to 1968.

In MacLean's telling, disapproval of the *Brown* decision "energized" the nascent libertarian intellectual movement of the 1950s. The TJC under Buchanan's direction was meant to serve as a scholarly face of this "counterrevolution" from the right and, with it, to provide a respectable intellectual backstop for the segregationist resistance of Senator Harry Flood Byrd Sr.'s political machine. Buchanan never met Byrd and had few meaningful connections to Virginia politics. To make the charges stick, MacLean effec-

tively writes a segregationist purpose into a little-known 1959 paper on school vouchers that Buchanan coauthored for the TJC with his faculty colleague Warren Nutter.

Buchanan and Nutter's paper abstained from the raging school segregation debate save for a brief statement to "disapprove of both involuntary (or coercive) segregation and involuntary integration." It also endorsed the "collective financing of universal education" on the grounds that doing so was the "most effective measure at our disposal for rectifying the inequalities of opportunity suffered by the less fortunate members of our society."<sup>1</sup> There is very little evidence that anyone in Virginia's political class even noticed the article. Buchanan's own views—stated some years later in a letter to another school-voucher supporter—revealed his concern about balancing educational competition with safeguards against "the evils of race-class-cultural segregation that an unregulated voucher scheme might introduce."<sup>2</sup>

Strangely, MacLean's depiction of the article suggests the exact opposite about Buchanan's judgment of segregation. In her account, Buchanan and Nutter's project attains historical importance as an attempt to "salvage what remained of [Byrd's] massive resistance [to integration] while surviving court review." Although avoiding the temptation to call Buchanan a racist himself, she unambiguously presents the servicing of segregationist politicians as the *raison d'être* for the TJC's activities at the University of Virginia. She depicts Buchanan as having "taken his cues from Harry Byrd and Jack Kilpatrick," the segregationist editor of the *Richmond News-Leader*. When a new university administration drove Buchanan to leave the school in 1968, she simply assumes he had drawn their ire by "sid[ing] with the reactionaries who threatened the destruction of public education to save segregation." In her telling, segregation similarly taints the

entirety of Buchanan's work on public choice theory, as he allegedly "learned lessons from this experience that informed his thinking for the rest of his life."

These are bold claims that, if true, would reflect poorly on Buchanan's scholarship. But MacLean's tale suffers from a severe evidentiary problem that even prompted Steven Teles and Henry Farrell, two left-leaning scholars, to observe that her cited sources fall far short of her depictions, including on the matter of segregation. A closer look at her footnotes bears this out, as many of the strong claims noted above are cited only to a generalized secondary literature that makes no mention of Buchanan. Others refer to letters that do not sustain the specific interpretation she supplies, and an unsettling number carry no citations at all.

Such flimsy and misused evidence might ordinarily spell the death of any historical thesis, absent the confirmation biases that have led many scholars of MacLean's own political persuasion to accept her word uncritically. But overreading or misreading existing documents is only half the problem with *Democracy in Chains*. The other half derives from a body of evidence that MacLean either neglected to consider or simply omitted from her account. Far from taking its cues from the Byrd machine, Buchanan's TJC was actually an active sponsor of scholarly work that sought to unite antiracist principles with the emerging field of public choice theory.

The key figure in this overlooked history was the South African economist William H. Hutt, a longtime professor at the University of Capetown. Hutt made a reputation for himself as an outspoken academic critic of his country's apartheid regime. He did so on scholarly grounds, using arguments that directly anticipated public choice theory. As Hutt meticulously documented, the apartheid laws were largely economic in origin and emerged in the early twentieth century as

South Africa's white labor unions pushed for regulations that barred native Africans from entering certain trades and industries. These measures erected a legal barrier between black workers and the white minority, insulating the latter from the effects of labor competition and thereby artificially driving up the wages of white workers. The brutal and racist apartheid regime that followed was, in effect, an exercise in regulatory capture.

Hutt developed these ideas over a thirty-year career, culminating in his 1964 book, *The Economics of the Colour Bar*. His arguments gained him international acclaim, but also made him few friends in the South African government. For a brief period in 1955, the apartheid regime even seized his passport in an attempt to block him from presenting his criticisms internationally. A resulting row in the South African parliament saw his travel rights restored under mounting criticisms of this violation of academic freedom.

