Choice and Consequence

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Preface

I ONCE RECEIVED an award in political economy and expected to be asked, What for? Instead I was asked, What is political economy?

I could think of two answers. They differ in emphasis. One is economics in a context of policy, where the policy is more than economics but the "more" cannot be separated from the economics. Nuclear energy is an example, or foreign aid, or the military draft. The second is working on a problem area to which an economist can bring a little insight that, without offering solutions, helps in finding a solution or in facing an issue, even though the problems themselves would not usually be identified as economics. In these days of interdisciplinary committees there is rarely a problem that doesn't appear to demand—in addition to lawyers and anthropologists and biologists—an economist. The economist is usually invited because of a perception that, whatever else may be important, there are some important economics. The economist who joins up usually finds the "whatever else" more engaging than the economics; though he pays his entrance fee in economics, he gets his satisfaction from the whole problem.

I have been in studies of smoking and health; the intriguing issues are not the economics of tobacco farming and tobacco taxes. I have been in symposia on medical ethics, like the "right to die," and it was not the rising costs of hospital care that held my attention. I have helped with studies of biomedical technologies, faces. Like most economists I am attracted to this model, at least as a benchmark, because when it works we get a lot of output from minimal input using a standard piece of intellectual machinery.

I have been intrigued by cases in which that model seems not to work well. The two essays on self-command and one on dying examine situations of choice and consequence in which that model leaves too much unexplained. Preoccupation with these intriguing special cases probably does not mean that I am any less loyal to economics than other economists of my age, but only that I am more tantalized by the unusual. The final essay is a somewhat playful attempt to recognize that our minds are not only problem-solving equipment but also the organ in which much of our consumption takes place.

In selecting these essays, written over a period of fifteen years, I relied on the judgment of Michael Aronson, General Editor of Harvard University Press, and got some decisive advice from Sidney G. Winter, Professor of Economics at Yale. It was Sid Winter who pointed out that the essays went nicely in pairs, though most of them had not been written that way. The exception is Chapter 15, the most recent one, and I have a superstitious feeling that I have not finished with its subject.

I have sometimes been annoyed in citing or assigning, or just rereading, somebody's article that had been stripped, updated, or expurgated for republication and no longer said what I thought it had said. And I have an uneasy feeling that it is cheating to purge predictions that did not come true and judgments I now think were unwise. So everything here is almost the same as when first published. The entire manuscript had one more round of tasteful copyediting by Ann Louise McLaughlin, Senior Editor at Harvard University Press. Some references no longer current were dropped and some quaint terminology, like "dope" for hard drugs, has been modernized. I resisted the temptation to inflate the "reasonable tip" for a parlor-car steward, letting it stand at fifty cents. And younger readers will be puzzled by a mysterious reference to laws against the sale of yellow margarine.

In a few places I have altered the tense of a verb or inserted a bracketed remark to orient the reader historically. Chapter 2 was written well into the era of airplane hijacking, but before introduction of the hand luggage inspection we now take for granted.

Chapter 7 was written an age ago in the legal history of abortion. What I wrote I still like, but the context may seem strange even when you make allowance for the passage of time, the upheaval having been so extensive, so rapid, and so little anticipated. Chapter 9 has an innocent charm in its treatment of the market for what used to be called "filthy pictures"; the few pages survive as a period piece. Occasionally a phenomenon waxes, wanes, and waxes again; if you are in phase your results may seem as pertinent—not still, but again—as when you wrote them. With ABM in mind I said ten years go, "It is anomalous that in the last few years the bargaining-chip idea became a subject of popular discussion precisely because the Executive Branch put forward positions that it explained at home to be bargaining-chips." I can say it again: different weapon, different president, same tactic.

There is no way I can thank the many people who offered me help or encouragement or opportunity, or whose influence I felt, during the long period in which these essays were originally composed. But as I write this preface I have just learned of the death of Willi Fellner; and I do know that his kindness to me and his influence are unsurpassed. Everyone who knew him will understand why I have dedicated this book to him.

