

*Ethics, Law, and the Exercise  
of Self-Command*

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A few years ago I saw again, after nearly fifty years, the original *Moby Dick*, an early talkie in black and white. Ahab, in a bunk below deck after his leg is severed by the whale, watches the ship's blacksmith approach with a red-hot iron which, only slightly cooled by momentary immersion in a bucket of water, is to cauterize his stump. As three seamen hold him he pleads not to be burnt, begging in horror as the blacksmith throws back the blanket. And as the iron touches his body he spews out the apple that he has been chewing, in the most awful scream that at age twelve I had ever heard.

Nobody doubts that the sailors who held him did what they had to do, and the blacksmith too. When the story resumes there is no sign that he regrets having been cauterized or bears any grievance toward the men who, rather than defend him against the hot iron, held him at the blacksmith's mercy.

They were not protecting him from an involuntary reflex. And he was not unaware of the medical consequences of an uncauterized wound. Until the iron touched him he knew exactly what was afoot. It was a moment of truth. He was unmistakably all there. He made his petition in clear and understandable language. They had neither personal interest nor legal obligation to subject him to torture. And they disregarded his plea.

When the iron struck he went out of his mind, still able, though, to communicate with perfect fidelity that all he wanted was the pain to stop. While the iron was burning his body we might declare him to have been not fully present, but until that instant it is hard to claim that he didn't understand better than we do what the stakes were.

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Ahab and his wound dramatize a phenomenon that, usually not so terrifying, all of us have observed in others and most have

observed in ourselves. It is behaving as if two selves were alternately in command. A familiar example is someone who cannot get up when the alarm goes off. More poignant is someone who cannot commit suicide.

I say only that people act *as if* there were two selves alternately in command. I'd rather not commit myself on whether there really are two different selves or cognitive faculties or value centers that alternate and compete for control. But the ways that people cope, or try to cope, with loss of command within or over themselves are much like the ways in which one exercises command over a second individual. Putting the alarm clock across the room is a familiar example. The varied behaviors and decisions that can display this quality range from merely troublesome to deadly serious:

- smoking, drinking, using drugs
- gambling
- scratching
- eating
- beating children while drunk
- procrastinating
- attempting suicide
- exercising
- diving off a high board
- staying awake
- panicking
- having stage fright
- spending on binges
- being sexually aroused

Let me try to be precise about what I have in mind. I shall state what it is and contrast it with some things that it isn't.

What I have in mind is an act or decision that a person takes decisively at some particular point in time, about which the person's preferences differ at the time of action from what they were earlier, when the prospect was contemplated but the decision was

still in the future. If the person could make the final decision about that action at the earlier time, precluding a later change in mind, he would make a different choice from what he knows will be his choice on that later occasion.

Specifically, if I could decide now not to eat dessert at dinner, not to smoke a cigarette with my coffee, not to have a second glass of wine, and not to watch the late movie after I get home, I would make those decisions because *now* I want *not* to do those things *then*. And I know that when the time arrives I shall want to do those things and will do them. I now prefer to frustrate my later preferences.

Finding ways to anticipate those decisions, to make them irreversibly with the preferences of this moment and not leave them to be made differently when other preferences reign, can be difficult or impossible. *Decision theory* is the science of choosing in accordance with one's existing preferences, maximizing the satisfaction of one's values. When the values that govern one's preferences are liable to displacement by values that one deprecates, we need in addition something that we might call *command theory* — the theory of self-command, or self-management.<sup>1</sup>

Let me be clear about what I do not have in mind. People can undergo changes in mood. They like different foods at breakfast and at dinner. There are times when they want to hear music, other times when they want to talk, to be alone, to play with children, to play golf, or to go to bed. One can be a warrior during the day and a romantic at night, or absorbed in a laboratory for days on end and then spend a weekend above timberline. These are not unstable values. Even when someone is described as “a different person” in the evening from what he was during the day, or after a good night's sleep, the different persons are not in a quarrel with each other. If the warrior cannot savor, during the

<sup>1</sup> Some of the ways that people cope with themselves, or try to, are explored in Schelling, “The Intimate Contest for Self-Command,” *The Public Interest* (Summer 1980), pp. 94–118.

heat of battle, the gentler nocturnal sport that requires a different mood, he can remember it when he needs to, can appreciate it, and can be sure that when the time comes his mood will respond.

The alternate moods do not discredit each other. They do not deny each other's legitimacy. A conscientious adult is able to allocate resources among these alternating activities and to be considerate of one mood while in another. The fact that my interest in dinner is at a nadir after breakfast does not mean that, asked what I want for dinner, I shall give a negligent answer. Just as a parent can allocate benefits among children, one can be one's own manager or referee and maintain a long-run perspective on his own biorhythms, changing moods, and seasonal interests, and not see the alternating moods and interests as contradictions. In economics this is the normal case. Decision theory treats people as able to mediate among points in time.