Buchanan knew Hutt through a number of mutual acquaintances in Britain and the Mont Pelerin Society. When Hutt reached retirement age shortly after the publication of his book, Buchanan invited him to join the TJC as a distinguished visiting professor of economics for the 1966 and 1967 academic years. Hutt accepted and arrived in Charlottesville in late 1965.

The South African economist was a natural fit for Buchanan's center, not only because of the public choice implications of his book but also by reason of his ongoing scholarly activities. Almost immediately after his arrival, Hutt noticed a number of disturbing parallels between the South African regime and the practice of segregation in the American South. His project over the next two years involved a conscious effort to unite the principle of nondiscrimination with the emerging public choice constitutional theories of Buchanan and his TJC colleague Gordon Tullock.

In 1962 Buchanan and Tullock published

the *Calculus of Consent*, a public choice study of constitutional voting rules that explained the propensity of simple majoritarian democracies to externalize the costs of adopted policies upon the minority. They investigated a number of solutions to limit the ability of any group or faction to advance policies at another's expense, including raising the bar for high-cost policies through voting rules that approached unanimous consent. It was an ingenious expansion upon the classical Madisonian principle of checks and balances, and formed the basis of Buchanan's Nobel Prize.

In a bizarre twist, MacLean portrays the *Calculus* as if it were derived from her fanciful depiction of Buchanan's role in Virginia's school desegregation fight. The book itself contains nothing to support this contention. To the contrary, Hutt directly contradicted this reading. In an extended review essay that he published in 1966, Hutt took up the question of what Buchanan and Tullock's unanimity rule meant for what he called the "paramount" principle of "rules for making rules"—the rule of nondiscrimination.

To Hutt, nondiscrimination was a necessary logical extension of Buchanan and Tullock's argument. If the objective of a constitutional rule was to minimize the ability of a group to externalize the costs of its desired policy, it followed that the rule's primary function was to afford protection to political minorities and persons excluded from political participation. Therefore "collective decisions should be non-discriminatory, except with the prior consent of those discriminated against." Hutt's own experience in South Africa illustrated that state conferral of discriminatory privileges on a favored group might even occur when that group (e.g., white South Africans) is a numerical minority. Buchanan and Tullock's unanimity principle effectively solved this problem by conferring a minority veto of abusive policies at the constitutional level. As he

explained, when one accepts the primacy of nondiscrimination in government rule-making, “laws of any kind which, directly or indirectly, discriminate in favour of or against any particular group (whether on the grounds of race, colour, ancestry, creed, sex, occupation, district, property or income) should be ruled unconstitutional and void.”<sup>3</sup>

Hutt’s extension of the *Calculus of Consent* to nondiscrimination followed the abstract and theoretical tone of Buchanan and Tullock’s original work. But that does not mean he was unconcerned with its implications for the events around him. While Byrd’s “massive resistance” suffered setbacks in the years following *Brown*, Virginia’s formal legal resistance to desegregation persisted until the 1968 Supreme Court ruling in *Green v. New Kent County*. Informal circumventions continued for another decade or more. Angered by what he saw, the veteran anti-apartheid crusader set his sights on a new target and embarked on a lecture tour aimed at uniting free-market conservatives with the cause of civil rights.

In February 1966 Hutt spoke to the University of North Carolina’s conservative club, mounting a dual assault on apartheid and southern segregation. His comments reportedly took a small group of leftist protesters by surprise. Unaware of his position,<sup>4</sup> they arrived expecting to heckle a defender of the South African government only to find him arguing the opposite position. A week later, Hutt reprised his argument at a meeting of the Philadelphia Society in Chicago on the topic of “Civil Rights and Conservatism.” The meeting featured lively debates, including a session where the pro-segregation newspaper editor James Kilpatrick argued his case. Hutt delivered a barrage against legalized discrimination in the evening dinner keynote. Even Kilpatrick was forced to concede the brilliance of Hutt’s argument, grousing in a report from the meeting that the “silver-haired, leathery veteran of 38 years

in South Africa...opposes the coercions of apartheid as passionately as he believes in the freedoms of the market place.”<sup>5</sup>

The parallels between southern segregation and apartheid immediately resonated with Hutt. In a 1966 article for *Modern Age*, he argued that the legal persecution of “the American Negro population can be traced to the [same] ultimate causes” as the South African situation. The two countries differed in significant ways. Blacks made up a large majority of the South African population, and Hutt noted that they were subjected to significantly greater animosity by the white population there. But the institutionalization of racism shared a common source: “deliberately imposed man-made barriers to equality of economic opportunity.”<sup>6</sup>