October 1983 T.C.S.

1 Economic Reasoning and the Ethics of Policy

POLICY JUDGMENTS are easier to come by, the farther we are from our goals. If there are only two directions and we know which is forward, and there are limits to how fast we can go, no fine discrimination is needed. If aid to the poor is far too little, highway traffic far too fast, building codes far too lax, teachers' salaries far too low, or the rights of defendants far too little observed, we know what we need to know to get moving. We can worry about how much is enough when we get close, if we ever do. Meanwhile we can push on.

Knowing what to do is also easy if our capabilities are growing and our horizons receding, and yesterday's goals will be outgrown tomorrow. Like a family on a rising income, we needn't worry about overshooting: if we buy too big a house today, we'll afford it tomorrow.

I have often been glad that I wasn't in charge. It is easy enough to see plainly that there is too much inequality (or illiteracy, or ill health, or injustice) and to help to reduce it, knowing that despite all efforts too much will remain. But if it were up to me to decide *how much* inequality is not too much, or how much injustice, or how much disregard for the elderly or for future generations, I'd need more than a sense of direction.

Discomfort also arises when, intent on speeding toward an ever-receding goal, the goal suddenly stops receding and we threaten to overshoot. There appears to be a widespread belief that overshoot is what we've done.

Worse, there is retrospective disenchantment with the mood that motivated the effort and set the goals in the first place, back in the 1960s. There is chagrin at having been too enthusiastic about what could be accomplished. There is disaffection toward those whose demands are insatiable and whose gratitude is inconspicuous. Whatever the reason, there is a reexamination of policy, especially policy that reflects social obligation. There is retrenchment in the air and on the ballot, and second thoughts about what we can afford for ourselves and what we owe others.

It isn't all sour grapes. Our projection of the possible has shrunk. Our economy is not behaving. Growing income no longer promises to make light of our burdens in another decade or two. We do not know what has been depressing our productivity and can't be sure that, whatever it is, we shall recover soon. Inflation has a mind of its own. The demographics of the labor force are against us, and at the same time the rules of the game allow endless numbers of people from faraway places, once over the line, to touch base and be safe.

So it is not surprising that commitments are being reassessed, "tradeoffs" discussed, costs weighed anew against benefits, and even constitutional initiatives promoted to enforce a policy of containment. Techniques of policy analysis that recently were despised as mean spirited and stingy by people who preferred to base policy on vision and generosity are being superseded by what used to be called meat-axes and straitjackets.

These are not "hard times" in the old sense. In this country life is still good and getting better for most people. But it is not measuring up to expectations. They might better be called "difficult times": it is the problems, not the times, that are hard. And among the hard issues are some ethical ones. They may not be the hardest or the most important, but they are important and they are hard.

I have been asked how economic reasoning can help, or how it misleads, in facing, solving, or avoiding the ethical components of policy. Does economic reasoning itself represent a particular ethic; or, if not the reasoning, the people who use it?

The Ethics of Policy

What I mean by the ethics of policy is the relevant ethics when we try to think *disinterestedly* about rent control, minimum wages, Medicaid, food stamps, safety regulations, cigarette taxes, or the financing of Social Security.

Farmers have an interest in price supports, laundry operators in minimum-wage laws, doctors in the financing of Medicare, and electric utilities in clean-air regulation; and until my youngest child is safely overage I shall have a personal interest in the draft. When people take sides on a leash law we don't expect them to argue it the way they discuss the space shuttle. I want to define the ethics of policy as what we try to bring to bear on *those issues in which we do not have a personal stake.*

It is hard to find issues that are absolutely unsoiled with personal interest. On abortion and capital punishment our personal ethics usually dominate. Food stamps affect us, whether we qualify or not, because they cost money. Someone meticulously interested in his own welfare could find at least a minuscule personal interest in a UN program for alphabet reform.

