



The avuncular state

A smarter, softer kind of paternalism is coming into style

THE *Admiral* is one of 11 riverboat casinos on the waterways of Missouri, where riverine gambling was legalised in May 1994. The casinos attract more than 25m visits a year. But close to 10,000 people are barred for life from gambling on the riverboats. If they breach this ban, they face arrest for trespassing and the confiscation of their winnings. These riverboat exiles are not cheats or paupers. Rather, they suffer from a gambling compulsion—a ruinous addiction to risk. The state of Missouri is stopping them for their own good.

If gambling, or drunkenness, or incontinence, or idleness, or uncleanness, are as injurious to happiness...as many or most of the acts prohibited by law, why (it may be asked) should not law...endeavour to repress these also?

A good question, which John Stuart Mill, who raised it in 1869, endeavoured to answer in his essay against paternalism, "On Liberty". Mill's answer was that the state should repress a man's acts only if they harm others. Harm to himself alone was not a good enough reason for the state to limit his freedom.

Mill would have thrown his book at the

state of Missouri, then? Perhaps not—because the people it bars from the riverboat casinos freely chose their own exclusion. Since 1996 Missouri has pioneered a scheme that allows self-confessed gambling addicts to add their own names to a voluntary blacklist. Once on the list, they can never come off it. The scheme allows tormented people to enlist the state's help in their internal battles—to give force of law to the angels of their better nature.

Such policies appeal to a group of scholars—John Beshears and David Laibson of Harvard University, James Choi of Yale and Brigitte Madrian of the Wharton School—who espouse a fashionable branch of the dismal science known as behavioural economics. The behaviouralists claim to understand people as they are, not as economists hitherto assumed them to be. Because of ignorance or intemperance, lack of willpower or brainpower, people choose badly. Predictably so. The subdiscipline now has a well stocked cabinet of horrors and curiosities, showing how people fail to exercise their choices in their own best interest.

Having documented people's inadequacies, the behaviouralists now want to

save them. The iconoclasts are becoming paternalists—but of a distinctive kind. Two of them, Cass Sunstein and Richard Thaler of the University of Chicago, describe their approach as "libertarian paternalism", which, they insist, is not an oxymoron. Their critics, such as Edward Glaeser, of Harvard University, call it "soft paternalism". Whatever the label, their approach is canner and stealthier than the heavy-handed paternalism liberals reject. Their aim is not the "nanny state", a scold and killjoy forcing its charges to eat their vegetables and take their medicine. Instead they offer a vision of what you might call the "avuncular state", worldly-wise, offering a nudge in the right direction, perhaps pulling strings on your behalf without your even noticing.

One example of soft paternalism has already attracted the interest of governments and the backing of this newspaper: employees should be signed up for company pension schemes by default. Such schemes, which typically attract tax breaks from governments and matching contributions from employers, are usually in the best interest of workers. You might say that joining is a "no-brainer", except that what little brainwork and paperwork is required defeats a surprising number of people. A soft paternalist would presume that people want to join, leaving them free to opt out if they choose. In one case study by Ms Madrian and Dennis Shea, changing the default rule in this way raised the enrolment rate from 49% to 86%.

This measure exemplifies the soft paternalists' approach: the error it addresses »

is glaring, the remedy unobtrusive. The switch in default rules alters behaviour while preserving freedom of choice. It spares the ignorant and the dilatory from the consequences of their mistakes, while imposing few costs on those who genuinely prefer not to entrust their pension money to their employer's custody. This, say Messrs Sunstein and Thaler, makes it both libertarian and paternalistic.

Lord, give me thrift, but not yet

If inertia explains why people fail to join pension schemes in the first place, improvidence explains why they save so little when they do. Figures from some American schemes suggest workers are contributing less than 7% of their incomes on average. And those automatically enrolled in the pension studied by Ms Madrian and Mr Shea tend to stick with the low, default contribution rate of about 3%.

Nannyish governments, not all of them very thrifty themselves, are exhorting the public to do better. "The American Dream begins with saving money," said Dick Cheney, America's vice-president, at last month's Saver Summit, "and that should begin on the very first day of work."

The new paternalists beg to differ. Mr Thaler and Shlomo Benartzi, who is from the University of California, Los Angeles, are urging Americans to "Save More Tomorrow". That is the name of their canny proposal to tempt workers to commit themselves today to saving later.

Under their scheme, a fraction of workers' future pay increases is diverted into their pension pot before arriving in their pay packet. People seem readier to part with tomorrow's cash than today's; and as long as they hike their saving rate by less than their pay raise, their extra thriftiness will not feel like a cut in their disposable income. Messrs Thaler and Benartzi put their scheme to the test at a medium-sized manufacturing company. After four annual pay rises, the joiners had raised their saving rate from just 3.5% to fully 13.6%. "We plead guilty to the charge of trying to be paternalistic," the authors write. But since they have not infringed on freedom of choice, they do not think it a crime.