The contrast between this normal case and the case that I introduced with Ahab is that in deciding this morning what I would choose for this evening, or during summer whether to reserve a ski holiday eight months later, I normally want my preferences at that later time to be controlling. Those later preferences, as best I can anticipate them, are the ones that matter to me now. They may compete with the present, if my budget will cover only a seashore holiday this week or a ski holiday next winter, or if I cannot enjoy Sunday a movie that I already saw Wednesday. But however much those anticipated future preferences about a future action compete for resources with my current preferences about current action, my *current* preferences about that *future* occasion are those future preferences as I foresee them and appreciate them now. There can be competition but there is no conflict.

In this normal case I know that I shall want to watch the movie on television tonight and I make sure there is TV in my hotel room. In the other case I know that I shall want to watch the movie and for that reason I ask for a room without television. (I would even pay extra for a room with the TV disconnected.)

The phenomenon, then, that I want to deal with can be described as alternating preferences, or alternating values that are incompatible or uncompromisable. In the normal case there is a dynamic programming self that looks over wants and desires that continually change, anticipating preferences and attempting to satisfy them. It is as if there were a succession of momentary selves, each with its own wants and desires, all under the supervision of a timeless superself, an overall manager or referee who treats the transient selves evenhandedly.

In the case I want to discuss, that superself, that dynamically programming referee, does not exist. Instead, there is a succession or alternation of impermanent selves, each in command part of the time, each with its own needs and desires during the time it is in command, but having — at least some of them — strong preferences about what is done during the period that another one is in command. One of us, the nicotine addict, wants to smoke when he is in command; the other, concerned about health and longevity, wants not to smoke ever, no matter who is in command, and therefore wants *now* not to smoke *then* when he will want to. In the normal case a person's sexual interests wax and wane and, subject to the difficulty of imagining or remembering the alternate appetites, one tries to accommodate them; the case that concerns me is the person who some of the time wants sexual satisfaction and the rest of the time wants to be a virgin.<sup>2</sup>

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<sup>2</sup> The richest, most varied, and most comprehensive approach to this subject that I have discovered is George Ainslie's "Specious Reward: A Behavioral Theory of Impulsiveness and Impulse Control," *Psychological Bulletin* 82 (July 1975), pp. 463–496, and some later unpublished work of Ainslie's. An intriguing philosophical approach to these issues is Jon Elster's "Ulysses and the Sirens: A Theory of Imperfect Rationality," *Social Science Information* 41 (1977), pp. 469–526, and his book *Ulysses and the Sirens*, mentioned in note 5. In economics there are attempts to accommodate self-management or self-control within traditional consumer theory and, more recently, some efforts to break out of the tradition. A pioneer work was Robert H. Strotz, "Myopia and Inconsistency in Dynamic Utility Maximization," *Review of Economic Studies* (1955–56), pp. 165–80. The best-known effort to fit this subject within the economics tradition is George J. Stigler

I have tried to describe a phenomenon that generates the problem of self-command, or self-management. Self-management is not unilateral. It occurs in a social environment. People are helped or hindered in their self-management by social arrangements. They have friends who offer cigarettes and friends who chide them when they smoke, hostesses who tempt them with chocolate and hostesses who cooperate with an earlier self by serving grapefruit, firms that advertise temptations and fraternities that support abstinence. There are prohibitions, taxes, regulations, and public education that impinge on self-management. Custom and etiquette are involved. Work environments make a difference. Even strangers can help.

The questions I want to call attention to are those of ethics and social policy. If somebody now wants our help later in constraining his later behavior against his own wishes at that later time, how do we decide which side we are on? If we promise now to frustrate him later, and he later releases us from the very promise that we were to honor despite his release, must we — may we — keep our promise against his express wishes? Should we rescue Ahab from his tormentors? Should people be able to surrender to a "fat farm" that legally may keep them, or legally must keep them, until their weight loss reaches the pounds they speci-