Still, most of us on many issues want to think and to talk as though we are not interested parties. We want to discuss welfare and national defense and school construction and unemployment benefits and automobile-mileage standards as though we were not personally involved. There will be an unmistakable element of social obligation; nobody can discuss income-tax rates or welfare levels without a participatory awareness that the poor, the unfortunate, the disadvantaged, and the otherwise deserving have some legitimate claim on those among us who can afford to help. But although few issues are without financial impact somewhere, and most big issues involve big amounts of money, we can often confine our personal stake to an aggregate and nonspecific social obligation. Our position in the income scale affects our conditioning as well as our reasoning, but beyond that we can try to be neutral, removed, vicarious, impartial, judicious.

Incidentally, I say this only because I expect this book to be read by a special set of people. Most people probably devote most of their policy interest to the things that concern themselves and do it with a clear conscience. They do not get drawn into ethical abstractions. They may have strong ethical views on a limited number of subjects that do not flow from their stake in the outcome, but on matters called "bread and butter" they accept the ethic that in politics it is fair to look out for your own interest, expecting others to look out for theirs. People who read or write books like this one, though, usually try to take distributive issues seriously but not personally. Students, for example, rebelling against higher tuition are reluctant to say it is to save their own money; they join the picket line in behalf of somebody poorer. And professors concerned to protect their *own* salaries are thought not to be playing the ethical game. But the tobacco farmer concerned solely with his own family's welfare is excused from scholarly disinterest.

The Ethics of Pricing

My students always like gasoline rationing. They believe in it on ethical principles. (They say they do, and they sound as if they do.) Evidently the principles lie deeper than rationing itself; the students must have some notion of what happens with rationing and without it, or with some specific alternative, and they must have a preference about the outcome. Students know that there are gainers and losers; their ethics appear to relate to who gains, who loses, and how much.

I can talk most of them out of it. It takes longer than fifty minutes, and I never try it if I have only a single class hour. They probably distrust my ethical principles and think I do not care about what they care about, or care as much. They very likely think my ethics are "process oriented" and the free market enchants me, while they are "consequences oriented" and don't like the results.

Time permitting, I accomplish their conversion in two stages. I warn them in advance that I am going to show them that if they like rationing there is something they should like better. I join them in believing the free market needn't be let alone, but I do propose what is sometimes called "rationing by the purse." I suggest we let the price of gasoline rise until there is no shortage, and capture the price increase with a tax. Because that looks hard on the poor my students do not like it.

The first step in subverting their ethical preference is to propose that under any system of rationing that they might devise—and I take a little while to show them that it is not easy to design a "fair" system of rations—people should be encouraged to buy and sell ration coupons. This proposal has little appeal. The rich will obviously burn more than their share of gas, the poor being coerced by their very poverty into releasing coupons for the money they so desperately need. But eventually students recognize that the poor, *because* they are poor, would like the privilege of turning their coupons into money. Where gas coupons can only provide them gas at a discount, transferable coupons can buy milk at a discount. If it is unfair that the poor cannot drive as much as the rich, it is the poverty that is unfair, not the gasoline system.

That principle established, we observe that coupons are worth cash, whether you buy them, sell them, or merely turn in your own at the local service station. If gas at the pump is $1.25 and coupons sell for 75 cents, the net price of gasoline is $2.00; anyone who gets ten gallons' worth of coupons from the Department of Energy is getting a clumsy equivalent of $7.50 cash. The station that sells ten gallons receives $12.50 in money and $7.50 in coupons that could have been traded for cash. What we have is a 75-cent tax payable at the pump in special money, and a cash disbursement to motorists paid in this special money. We could just as well do it all without the coupons.

