

Civic Virtue without Politics:
Reflections on Jason Brennan's *The Ethics of Voting*

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1. Introduction

The 2012 U.S. presidential campaign was long on intervention and short on principle. No viable candidate stood for the U.S. Constitution. Friends of liberty were left wondering what to do: Should I vote for Ron Paul, even if he doesn't stand a chance? Should I abstain from voting, because I don't want to give legitimacy to a broken system? Should I vote for the least awful candidate? Jason Brennan's *The Ethics of Voting* addresses some of these questions.¹ His book offers flashes of brilliance that can go far in advancing liberty, though a few problems detract from the book's insight. Section 2 summarizes Brennan's argument, Section 3 highlights the book's strengths, Section 4 discusses weaknesses, and I offer a conclusion in Section 5.

2. Summary

The book opens with an outline of various arguments for the conclusion that voting is a duty (Chapter One). Brennan picks apart these theories, relying mostly on the concept of "extrapolitical civic virtue," by which the common good can be advanced outside of politics, and sometimes better so, through the division of labor and comparative advantage (Chapter Two). He then argues that voters have a duty to vote (a) for the common good and (b) with "sufficient epistemic justification" (Chapter Three), or to abstain from voting (Chapter Four). In Chapter Five, Brennan defines the common good (with delicious narrowness) as a combination of institutions—such as social order, shared ethical/social norms, rule of law, and markets—that are generally to everyone's advantage. He then discusses the ethics of buying and selling votes (Chapter Six), concluding that such action is acceptable, so long as it fulfills the criteria established in Chapter Three. Moving from the normative to the empirical, Brennan closes with some observations about voter behavior and concludes that the book's goal "has been to defend certain

¹ Jason Brennan, *The Ethics of Voting* (Princeton, NJ: Princeton University Press, 2011).

normative claims” rather than “behavior modification,” humbly recognizing that if “voters behave badly, we will need more than a philosophy book to fix that.”²

3. Strengths

The main contribution of *The Ethics of Voting* is its debunking of silly ideas on voting. Brennan lumps these into a “folk theory of voting,” which holds that it is a civic duty to vote and that it is wrong to buy and sell votes. In the tradition of great Public Choice economists, Brennan demolishes such romantic visions of politics. To the extent that his ideas catch on, Brennan will have done much to counter the dangers of analyzing politics with wishful fantasy rather than disciplined reality.

The book’s single greatest strength—and its single greatest potential contribution to liberty—comes from its strong case for an extrapolitical conception of civic virtue. Using a combination of common sense, Austrian School epistemology, and elementary opportunity-cost analysis, Brennan reminds us that there are many ways beyond the political realm to advance civic virtue, and that political goods can be produced directly *and* indirectly. In an economy where everybody produces political goods, we would all starve, because those who produce political goods require the services of others for clothing, food, transportation, artistic and intellectual production, etc. What is more, civic virtue can be advanced directly, but outside of politics: “In liberal societies, there are many ways to be a good citizen. Some of these ways are the stereotypical republican ones: voting well, campaigning, pushing for institutional improvements, or engaging in national, military or political service.” (I suggest below that many of these ways are in fact harmful to others). “But,” Brennan continues, “many activities stereotypically considered private, such as being a conscientious employee, making art, running a for-profit business, or pursuing scientific discoveries, can also be exercises of civic virtue. For many people, in fact, these are better ways to exercise civic virtue.”³ In the words of E. M. Forster, “[T]wo cheers for Democracy: one because it admits variety and two because it permits criticism. Two cheers are quite enough: there is no occasion to give three.”⁴ I’m not quite convinced that democracy quite deserves two cheers, but markets, comparative advantage, and the division of labor—as so deftly applied to civic virtue by Brennan—certainly deserve three. One is reminded of Deirdre McCloskey’s bourgeois virtues.⁵

² Ibid., p. 177.

³ Ibid., p. 44.

⁴ E. M. Forster, “What I Believe,” in E. M. Forster, *Two Cheers for Democracy* (New York: Harcourt Brace & Company, 1951), p. 70.

⁵ Deirdre McCloskey, *The Bourgeois Virtues: Ethics for an Age of Commerce* (Chicago, IL: University of Chicago Press, 2006).

There is perhaps nothing more grating to a political economist than the blatherings of those who do not understand Public Choice theory. Brennan, to his great credit, largely eschews such talk in favor of a vision of politics that actually makes sense. In that spirit, he gores the sacred cow of vote-selling and -buying, arguing that neither is wrong, so long as it does not lead to the violation of his basic enjoinder to vote well. I would have gone further than Brennan, by commodifying votes entirely—because, as I argue below, politics amounts to robbing Peter to buy Paul’s vote, so we may as well be honest about the transaction—but Brennan is to be commended for his case, narrow though it may be.