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and Gary S. Becker, "De Gustibus Non Est Disputandum," *American Economic Review* 67 (March 1977), pp. 76–90; their formulation denies the phenomenon I discuss. On the edge of traditional economics are C. C. von Weizsacker, "Notes on Endogenous Change of Tastes," *Journal of Economic Theory* (December 1971), pp. 345–72, and Roger A. McCain, "Reflections on the Cultivations of Taste," *Journal of Cultural Economics* 3 (June 1979), pp. 30–52. Outside the tradition, and viewing the consumer as complex rather than singular, are Amartya K. Sen, "Rational Fools: A Critique of the Behavioral Foundations of Economic Theory," *Philosophy and Public Affairs* 6 (Summer 1977), pp. 317–45; Gordon C. Winston, "Addiction and Backsliding: A Theory of Compulsive Consumption," *Journal of Economic Behavior and Organization*; and Howard Margolis, *Selfishness, Altruism, and Rationality* (Cambridge University Press, 1982). Winston and Margolis recognize the referee, or superself, that I find lacking; whether the difference is one of perception or of methodology I am not sure. The only genuinely multidisciplinary work of any great scope by an economist that I know of is Tibor Scitovsky's brilliant small book *The Joyless Economy: An Inquiry into Human Satisfaction and Consumer Dissatisfaction* (New York: Oxford University Press, 1976).

fied when they entered captivity? May a majority of the voting population ban dessert in the dining room, or outlaw cigarettes throughout the nation, not to keep others from eating or smoking but to discipline themselves?

In the cases that come quickly to mind, a conscientious bystander has little difficulty deciding which side he is on, between the two rival selves that occur in a friend or stranger. We excuse or discount what is said or done in anger, under stress or the influence of alcohol. We are expected to protect a drunk person from excessively generous as well as destructive impulses, to impede any momentous and irreversible action like giving all his money away, joining the foreign legion, or quitting his job. When begged for a cigarette by someone who we know is trying to quit, or asked for his car keys by someone who is drunk when it's time to go home, we may comply, but not without guilt. And we don't hesitate to be forceful with someone who will be late for work if he doesn't get out of bed.

But not all cases offer an easy choice. People trying to lose weight do not receive universal sympathy. A mother is expected to consider it unhealthy for a daughter to starve herself to be skinny, and she and her daughter may have different definitions of skinny. When the fear of fat takes on the proportions of a phobia, as among anorexic girls who learned to control their food intake by vomiting and are unable now not to vomit, our usual sympathy for abstinence gets a challenge. The dilemma is most poignant in deciding one's obligation when an opportunity presents itself to frustrate an attempt at suicide.

Still, the frequent and familiar cases usually seem to be easy cases, not hard ones. It may be hard to decide how far our obligation extends to someone who asks in advance that we use all necessary force when he has drunk too much to see that he does not become too candid in public about his wife or his employer or his host, or to keep him from driving his own car, or to keep him from drinking any more; but whatever obligation we feel is usually to

that earlier self that asked our help and elicited a promise, the one to whom we have to explain our own behavior tomorrow when he's sober, and not the one who tells us to ignore the earlier inhibited sober self that never had the courage to speak out about his wife or his employer.

What are the familiar cases, and how do we decide them? How would we explain to ourselves why we just don't credit the person who refuses to get up in the morning? Why did nobody rescue Ahab, and why did I think that you would agree that anyone who loved Ahab, or even a conscientious stranger, should have held him down?

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In some cases the person just doesn't seem to be all there. He is his usual self with something subtracted. The person who prefers not to get out of bed is thought to be not fully alert; his engine hasn't warmed up; he cannot remember or visualize the consequences of staying in bed or assess their importance. We may even believe that there are chemical inhibitors of brain activity that play a role in sleep, and until they have been washed or metabolized away his brain is not working. It is not a different *he*, just an incomplete one. The same may be thought of the person overtaken by fatigue or drowsiness, the person under sedation, and some of the people—the quieter ones—whose brains are awash with alcohol.

Then we have contrary cases, the people who are not only “all there” but too much. They are overstimulated or exhilarated. There are drugs that will do it, but so will success. So will relief—from anxiety or fear or suspense. In contrast to the drowsy, these people need restraint, not arousal. They can suffer a transient selflessness and generosity, not withdrawal but hyperactivity. If the half-awake person can be described as somebody whose preference map is not fully illuminated, the overstimulated person is like one whose preference map, though illuminated everywhere, is too

brightly lit in some places. The contrast has the same effect as partial darkness.

A third case is passion, or infatuation. We have the expression “marry in haste and repent at leisure,” and some that convey the same thing more bluntly. But I include anger, patriotism, religious fervor, revenge, disgust, and all of those transient overwhelming moods that elevate certain values to absolute domination. Proposing marriage, joining the foreign legion, placing large wagers in support of one’s opinion, abandoning one’s family, and tearing up one’s will are among the things that may be done in haste and repented at leisure.

Next is capture, or captivation. It is being glued to TV, absorbed in a novel, caught in a mathematical puzzle, engrossed in a symphony, or absorbed in frustration trying to fix a recalcitrant piece of equipment. This may be where to include fantasy; some of us are as readily captivated by daydreams as by that late movie or unfinished novel. A simple interruption will sometimes rescue the captive; other times he can still hear the siren song and may be as sneaky as an addict in getting back to that puzzle, story, or daydream.