There is more to it than that, but the "more" usually does not involve much ethics. It isn't that we resolved an ethical issue. We merely lifted the veil of money and discovered that the ethical issue we thought was there was not. Or, perhaps better, the ethical issue that we associated with rationing was tangential to that procedure. Whatever the compensatory principle is that appeals to the students' sense of fairness, there are many procedures that can achieve it, some better than others, rationing neither worst nor best; and once it is all converted to money, it is easier to see what some of the alternatives are and whether they are ethically superior. Superficially it may seem wrong to give gas coupons to people who don't drive; but if the gasoline is taxed instead and the proceeds rebated to the public, we can judge the ethics of alternative distributions of the proceeds, not just those based on drivers' licenses and car registrations.

Persuasion is a little harder with rent control, partly because students do not like landlords. We try to see whether there might be something better, even in principle; whether people seeking apartments are losers under rent control; whether some nonevictable tenants in rent-controlled apartments would like to cash in their precious property right but are locked in because their claim is to a specific apartment. Usually by the time we have identified all the interested parties and the likely magnitudes of their interests, and have considered a few alternative ways to accomplish the things rent control is intended to accomplish, the liveliness of the issue is undiminished but the ethical loading has mostly evaporated.

I dislike "counting coup" over vanquished students in order to display, and to hope you are impressed with, some of the ways that economics can contribute to the clarification of ethical issues. But at least the claim for economics is modest: it often helps diagnose misplaced identification of an ethical issue. And it does this solely by helping to identify what is happening. It is not clarifying ethics; it is only clarifying economics.

Let me give a few more examples. Minimum-wage laws are thought to have ethical content. But if their main effect, or even their purpose, is to keep the young and the old and the otherwise least valuable employees from working at all, the ethical issues may not be what the proponents thought they were. Making utilities pay the full cost of smoke abatement seems eminently fair, unless the costs are borne by consumers of electricity and the clean air enjoyed by whoever lives downwind, in which case we may want to know who lives downwind and who buys the electricity, the utility company not having much interest in the matter. (Even if the electricity is procured mainly by business, we don't know yet who is paying until we know who buys the products, or who will settle for lower wages when the other costs rise.) Even our feelings about people who evade the income tax by not declaring tips or typing fees or truck garden sales will depend on whether the system mainly lowers wages and prices in bars and restaurants and reduces the cost of lettuce or of getting theses typed.

The Clash between Equity and Incentives

Policy issues are preponderantly concerned with helping, in compensatory fashion, the unfortunate and the disadvantaged. We have welfare for those who cannot work, unemployment benefits for people out of jobs, disability benefits for the disabled, hospital care for the injured and the ill, disaster relief for the victims of floods, income tax relief for the victims of accidental loss, and rescue services for people who find themselves in danger. Social Security is based on the premise that people will arrive at post-working age with inadequate savings to live on.

An unsympathetic way to restate this is that a preponderance of government policies have the purpose of rewarding people who get into difficulty. People are paid handsomely for losing their jobs; if you smash your car the IRS will share the cost of a new one; and if your injury requires hospitalization you can stay in an air-conditioned room as long as the doctor certifies that you will recover better if you don't go home. By treating the absence of a "man in the house" as a special grievance for a woman with dependent children, families have even received a bonus for fathers' leaving home.

There is no getting away from it. Almost any compensatory program directed toward a condition over which people have any kind of control, even remote and probabilistic control, reduces the incentive to stay out of that condition and detracts from the urgency of getting out of it. It is a rare ameliorative program that has no visible way, by its influence on behavior, to affect the likelihood or the duration or the severity of the circumstances it is intended to ameliorate. And most commonly—not always but most commonly—the effect on behavior is undesired and in the wrong direction.

To keep the issue in perspective we can observe that private insurance, even the informal kind that allows us to ask for help when we run out of gas, can have the same adverse influence on behavior. People more willingly drive on slippery roads the more nearly complete their collision coverage; back doors are unlocked if the homeowner's policy is liberal in its provisions for burglary. I am more indulgent of my sore throat if my employer provides an ample quota of sick days.