Just as Hutt’s extension of Buchanan and Tullock noted, apartheid institutionalized “governmental appeasement of a white proletariat” by extending them legal “privileges” that effectively barred black workers from competition in the skilled sectors of society. A legal “colour bar” followed as a means of enforcing this privilege.<sup>7</sup> A similar pattern occurred in the American South, where early-twentieth-century “progressive” policies such as the minimum wage squeezed black laborers out of competition with poor whites, while Jim Crow laws barred them from entire sectors of the economy. Institutionalized segregation served to maintain this pattern while also inculcating racial hatred of the black minority. Hutt’s diagnosis, offered as advice to any young conservatives in the United States who cared about racial equality, was to target the “origins of the Negro’s most serious injustice, namely, factors which restrain his ability to compete” economically.<sup>8</sup>

Even though he seldom commented on civil rights, there is some evidence that Buchanan shared Hutt’s beliefs. In 1966, when Lyndon Johnson proposed raising the minimum wage, he wrote the *Richmond Times-Dispatch*

to protest that its “primary beneficiaries would be the workers in organized labor unions.” Their gains would come at the expense of the economically vulnerable persons it squeezed out of the workforce, specifically “teenagers, Negroes and women.”<sup>9</sup> Buchanan elaborated on the point in the pages of *National Review*, noting that “the harm that will be done to Negroes by enactment” of Johnson’s proposal threatened to undermine the economic gains of the 1964 Civil Rights Act.<sup>10</sup>

These brief remarks are admittedly narrow and economically focused in comparison with Hutt’s direct work on civil rights. They are nonetheless consistent with a school of thought that has little tolerance for legalized discrimination. Combined with Hutt’s work, Buchanan’s statements also place the TJC on record in support of key civil rights positions. Recall that MacLean asserts that Buchanan’s departure from the University of Virginia in 1968 followed a row with the administration over her other unsupported claims of TJC collusion with segregationists. As Hutt’s work illustrates, MacLean’s depiction is not only inconsistent with evidence she failed to consider. It is also at odds with basic precepts of the public choice intellectual tradition, which has shown a profound antagonism to state-sanctioned racial discrimination since its founding.

MacLean’s work has already provoked multiple critical responses documenting factual errors, the misuse of sources, and even the alteration of quotes to change their meaning. We may add “sins of omission” concerning Hutt to the growing list of the book’s faults. The enthusiasm with which a number of academics have repeated MacLean’s most abusive charges against Buchanan is an

embarrassing commentary on the degraded state of evidentiary practices in the history profession. Unfortunately, a shared zeal for MacLean’s aggressive ideological message appears to be the root cause for this abandonment of basic scholarly standards.

But there we find another of MacLean’s mistakes. She is writing for the politics of the current moment—a moment of frenzied partisanship in which bias-affirming red meat is especially welcome to left-wing activists, who look forward to the approaching election cycle. The core of Buchanan’s intellectual contribution is thus entirely lost on MacLean, as he had little invested in such frivolous concerns. He was writing, as he so often reminded his students and colleagues, for the ages.

- 1 G. Warren Nutter and James M. Buchanan, “The Economics of Universal Education,” Thomas Jefferson Center for Political Economy, University of Virginia, February 10, 1959.
- 2 Buchanan to Arthur Seldon, May 1 and May 31, 1984, Institute of Economic Affairs Papers, Hoover Institute, Box 162.2.
- 3 William H. Hutt, “Unanimity versus Non-Discrimination (As Criteria for Constitutional Validity),” *South African Journal of Economics* 34.2 (1966): 133–47.
- 4 John Greenbacker, “Students Missed a Chance to Learn,” *Daily Tar Heel*, March 4, 1966.
- 5 James J. Kilpatrick, “Our Man at the Golliwog Lounge,” *National Review*, March 22, 1966.
- 6 Hutt, “Civil Rights and Young Conservatives,” *Modern Age* 10.3 (1966): 231–39.
- 7 *Ibid.*, 232.
- 8 *Ibid.*, 236.
- 9 James M. Buchanan and G. Warren Nutter, “Minimum Wage Laws Termed Undesirable,” *Richmond Times-Dispatch*, February 25, 1966.
- 10 James M. Buchanan, “Economist—and Economists,” *National Review*, September 7, 1965.

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