My next set consists of phobias, panic, and extreme terror. The person who cannot dive off the high board or make the parachute jump, who cannot face an audience without an urge to flee, who suffers vertigo or claustrophobia, cannot make himself pick up a spider or put a kitten to death. I saw a movie in which a Scottish fisherman had his thumb caught in a giant clamshell. The tide was rising. With his knife he severed his thumb. I’ve wondered whether I’d have drowned before I could remove mine. The friendlier illustration is a child’s loose tooth; tying the tooth by a string to a door-knob and slamming the door was the solution when I was a boy, and it illustrates how short the interval may be between the preference that the tooth be yanked and the succeeding preference that it not be.

Some of these are easy cases. But I mean easy to decide, not easy to cope with. If we’ve come across someone sitting in the

winter woods freezing to death, drowsy and feeling no cold, and he refuses to jump to get warm, getting him to do it may be impossible; but deciding whether to obey his command to leave him alone should not be hard.

Some of these cases I no longer find easy. But there are at least some easy cases in every category I mentioned, and I tried to describe them with sufficiently prejudiced language to make you think of some easy cases. I have two more categories. The first is appetite. By that I mean food, drink, tobacco, and any substance that a person can eat or sniff or inject or rub on his skin that generates an addiction or habituation. (I could include here addictive activities, like gambling or golf or the morning newspaper; but they may be more at home in my earlier category of capture than here with nicotine and chocolate.) What keeps these appetites from being easy cases is that not everybody is more likeable sober than drunk. Some of the addictive narcotics may be harmful only because they are disapproved of and prohibited. And some attempts to quit cigarettes may be so doomed to failure, or to periodic relapse, that surrender is preferable to a fruitless pursuit of victory.

One more category is perseverance. Its obverse is procrastination, quitting. People who set themselves regimes of daily exercise, piano practice, or periodontal care often fall by the wayside. Joggers do not enjoy universal sympathy. Some good intentions abort for plain lack of serious dedication; and people who could bind themselves to a program might in the end find it a bore and regret it. I see all around me, and inside me, the occupational disease of procrastination. Many of us have to burden ourselves with deadlines or short-term goals to get anything written. Social controls play a role; the *Times Literary Supplement* for January 22, 1982, contained a splendid example, a review article by George Steiner on the life and work of the Hungarian radical Georg Lukacs. "When I first called on him, in the winter of 1957–8, in a house still pockmarked with shellbursts and grenade

splinters, I stood speechless before the armada of his printed works, as it crowded the bookshelves. Lukacs seized on my puerile wonder and blazed out of his chair in a motion at once vulnerable and amused: 'You want to know how one gets work done? It's easy. House arrest, Steiner, house arrest!' "

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Let me reexamine a few of these characterizations. The person who won't get up in the morning I said was not quite all there. Why does that count against him? Apparently because he cannot fully appreciate what it will be like to be late to work. But does the self who sets the alarm fully appreciate the discomfort of getting out of bed? My answer is yes. But notice: I am not in bed. I don't expect that to change your mind, but in more difficult cases I find it important to remind myself that when I think about these issues I am not impartial. I write only when I am awake, and the self that might prefer bed goes unrepresented.

In another respect we are not impartial. We have our own stakes in the way people behave. For my comfort and convenience I prefer that people act civilized, drive carefully and not lose their tempers when I am around or beat their wives and children. I like them to get their work done. Now that I don't smoke, I prefer people near me not to. As long as we have laws against drug abuse it would be easier all around if people didn't get hooked on something that makes them break the law, In the language of economics, these behaviors generate externalities and make us interested parties. Even if I believe that some poor inhibited creature's true self emerges only when he is drunk enough to admit that he despises his wife and children and gets satisfaction out of scaring them to death, I have my own reasons for cooperating with that repressed and inhibited self that petitions me to keep him sober if I can, to restrain him if he's drunk, or to keep his wife and children safely away from him.

And what about Ahab? When I first thought of mentioning him I thought him a dramatic illustration of an easy case. If I were Ahab, I thought, I would thank you afterwards for holding me down. But now I wonder what that proves.

If you hurt somebody so that I may live, my thanking you doesn't prove that you did right. If I say that in Ahab's condition I would like to be cauterized, you will notice that I say it with a fearlessness that makes my decision suspect. It is hard to find a way to call my bluff. I'm not about to be burned. If I were, I'd behave like Ahab, and you would not credit me with now having a full appreciation of where my interest lay.

Suppose I were to be burned and Ahab in the next room were to be burned also. Would you, while disregarding my personal plea, ask my advice concerning what to do about Ahab?