There is no use denying it in defense of social programs. As is usually the case with important issues, principles conflict. On the one hand, we want to treat unemployment as a collective liability, sustaining the family at public expense when working members lose their livelihoods. And on the other, we want not to induce people to get conveniently disemployed or to feel no need when unemployed to seek work vigorously. What helps toward one objective hurts toward the other. Offering 90 percent of normal pay can make unemployment irresistible for some, and even a net profit for those who can moonlight or work around the home. Providing only 40 percent over a protracted period makes living harsher than we want it to be. There is nothing to do but compromise. But a compromise that makes unemployment a grave hardship for some makes it a pleasant respite for others, and we cannot even be comfortable with the compromise.

Decent welfare in a high-income state is bound to be at a higher level than in a low-income state. It induces migration. Even if we favor migration, the state that finds more and more migrants on its welfare rolls did not intend to reduce the poverty of other states by helping any and all who could get up and move. But to provide an unattractive level of benefits would condemn the intended beneficiaries to a level of living below what their home state wanted to provide them. Again two principles conflict.

There are exceptions to this tendency of inducing the wrong behavior. Federal deposit insurance was designed in the 1930s to provide restitution to people whose bank deposits were lost; by generating confidence, the insurance reduced precisely the behavior that caused the problem. And a benefit strictly related to age in years, though it may reduce efforts to save, at least can have no effect on the speed with which people grow older. But the tendency is pervasive. It accounts for a good part of the escalation of medical costs.

I do not know whether one of the principles, helping the disadvantaged, should be considered ethical and the other, not letting them get away with it, not ethical. Much of the discussion about welfare rights, about not proportioning medical care to the ability to pay, and about not producing a "work ethic" by threatening the unemployed with their families' starvation, is in an ethical mode. To a lesser extent, ethical considerations are evoked over the encouragement of malingering, rewarding those who beat the system, or inducing dependence on the state. Once it is recognized, however, that two principles conflict, that two desiderata point in opposite directions and neither is so overwhelming that the other can be ignored, that both objectives have merit, and even that there is no ideal compromise because there is a diversified population at risk, the ethical contents of the principles begin to seem tangential to the inescapable problem of locating an acceptable compromise.

It is a universal problem. It won't go away. It can't be neglected. It isn't even unique to *public* policy. The word "compromise" has those two different meanings. Compromising *a* principle sounds wrong. Compromising *between* principles is all right.

Valuing the Priceless

Among the poignant issues that policy has to face, explicitly or by default, are some that seem to pit finite cost against infinite value. What is it worth to save a life? How much to spend on fair trial to protect the innocent against false verdicts? What limits to put on the measures, some costly in money and some in anguish, to extend the lives of people who will die soon anyway or whose lives, in someone's judgment, are not worth preserving?

These issues are ubiquitous. They arise in designing a national health program. They are directly involved in decisions for traffic lights, airport safety, medical research, fire and Coast Guard protection, and the safety of government employees. They are implicitly involved in regulation for occupational safety or safe water supplies, in building codes and speed laws, even helmets for motorcyclists—because somebody has to pay the costs.

It is characteristic of policymakers, especially at the federal level, that they usually think of themselves as making decisions that affect others, not themselves. Hurricane and tornado warnings are for those living where hurricanes and tornados strike; mine safety is a responsibility of legislators and officials aboveground concerning the lives of people who work underground. Policies toward the senile, the comatose, the paralyzed, and the terminally ill are deliberated by people who are none of the above. Occasionally the legislator debating a 55-mile speed limit pauses to think whether the benefits in safety to his own family will be worth the added driving time, but if he or she is conscientious even that calculation may be surreptitious.