The two authors spelt out their plan in an article from 2004 dedicated to the late Sherwin Rosen, Mr Thaler's thesis adviser. "He would not have liked this paper much," the authors write in their acknowledgments, "but we sure would have enjoyed hearing him complain about it!"

What complaints might he have made? Some economists feel about the behaviouralists much as Robert Frost felt about writers of free verse: economics without rationality is like tennis without a net. It is too easy. If appeals to irrationality are admissible, then anything goes. But behavioural economics has grown up, and part of its maturation is to show that no, not

anything goes. People depart from rationality, but they do so in ways that can be predicted—and exploited. Unlike free verse, their behaviour has some rhythm and regularity.

A lack of self-control is one such regularity. Impatience has always been a part of economics: people don't like to defer gratification, and they demand compensation—an interest rate—for doing so. The behaviouralists, however, have shown that people are inconsistent about their impatience. It takes one rate of interest to make them settle for a reward tomorrow rather than today, quite another to leave them indifferent between a reward 1,000 days from now, and one 1,001 days from now. For the second kind of choice (jam later, or later still) people are quite patient, accept-



ing an annualised interest rate of 4.3% on average, according to a recent study by Mr Laibson and others. But for the first kind of decision (jam now, or later) people are much more impatient, demanding a rate of interest equivalent to 40% a year.

This inconsistency applies to chores as well as treats, as Ted O'Donoghue of Cornell University and Matthew Rabin of the University of California, Berkeley, point out. Suppose you must either do seven hours of gruelling paperwork on May 1st or eight hours on May 15th. If asked in March, most people would prefer the seven hours. But if asked on May 1st, most would put off the work for a further two weeks. Translated into the realm of personal saving, this is precisely the quirk in our nature that Messrs Thaler and Benartzi exploit when they ask people to save more-not today, but tomorrow.

This quirk sets up an "intimate contest for self-command", as Thomas Schelling, a winner of last year's Nobel prize for economics, puts it. People act as if two different selves take turns to run the show. Resolutions founder, because the self who decides to quit drinking or start a diet in the new year is not the self who must act on that resolution when the day arrives.

Mr Schelling's own intimate contest is

with smoking; he is torn between a self who craves nicotine and a self who wants to be free of it. His habit has been a tempting target for paternalists, soft and hard. A new temperance movement of surprising force has banished smokers from offices, restaurants and bars in a lengthening list of countries. This year, even Spain banned smoking in workplaces.

The anti-smoking leagues stay on the right side of Mill by invoking the dangers of passive smoking. The true extent of those dangers is a matter of some uncertainty. But they represent a classic externality—an uncompensated, unpriced harm the smoker inflicts on others—which can justify quite draconian measures even in a liberal's eyes.

Some of the new paternalists, however, justify smoking restrictions on less orthodox grounds. Just as one individual can inflict an externality on another, so one side of a person's nature can inflict an "internality" on another. The self who enjoys a cigarette takes too little account of the damage he inflicts on the lungs of his future self, nor the addition each cigarette makes to the strength of his addiction.

Jonathan Gruber of the Massachusetts Institute of Technology, and Botond Koszegi of the University of California, Berkeley, think these "internalities" justify additional "sin taxes" on cigarettes and alcohol. Such taxes are not, they claim, unfair to the poor, who spend a greater share of their income on cigarettes. Since the poor are more sensitive to prices than the rich, higher tobacco taxes are of greater help to them in their efforts to quit. Taking this into account, cigarette taxes are probably "progressive", the two economists conclude.

Messrs O'Donoghue and Rabin, on the other hand, suggest sin licences. Rather than charge a duty of \$2 a packet, governments could make the sale of cigarettes illegal to anyone who did not buy a smokers' ID, which might cost \$5,000 and entitle the holder to 2,500 packets of cigarettes tax-free. People would no longer be able to slide into a smoking habit one packet at a time. It would be clear from the outset that they were entering a lifelong marriage to nicotine.

If such a high price is too crude a deterrent, the sin licences could instead carry customised restrictions, argue Mr Beshears and his colleagues. The licences would be sold for a nominal fee, but holders could specify in advance how many cigarettes they were allowed to buy, and at what times. Those restrictions could be loosened, but any tinkering would come into effect only after a lag, of say three days. The licences would be only a minor inconvenience to people who plan to smoke a lot. But they would be of great help to people who plan not to smoke, but find themselves with a cigarette at their lips in spite of their pledges to give up.

Should liberals object to schemes of this kind? Perhaps not. By helping people to make forward-looking decisions for themselves that they cannot easily renege on later, they enlarge their freedom, making it possible for them to do things they otherwise could not do. Giving Ulysses the rope with which to lash himself to the mast adds to his choices.