After you burn me and I recover and thank you, you give me the bad news: the other leg is infected and must be burned the same way to save my life, perhaps after a delay. Do I withdraw my thanks, in fear you'll think I want it done again? Does the delay matter?

How do we know whether an hour of extreme pain is more than life is worth? The conclusion that I reach tentatively is that we do not. At least, I do not. The question entails the kind of undecidability that many economists attribute to the interpersonal comparison of utilities. Most economists believe we have no way of testing, or even defining, what we mean by whether one person gets greater joy or utility or satisfaction out of a meal or a holiday or a warm room than another person, or out of spending some amount of money, and whether my enjoying something at your expense, my pleasure and your pain, can be added algebraically. That means that if you must cauterize Ahab's leg to keep me from dying there is no way to determine whether the little two-person society consisting of Ahab and me enjoys a net gain in utility when you spare him the pain and let me die.

The conclusion I come to is that I can no more decide this for myself, if it is I being burned and I dying, than I can decide for two other people.

Does it make it easier or harder if I imagine Ahab to be old, with only a few years of life to save at the cost of an hour's torture? You may well ask how, if I have just alleged that a judgment is impossible, it can then be easier or harder. What I have done is slip into the position that many economists take after acknowledging the impossibility in principle of that interpersonal comparison. It is to acknowledge that as a practical matter we do make decisions. We do not hesitate interminably over whether to favor some extra income for a poor person at the expense of a wealthy person, or whether to give our concert ticket to an enthusiast or to someone who merely likes music. Because we have to, we make such decisions.

So I must conclude that these decisions are not based on utility comparisons. What are they based on? In Ahab's case I think mine is taking sides. Which side am I on? Facing no pain I seem to be on the side of the Ahab that wants to live. I do not think I know how to make the effort really to decide whether his life is worth the pain. When I try, I find myself succumbing to the pain, and to keep my resolve for Ahab's sake I abandon the effort at comparison.

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This ambivalence makes a difference in welfare economics, social choice, and political philosophy. In economics there is a well-explored field of individual rational choice. There has also been an interesting field of social choice, in which the singular behavior of a rational individual is compared with a collective decision. We got used to the fact that in a collectivity there is no unanimous preference; we discovered that majority decision will not reliably point to a collective preference. And with continued work (of which Kenneth Arrow's is most widely cited) we have

become convinced (some of us) that it is futile to model collective decision on the analogy of a single individual. I suggest that the ordinary human being is sometimes also not a *single* rational individual. Some of us, for some decisions, are more like a small collectivity than like the textbook consumer. Conflict occurs not only when two distinct human beings choose together but also within a single one; and individuals may not make decisions in accordance with the postulates of rationality, if by individuals we mean live people.

If we accept the idea of two selves of which usually only one is in charge at a time, or two value systems that are alternate rather than subject to simultaneous and integrated scrutiny, “rational decision” has to be replaced with something like collective choice. Two or more selves that alternately occupy the same individual, that have different goals and tastes, even if each self has some positive regard for the other (or one feels positively and the other does not reciprocate), have to be construed as engaged not in joint optimization but in a strategic game. There is no agreed weighting system for taking the alternate preferences simultaneously into account. And even the possibility of bargains and compromises is limited, if not precluded, by the absence of any internal mediator. It is hard for the different selves to negotiate if they cannot be simultaneously present. (Not impossible, perhaps, but hard.)<sup>3</sup>

So we should not expect a person’s choices on those matters that give rise to alternating values to display the qualities typically imputed to rational decision, like transitivity, irrelevance of “ir-

<sup>3</sup>It is proposed by Jon Elster that typically one of the “selves” engages in forward planning and strategic behavior, making arrangements to constrain the other self’s options, while the alternate self is preoccupied, when in command, only with the current episode. (He proposes that this asymmetry in strategic attitude is a basis for choosing the authentic self.) In the perhaps rarer cases of reciprocal strategic behavior, each party might engage an attorney to represent that self, empowering the attorneys to reach and enforce a mutually advantageous bargain. While this possibility has no legal standing, and, if it did, enforcement of the bargain might still not be manageable, it affords a conceptual possibility of negotiation between two selves that never simultaneously exist.

relevant” alternatives, and short-run stability over time. We should expect the kinds of parliamentary strategies that go with small-group voting behavior and the second-best choices that have to be made when rights and contracts are not enforceable. Depriving oneself of certain preferred opportunities — suppressing certain states that economists call “Pareto superior” — because the other self would abuse the opportunity becomes an expected tactic:

- not keeping liquor (food, cigarettes) in the house
- not keeping television in the house
- not keeping sleeping pills in the house
- not keeping a gun in the house
- not keeping the car keys in the house
- not keeping a telephone in the house
- not keeping the children in the house

Dramatic cases of a *latent* rather than a *regular* alternate self are the anticipation of a self that will emerge under torture, truth serum, or extreme privation. Less dramatic are anticipated somnambulism and talking in one’s sleep, scratching or removing dressings while asleep, and social affairs at which one is likely to lose his temper. Other familiar instances are choosing a restaurant where desserts or liquor are not served or luncheon partners who do not drink, doing embarrassing business by telephone to avoid loss of poise, and leaving money at home to avoid a shopping binge.