4. Weaknesses

My major concerns with Brennan’s book are the following: first, the philosopher’s over-emphasis on intention over outcome; second, problems with his duty argument; and third, a lingering over-emphasis on politics. In addition, I note two quibbles: a residual flavor of romance, and a hasty side-stepping of the “Smith-Mandeville” problem.

a. Intention or outcome?

Before I launch into my first concern, a caveat is in order. I am a political economist, not a professional philosopher, so my vision of the world is necessarily clouded by my *déformation professionnelle* (as is, of course, the author’s—although, to his great credit, he obviously has a deep and broad understanding of economics). Nevertheless, I found myself frequently puzzled by Brennan’s emphasis on intention over outcome, that is, his worry about good behavior for the wrong reasons. For example, Brennan defines “fortuitous voting” as voting “the right way for the wrong reasons” or voting “for what are in fact beneficial policies or candidates likely to enact beneficial policies, but [without] sufficient justification to believe that these policies or candidates are good.”⁶ Granted, fortuitous voting is, well, fortuitous, and could eventually lead to bad decisions, since it’s based on dumb luck. But, if *ex hypothesi*, it always provides good outcomes, then I see nothing wrong with it. In fact, we should all want *more* fortuitous voting, which is certainly preferable to bad outcomes based on good justifications—the proverbial road to hell is, after all, paved with good intentions. Likewise, Brennan dismissively writes that the “extrapolitical conception does not have the silly implication that anyone who promotes the common good has civic virtue,”⁷ as it requires benevolence and motivation.⁸ I beg to differ. What’s so silly

⁶ Brennan, *The Ethics of Voting*, p. 79.

⁷ *Ibid.*, p. 60.

⁸ *Ibid.*, p. 59.

about that? I am much more concerned with the good produced than with the underlying intention. A selfish banker produces more “common good” by greasing the wheels of commerce, if only for his own bottom line, than does a selfless poll worker. Brennan concludes that the “subject matter of morality is not just the rightness and wrongness of actions but also the goodness and badness of different motives.”⁹ We will have to agree to disagree on this issue.

b. Duty problems

I find the book’s main thesis—that we have a duty to vote well—problematic. Fortunately, I also find it to be a secondary claim, and vastly overshadowed by Brennan’s brilliant contribution to a theory of civic virtue without politics. Brennan goes too far, though, with his claim that “citizens ought to have maximal civic virtue and that they should be prepared to undertake great sacrifices for the common good.”¹⁰ It is not clear to me why civic virtue is a positive duty, as opposed to a negative duty of respecting the rights of others. This comes close to the free-rider theory of voting obligation, which Brennan so deftly dismisses in Chapter Two. It also has a most interesting flavor of an ancient conception of politics, that is, liberty understood as political participation over modern liberty as autonomy.¹¹

There is also a contradiction between the duty to abstain when one cannot vote well and the claim that it is acceptable to vote for the lesser of two evils even when both options are bad.¹² In fact, I would argue for abstention over good voting, because participation in elections can amount to “identifying oneself” with immoral policies.¹³ Brennan dismissively writes that “many people think that democracy is just a system in which citizens attempt to exploit one another.”¹⁴ Well, it, in fact, is just that. In the words of H. L. Mencken, “Government is a broker in pillage, and every election is a sort of advance auction in stolen goods.”¹⁵ I, for one, do not care to give

⁹ Ibid., p. 87.

¹⁰ Ibid., p. 61.

¹¹ See Benjamin Constant’s brilliant essay, “The Liberty of the Ancients Compared to the Liberty of the Moderns,” in *Constant: Political Writings*, ed. Biancamaria Fontana (New York: Cambridge University Press, 1988), pp. 309-26.

¹² Brennan, *The Ethics of Voting*, p. 76.

¹³ Ibid.

¹⁴ Ibid., p. 112.

¹⁵ H. L. Mencken, “Sham Battle,” in *On Politics: A Carnival of Buncombe*, ed. Malcolm Moos (Baltimore, MD: The Johns Hopkins University Press, 1996), p. 331.

legitimacy to the auction by participating in democracy, even by voting for the lesser of two evils.