The situation is different when a small community considers a mobile cardiac unit or a new fire engine. The question then is not what we ought to spend to save someone else's life but what we can afford to make *our* lives safer. Spending or stinting on the lives of others invites moral contemplation; budgeting my expenditures for my own benefit, alone or with neighbors for the school safety program, is less a moral judgment than a consumer choice, a weighing of some reduction in risk against the other things that money will buy.

There is a suggestion here. Maybe we can reduce the unmanageable moral content of that paternalistic decision at the national level by making it more genuinely vicarious. Instead of asking what society's obligation to *them* is, we should ask how *they* would want *us* to spend *their* money. In deciding how much to require people to spend on their own seat belts, smoke alarms, fire extinguishers, and lightning rods, it is easier to be vicarious and it is legitimate to get our bearings by reflecting on how much we might reasonably spend on our own safety. The question still may not be easy, but it is less morally intimidating.

Surely, if we were all similarly at risk and in like economic circumstances, this would be the way to look at it, whether for the town bandstand or the town ambulance. On a national scale it is less transparently so, but nevertheless so, that we should want our appropriations committees to think of themselves as spending our money in our behalf. We want them neither to skimp where it really counts nor to go overboard to prepare at great expense—our expense—for the remotest of dangers. We want them to be thinking not about what concern the government owes its citizens for their safety but how much of our own money we taxpayers want spent for our safety.

With that perspective it is remarkable how quickly the issue, now collectively self-regarding instead of other-regarding, drops the ethical content that was only a construct of the initial formulation. We can still find ethical issues, but not the one that seemed so central.

We could call this the contractual approach to social obligation. In the absence of an understanding, I may owe you, in your extremity, unbounded attention and concern, comfort and livelihood, room and board, and the best medical attention in perpetuity, and feel guilty when I stop to wonder whether you are worth the burden you are putting on me. When it is my turn of course I'll expect the same from you (or from whoever has the corresponding responsibility toward me that I had toward you), feeling a little guilty perhaps but not enough to relinquish my claim. But if we could sit down together at an early age in good health and legislate our relation to each other, specifying the entitlements we wished to obtain between us, recognizing equal likelihood of being beneficiaries or benefactors, we could elect to eschew exorbitant claims. And it would not strike us as an ethical issue.

The contractual approach can help with some of those other tantalizing dilemmas, like which planeload of passengers to save, the big plane with lots of passengers or the one with mostly empty seats, if both are at risk and one at most can be saved. What I should do in the control tower if that Godlike decision were mine is an ethical dilemma that for some thoughtful people has no easy answer. But if I am an airline passenger answering a questionnaire for the FAA on what rule I want the control tower to follow in emergencies, the issue is neither ethical nor a dilemma.

I cheated a little in supposing that we were all similarly situated with respect to some risk and alike in our ability to afford protective measures. We usually are not. But the value of this conceptual approach, of considering what the safety is worth to the people who are safer, may still be salvaged. If you are more at risk than I—let's say you are at risk and I am not at all—and the rule is that we share the cost of reducing the risk and we are purely self-regarding, I shall find the measures worth nothing, while you find the measures twice as attractive as if you had to pay it all yourself. If you fly a plane and I do not, the new runway lights at the local airport will cost us each $1,000, and may be worth it to you but not to me. If they are worth more than $2,000 to you, they ought to be bought, at least if you'll pay for them. (Whether I ought to pay half is a separable issue.) But suppose you wouldn't pay more than $1,500 for the slight contribution the runway lights make to your safety. I propose that they shouldn't be bought.

Even though we divide on the issue of whether, paying $1,000 apiece, we ought to buy the lights, the economist in me formulates the problem this way: If, because your personal safety is involved, you are entitled to my contributing $1,000 toward the purchase of runway lights, and I acknowledge your claim and put up my money for your exclusive benefit, do you really want to buy the runway lights or would you rather take my $1,000 and keep it? I don't care. I may be annoyed at having to put up the money when you don't want the lights after all, but I might be more annoyed that you are spending my $1,000 on something that you