There is even a possibility that within a single human body a nervous system and brain and body chemistry can alternately produce different “individuals,” no one of which is uniquely *the* person or self. In science fiction a human body can be an arena in which several extraterrestrials play out their careers. When several aliens come to inhabit an Earthling’s body, one of them may sleep during daytime and another nighttime, one may have access only to certain memories or sensory systems, and they may compete to extend their spans of control over the Earthling body.

Is there anything like this among human beings? Maybe. Surgically, an individual is changed into “another individual” through frontal lobotomy. Lobotomy is irreversible as it has been practiced; but in principle one can imagine an irreversible removal (lobectomy) and a reversible lobotomy. With the latter, a person alternates between the self whose lobe is deactivated and the one whose lobe is functioning. The changes are described as dramatic enough to constitute a new personality. (The judicial system has had to decide, for purposes such as marriage annulment, whether it is the same person afterward.) Castration was an equivalently potent way of changing hormonally the value system of male human beings. It, too, is irreversible; but if we imagine castration accomplished chemically rather than surgically, it might be reversible.

Possibly the human being is not best modelled as a unique individual but as several alternates according to the contemporary body chemistry. Tuning in and tuning out perceptual and cognitive and affective characteristics is like choosing which “individual” will occupy this body and nervous system. When pressed I insist only that people can usefully, for some purposes, be viewed *as if* they were two or more alternative rival selves, but the more I reflect on it the more I wonder whether there is any reason for excluding the literal possibility.

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The law does not like to distinguish these different selves, or to differentiate an authentic self from impostors. In America I cannot go to a fat farm, a non-smoking resort, or an exercise camp and legally bind the management to hold me when I ask to get out. The management cannot claim that it has contracted with the authentic “me” to make me stay even if my impostor self, the one that I went to the farm or camp to guard against, claims that “I” now want to get out. I can contract that they get no fee unless they succeed in keeping me; but the authentic “I” cannot sue them

afterwards for improper release if they let me go when the wrong “I” insists on leaving. And they cannot protect their investment by impeding my departure when that other self gets control and says he is leaving and to get out of his way.

The law does not permit me to write a will that I cannot change, nor promise a gift and be held to my promise. If I think I am potentially dangerous, to myself or to others, the law does not permit me to commit myself voluntarily to the custody or guardianship of an institution that may hold me captive. I have to demonstrate that I am so dangerous, to myself or to somebody else, that I qualify for involuntary commitment. Dr. Jekyll can ask to be locked up for his own good, but when Mr. Hyde says “let me out” they have to let him out.

There are ways of getting around the law, but they do not involve straightforward recognition of a person’s right to bind himself against himself. If I think it would be good for me to change my habits and location, to be kept away from people and places I know, to learn discipline, I can enlist in the Army. My enlistment is a contract in which the other party has an interest that can be legally protected against my defection. Legally the Army is not conspiring with my authentic self to frustrate the other self when it wants to go AWOL.

But if I cannot prevent my impostor self from asserting his (my) rights when it is his turn to be in charge, cannot lock him up against his will or make it a legal offense to sell him liquor, can I nevertheless deny him legally certain faculties that he might exploit when he is in charge? Can I claim that he was impetuous when he made that gift, and I’d like it returned; that he enlisted in a fit of patriotism after seeing an inspiring movie, or as a heroic gesture after being turned down by the woman he loved? Can I claim that he married under the influence of passion or liquor or a biorhythmical euphoria, and the marriage vow should be void? Can I arrange with my bank not to honor his check if he fails to pass a diagnostic test that determines whether he is the authentic

I or that impostor? The answer seems to be, not easily. Indeed, only very exceptionally. And usually only by claiming and demonstrating some recognized mode of mental incompetence. If I can be proved mentally impaired as I made a bequest the bequest can be invalidated and you have to give it back; but if I was simply out of my mind with joy, and suffering one of my occasional fits of impulsive generosity, I cannot claim that it wasn't "I" and that the gift wasn't "his" to give.