Yet another problem here is the proposed need for “sufficient epistemic justification.”¹⁶ For example, Paul Krugman won a Nobel Prize in Economics well after he had abandoned sound economics in favor of populist quackery; presumably, though, he counts as an expert.¹⁷

c. *Democracy as sideshow*

Brennan is no uneducated fool, no pie-in-the-sky political philosopher living in a fantasy world of informed voters, noble politicians, and a neutral state. He goes very far in advancing liberty and Public Choice theory with his extrapolitical conception of civic virtue. I understand that this is a book about the ethics of *voting*. Still, the book has an unnerving overemphasis on politics over markets, and on citizens over consumers (or members of civil society). For example, Brennan writes that “[v]oting is the principal way that citizens influence the quality of government.”¹⁸ Is it really? What about lobbying, education, or whistleblowing?¹⁹

Brennan seems to assume that politics is (or can be) inherently good, rather than redistributive (or, more bluntly, confiscatory). I have my doubts, and fall back on Vincent Ostrom’s observation that

the very nature of government involves the legitimate use of force in ordering human relationships. The use of force in human relationships is of the nature of an evil. The use of instruments of evil as a necessary means to realize the advantage of ordered social relationships creates a fundamental moral dilemma that can be appropriately characterized as a Faustian bargain. A reasonable expectation, given the Faustian bargain, is that government will fail.²⁰

¹⁶ Brennan, *The Ethics of Voting*, p. 70.

¹⁷ For the poor reliability of experts, see David Levy and Sandra Peart, “Soviet Growth and American Textbooks: The Endogenous Past,” *Journal of Economic Behavior and Organization* 78 (April 2011), pp. 110-25; Friedrich Hayek, “The Use of Knowledge in Society,” *American Economic Review* 35, no. 4 (September 1945), pp. 519-30; and Friedrich Hayek, *The Counter-Revolution of Science: Studies on the Abuse of Reason* (Indianapolis, IN: Liberty Fund, 1979).

¹⁸ Brennan, *The Ethics of Voting*, p. 3.

¹⁹ I guide the interested reader to F. A. Hayek’s essay, “The Intellectuals and Socialism,” *University of Chicago Law Review* (Spring 1949), pp. 417-33.

²⁰ Vincent Ostrom, “Why Governments Fail: An Inquiry into the Use of Instruments of Evil to Do Good,” in *The Theory of Public Choice – II*, ed. James M. Buchanan and Robert D. Tollison (Ann Arbor, MI: University of Michigan Press, 1984).

So, Brennan's argument that "anyone can have civic virtue, even if he lacks the ability to do politics" is refreshing in a world of classical philosophers and modern romantics, but somewhat frustrating in a post-*The Calculus of Consent*²¹ world. I would take Brennan's argument one step further and argue that anyone can have civic virtue, *especially* if he lacks the ability to do politics. The so-called "stereotypical republican" activities traditionally associated with civic virtue are, for the most part, damaging, if politics is primarily organized plunder.²²

Brennan raises the worry that vote-selling might amount to political prostitution.²³ Why worry about that, when all of politics is prostitution anyway? I wonder what Brennan's argument would look like if he doffed entirely his political philosopher's hat, if he shed entirely the classical vision of liberty as participation over autonomy, if he dropped completely the lingering atavism of noble politics. What if he started with, say, Murray Rothbard's assumption that "the state is a gang of thieves writ large" or Frédéric Bastiat's assessment that "the state is the great fiction through which everybody tries to live at the expense of everybody else"?²⁴ He might, in that case, be more sympathetic to proceduralist over substantive defenses of democracy.²⁵ I, for one, tend to be sympathetic with political scientist Russell Hardin's claim that democracy is a sideshow within constitutional coordination, or Friedrich Hayek's emphasis on democracy as a procedure for selecting leaders within the very narrow confines of constitutionally protected rule of law.²⁶ History has amply demonstrated that democracy is likely to lead to ugly outcomes. One is left with Alexis de Tocqueville's sad but prescient warning:

²¹ James M. Buchanan and Gordon Tullock, *The Calculus of Consent: Logical Foundations of Constitutional Democracy* (Ann Arbor, MI: University of Michigan Press, 1962).

²² See Frédéric Bastiat, *The Law* (Auburn, AL: Ludwig von Mises Institute, 2007).

²³ Brennan, *The Ethics of Voting*, p. 151.

²⁴ Murray Rothbard, "The State versus Liberty," accessed online at: <http://www.econlib.org/library/Bastiat/basEss5.html>; and Frédéric Bastiat, *Selected Essays on Political Economy*, accessed online at: <http://www.econlib.org/library/Bastiat/basEss5.html>, 5.20.

²⁵ Brennan, *The Ethics of Voting*, p. 115.

²⁶ See Russell Hardin, *Liberalism, Constitutionalism, and Democracy* (New York: Oxford University Press, 2003); and Friedrich Hayek, *The Constitution of Liberty* (Chicago, IL: University of Chicago Press, 1960).