But Glen Whitman, of California State University, has doubts. In an engaging tract for the Cato Institute, a libertarian think-tank, he wonders why governments should always favour the long-sighted self over its near-sighted alter ego. The immediate pleasures of gambling, drinking and idleness are real; so too are the costs of suppressing them. "In contrast to the obese and the profligate, whose short-run selves constantly trump their long-run selves, we might point to the misers [and] workaholics for whom the reverse appears to be true," he writes.

Ignorance is not an option

Public health campaigns are a more traditional weapon against smoking. In America these began with the surgeon general's report on smoking and health in 1964, but they have come a long way since then. The Canadians, for example, have decorated cigarette packets with repellent images of blackened gums and cancerous lungs. New York's Museum of Modern Art celebrated one of these images in a recent exhibition of designs that "protect body and mind from dangerous or stressful circumstances". The packet didn't just warn smokers of the risk of impotence, it illustrated the danger with a bent cigarette, hanging limply.

Even the most ardent liberal is happy for governments to provide information or force others to do so. A doctor should tell his patient about the risks of elective surgery, for example. To leave the patient in the dark would be criminally negligent.

But how should the doctor frame the patient's choice? Should he tell him that 90% of those who undergo the procedure survive? Or that 10% die? Both statements convey identical information. But each has markedly different effects on behaviour.

Such dilemmas are not purely hypothetical, as Mr Sunstein and Christine Jolls, of Harvard Law School, point out. In 2003 America's Health and Human Services Department commissioned a campaign to promote breastfeeding. The original version of the adverts warned that, without breastmilk, children ran a heightened risk of leukaemia, diabetes and respiratory diseases. (They showed pregnant women roller-skating or riding bucking broncos. You wouldn't take risks before your baby was born, the adverts intoned. Why start now?) Infant-formula makers objected, arguing that the adverts should stick to the benefits of breastmilk, rather than the dan-

gers of not breastfeeding.

How information is framed matters. People weigh losses more heavily than gains, as Messrs Thaler and Benartzi explain. They will typically bet on a coin toss only if their potential winnings are twice as big as the amount they stand to lose. Likewise, mothers will go to greater lengths to avoid the harm a lack of breastmilk might inflict than to secure the benefits breastfeeding can bring. It is not for the state to decide how mothers should feed their children, the antipaternalist would argue. But if the state is to provide any information at all, it will also steer people, whether it wants to or not. "It is far too simple, and behaviourally naive, to draw a sharp line between acceptable 'provision of information' and unacceptable 'mind control'," argue Ms Jolls and Mr Sunstein.

This acute sensitivity to losses is not the only bias behaviouralists have discovered. People also have great difficulty understanding risks. The weight a person gives to a scenario—flood, fire, winning the lottery—should depend on its likelihood. In fact, it depends on how easily it can be envisaged. People will pay more for air-travel insurance against "terrorist acts" than against death from "all possible causes". Canny governments can work with the grain of this psychology. The grisly campaigns against smoking aim to put the dangers firmly in people's minds; to turn a statistical risk into a visceral image. They have been effective, perhaps too effective. There

is some evidence that people now overestimate the risks of smoking.

But such campaigns can also have nasty side effects, Mr Glaeser argues. The fear, shame and guilt they inculcate acts as a kind of "psychic tax", reducing the demand for smoking. But unlike a genuine sin tax, which shifts money from taxpayers to the treasury, psychic taxes impose emotional costs without raising revenues. By portraying a habit as self-destructive and therefore shameful, such campaigns also pave the way for hard paternalism, Mr Glaeser says. The recent wave of smoking bans rather proves his point.

The callow nephew

There are many ways for a government to queer the pitch in favour of one social result (more saving, less smoking) or another. In fact, as Messrs Thaler and Sunstein argue, governments often cannot remain neutral even if they want to. Something must serve as the default option, something must come top of the menu, and information, if it is to be provided at all, must be framed in one way or another. The soft paternalists want the government to use these tools knowingly, in favour of the outcome its citizens themselves would prefer if only they had the necessary discipline and discernment.

For its exponents, this is a paternalism for the times. People are jealous of their freedoms; yet they squander them. They resent outside authorities telling them how to live their lives, but they lack self-command. They have legions of entrepreneurs dedicated to serving them better, but often they fail even to understand the embarrassment of offerings that is spread before them. Some gentle guidance would not go amiss.

But if such manipulation is sometimes a necessity, should it be made a virtue? Mill, for one, would have disapproved.

He who lets the world choose...his plan of life for him, has no need of any other faculty than the ape-like one of imitation. He who chooses his plan for himself must...use observation to see, reasoning and judgment to foresee, activity to gather materials for decision, discrimination to decide, and when he has decided, firmness and self-control to hold to his deliberate decision.

Reasoning, judgment, discrimination and self-control—all of these the soft paternalists see as burdens the state can and should lighten. Mill, by contrast, saw them as opportunities for citizens to exercise their humanity. Soft paternalism may improve people's choices, rescuing them from their own worst tendencies, but it does nothing to improve those tendencies. The nephews of the avuncular state have no reason to grow up. •