There are statutory ways of guarding against certain actions that might be taken by one's wayward self. But the ways that I know of merely constitute denial of legal sanction for actions that might be taken impetuously or under duress. The political process itself guards against impetuous decisions by requiring two readings of a bill, time intervals between announcement of intent and consummation of some activity, public notice, and other dilatory procedures. The chief mechanism seems to be mandatory delay, or the requirement that certain things, like marriage licenses, be issued only during daytime hours. Mainly they can guard against decisions taken by an impetuous self that gains control long enough to do the business but not long enough to outlast the delay.

The law can try to help one self guard against the other by protecting private efforts of "third" parties to cooperate with one of them. Surgeons may be privileged to tranquilize the patient who, if his head were clear, would in mid-surgery overrule the surgeon's decision. That, of course, is taking sides. The law may protect me in restraining you from some impetuous or violent act against yourself, an act that your other self would ultimately deplore. The law may protect me if I restrain you from rushing into the burning building to recover your negotiable securities, the family dog, or one of your children, especially if I unquestionably did it believing it to be for your own good, and more especially if it is judged indeed to have been to your benefit. But I probably cannot get away with kidnapping you to keep you from smoking or from getting tattooed, or to keep you a virgin, although your

later recovery will probably protect me from your taking civil action. Recapturing you from a religious cult and washing out your brain is still in undecided legal status. The most serious cases are those that involve, one way or another, actively or passively, taking your own life — one of your selves taking the one life that you share.

Helping you die is not allowed. Attempts at suicide surely must often involve divided selves. The lesser acts that people seem incapable of making themselves perform, including those that involve a palpable phobia, suggest that taking one's own life except in the most painful or utterly hopeless situations or where it constitutes a desperate act of heroism, is bound to be internally controversial. Two selves alternate in hoping for death or life. The law takes sides. In effect and in explicit intent, the law sides with the self that will not die. Someone who lives in perpetual terror of his own suicidal tendencies can welcome the law's sanctions against people who might be importuned to help with the suicide. People for whom life has become unbearable but who cannot summon the resolve to end it have the law against them in their efforts to recruit accomplices. The self that wants to live, if there is one, has the law on its side.

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There is a paradox. Full freedom entails the freedom to bind oneself, to incur obligation, to reduce one's range of choice. Specifically, this is freedom of contract; and it works through expectations. The behavior of others depends on what they expect of me; by restricting my own freedom of choice I gain influence over the choices of others. The results can be called "cooperation," "immunity," "bargaining power," or even "coercion." A textbook on the legal attributes of corporations emphasizes not only the right to sue but the right to be sued. The *promise* is an instrument of great power, but only if it is believed that one has to

keep the promise (or make restitution).<sup>4</sup> The law recognizes this principle as long as the promise — the commitment, the obligation, the impairment of one's own freedom of choice — has a reciprocal quality and is *to* somebody else. The promise requires an addressee. One may not contract with himself.

This is a stunning principle of social organization and legal philosophy. One cannot make a legally binding promise to oneself. Or perhaps we should say that the second party can always release the first from a promise; and if I can promise myself never to smoke a cigarette I can legally release myself from that promise whenever I choose to smoke. It comes to the same thing.

Charles Fried provided me with the name for what has no standing at law — the *vow*. The vow has standing if directed to a deity and is enforced by whatever authority the deity exercises. And the vow as an expression of intent can receive social and institutional support if it is recognized by an established church. Religious and fraternal orders differ from the common law in providing moral support, even coercive support, for vows like abstinence, celibacy, penury, and dedication to prayer, good works, and even heroism. But the vow has no standing at law.

People nevertheless seek to make binding decisions through physical constraints and informal social arrangements. People ingest chemical antagonists against alcohol to induce nausea upon drinking. If people cannot lock the refrigerator they can wire their jaws shut. Devices can be implanted in people that will emit a signal to tell on them if they drink, or immobilize them if they

<sup>4</sup> “In order that I be as free as possible, that my will have the greatest possible range consistent with the similar will of others, it is necessary that there be a way in which I may commit myself. It is necessary that I be able to make non-optional a course of conduct that would otherwise be optional for me. By doing this I can facilitate the projects of others, because I can make it possible for those others to count on my future conduct, and thus those others can pursue more intricate, more far-reaching projects. If it is my purpose, my will that others be able to count on me in the pursuit of their endeavor, it is essential that I be able to deliver myself into their hands more firmly than where they simply predict my future course.” Charles Fried, *Contract as Promise* (Cambridge: Harvard University Press, 1981), p. 13.