A democracy cannot exist as a permanent form of government. It can only exist until the voters discover that they can vote themselves largesse from the public treasury. From that moment on, the majority always votes for the candidates promising the most benefits from the public treasury with the result that a democracy always collapses over loose fiscal policy, always followed by a dictatorship. The average age of the world's greatest civilizations has been 200 years.²⁷

d. *Minor concerns*

For all his understanding of politics, and for his good contribution to Public Choice theory, Brennan can't help but retain a hint of romance when he writes about government; he may be a cynical lover, but he hasn't quite given up the courting. For example, I shuddered through the first 111 pages as he casually bandied about the terrifying expression "common good," with only a brief definition of it halfway through.²⁸ The explanation in Chapter Five is lovely, but I have been scarred by too many assertions, from dirigistes of the Left and the Right, that the "common" good involves wide-scale redistribution of income, massive government intervention in the economy, a ban on pornography, or anti-homosexual legislation. Likewise, the very notion that citizens might have a "debt to society" or that "society may want [somebody] to contribute to the common good" is vacuous and nonsensical—and surprising coming from a thinker with Brennan's understanding of politics and methodological individualism. To be sure, he tempers his claim by writing that he is "unsure whether citizens really do have debts to society, as opposed to particular people."²⁹ Brennan should not need reminding, however, that society is a mental construct—and nothing more. Society cannot act; society cannot have desires; society cannot be owed anything. Reification—even in Brennan's gentle, tempered manner—is dangerous and meaningless.

I also wonder whether Brennan dismisses a bit too hastily the "Mandeville-Smith" solution as applied to politics. Adam Smith famously writes in *The Wealth of Nations* of a common good emerging from private interest:

Every individual . . . generally, indeed, neither intends to promote the public interest, nor knows how much he is promoting it. By directing [an] industry in such a manner as its produce may be of the greatest value, he intends only his own gain, and he is in this, as in many

²⁷ The quotation is actually apocryphal, and may be Alexander Fraser Tytler's, although it is commonly attributed to Tocqueville, accessed online at: http://en.wikiquote.org/wiki/Alexander_Fraser_Tytler.

²⁸ Brennan, *The Ethics of Voting*, p. 48.

²⁹ *Ibid.*, p. 49.

other cases, led by an invisible hand to promote an end which was no part of his intention . . . [In sum,] it is not from the benevolence of the butcher, the brewer, or the baker, that we expect our dinner, but from their regard to their own interest. We address ourselves, not to their humanity but to their self-love, and never talk to them of our necessities but of their advantages.³⁰

Bernard Mandeville took the argument one step further (if not chronologically) by arguing that private *vices* (rather than interests) could lead to public benefits.³¹ Brennan aptly points out that this works in the market, but he is much more skeptical about extending the invisible hand to politics, ostensibly because political decisions are neither voluntary nor internalized.³² While this is correct, I wonder whether the invisible hand might indeed apply to politics, if the scope of politics were severely restricted, say, to the limited and enumerated powers of the U.S. Constitution or to the “night-watchman” (minarchist) function of security.

5. Conclusion

Brennan is to be commended for his deep knowledge of both Public Choice and general economics, and for his important marginal contribution to this literature. The book’s weaknesses are comfortably outweighed by its contributions, especially in resolving so elegantly the question of extrapolitical civic virtue, and planting the seeds of debate on vote-selling and -buying.

Brennan does, however, leave us with an interesting Catch-22. His argument can be paraphrased as follows: Voters should vote for the common good or refrain from voting, and the common good involves a narrow set of institutions and norms that permit a commonly beneficial space. In other words, the common good amounts to “a wise and frugal Government, which shall restrain men from injuring one another, shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned.”³³ Paraphrasing even more, the common good can only be reached through a minarchist-libertarian government with extremely limited functions. If that is so, voting no longer

³⁰ Adam Smith, *An Inquiry Into the Nature and Causes of the Wealth of Nations*, ed. R. H. Campbell and A. S. Skinner (Indianapolis, IN: Liberty Fund, 1982 [1776]), IV.2 and I.2.

³¹ Bernard Mandeville, *The Fable of the Bees or Private Vices, Publick Benefits*, two vols., ed. F. B. Kaye (Indianapolis, IN: Liberty Fund, 1998 [1732]).

³² Brennan, *The Ethics of Voting*, pp. 124-27.

³³ Thomas Jefferson, First Inaugural Address, accessed online at: http://avalon.law.yale.edu/19th_century/jefinau1.asp.

involves redistribution or coercion, and amounts merely to selecting the officials who are most likely to discharge the government's limited functions efficiently and least likely to stray beyond their constitutional confines. In other words, if voters follow Brennan's dictates, voting becomes largely irrelevant, as it no longer entails social engineering, legalized plunder, and central planning.³⁴

³⁴ Special thanks to Joshua Hall for organizing this symposium, and the panel at the 2012 meeting of the Association of Private Enterprise Education (APEE). For feedback, thanks to my co-panelists Randy Holcombe and Ezequiel Spector. For feedback and editing, thanks to Sarah Duis, Kevin Regan, Victoria Hill, Emilie Houston, and Mickey Riley. Finally, thanks to Jason Brennan for his good-natured response to comments (and for writing the book). The usual disclaimer applies.