do. Castration and lobotomy have been mentioned as surgical techniques for permanently changing motives and incentives, and there are tranquilizers and negative aphrodisiacs to keep certain fears and passions in check. I have mentioned tying the tooth to the doorknob; one can ask a friend to pull the string instead. People avoid cues and precursors, the sights and smells that subvert their abstinent intentions; people dare not eat the first peanut, start an argument, begin the novel they can't afford to take the time to read, or turn on the TV because it is harder to turn off than merely not to turn on. The friend who will pull the string attached to the tooth, or extract a splinter, can also monitor calories and police cigarettes, or even push a person out of the airplane to help launch a skydiving hobby: But one can sometimes arrange a coercive environment, like offices in which smoking is not allowed or a job in an explosives factory, or make bets that are informally enforceable about weight control or cigarettes; and there are buddy systems, like Alcoholics Anonymous, whose moral support can be enlisted. We could invent some unconcealable testimony to one's dedication — dyed hair, or a tattooed forehead, imploring bartenders not to serve drinks and waiters not to serve desserts.

But nothing like contract law is available. I am not endorsing the idea that the law should be available to enforce unilateral vows. But there is little speculation about how the law might help and what the dangers and abuses might be.<sup>5</sup>

Actually, there is no a priori basis for confidence that enforceable contract is a generally good thing. People might just get themselves tied up with all kinds of regrettable contracts, and the custodians of legal wisdom might have decided that enforceable contract is a mischief. Suppose promises to second parties tended usually to get people into trouble, so that a wise legal tradition

<sup>5</sup> There is stimulating discussion throughout Jon Elster, *Ulysses and the Sirens* (New York: Cambridge University Press, 1979). I am indebted to his work and to his comments on this lecture. Most of the legal discussion I have found deals with mental illness and informed consent. See the reference to Rebecca Dresser's work in note 6.

would readily excuse people from promises incurred in haste, or in passion, or in disgust. Duress is recognized; if impetuosity were a problem, legally binding contracts might require something like a second or third reading before acquiring status. It is an empirical question whether the freedom to enter contract, the freedom to make enforceable promises, or the freedom to emancipate oneself from a nicotine habit would prove generally to be a good thing. But the social utility of recognizing the vow, the unilateral promise, through social or legal innovation is not much discussed. It may therefore be worthwhile to imagine what form such legal innovation might take.

A possibility is that the state become an enforcer of commitments that people would voluntarily incur and submit to authority. How would the state enforce my commitment to give up smoking, reading the comics at breakfast, or terrorizing my children? A possibility is that I grant the state a perpetual search warrant: the authorities may enter my home or search my person at any time without warning or court order, confiscating anything they find that is authorized in my original disposition to be confiscated. Another would be to allow denunciation: any observer, or anybody on a list that I authorize, could have me locked up or examined or searched, even punished — I having relinquished rights of cross-examination or immunity. House arrest might be voluntarily incurred; I can be locked up, kept in my home that has been purified of television, alcohol, tobacco, or inventories of food. I can be incarcerated and denied things I want or required to perform what I want to be required to perform — physical exercise, rapid reading, or writing this lecture. There could be a parole system: I oblige myself to report daily and be examined for weight, nicotine, heroin, or bloody cuticles. Curfews, and placing gambling casinos or bars off-limits to me, might be enforced by circulating my picture. I could be obliged to pay forfeit when caught in violation of my vow, giving up money or privileges or freedom; this would be like designing criminal law specifically for

those who sign up to be subject to it. I could have license plates that do not permit me to drive at night, or that authorize any policeman to stop me and check for alcohol without regard to the First or Fifth Amendments. Or I might legally submit to a guardian; this would be like power of attorney, but would give somebody authority to have me subdued, to command that I not be served, to sequester me without my consent, or to control my bank account and my car keys.

The state might enforce contracts that I entered into for purposes of self-restraint. I make a bet that I will not smoke. A bet is equivalent to a penalty on my smoking. I can already make a somewhat enforceable bet if I bring a friend into it, but if he or she is a real friend, what I commit is respect rather than money, and if he or she is not a real friend and the amount of money is large, I probably do not have to pay because the bet is not enforceable. (Surrendering the money to a third party could help.) Still, the social coercion of bets among friends, especially small groups of more than two, in losing weight or giving up cigarettes is impressive. Insurance contracts might help: that medical insurance should be cheaper for people who do not smoke, because they make fewer claims on their medical insurance, is an idea that has some appeal even though it may not have much logic. (Smoking may kill people less expensively than most ways of dying.) But as an incentive people might be allowed to enter insurance contracts that imposed heavy penalties on proven relapses from declarations of abstinence, if there were unambiguous tests like body weight or cigarette stains that would permit a person to incur a high price for delinquency.

There has recently been some attention to the liability of bartenders for serving drinks to people who were already drunk and subsequently suffered accidents or violence. (There have been societies in which recognizable ethnic or racial types were ineligible for service of some kind.) We can imagine a category of voluntary outlaws, people who have irreversibly chosen never again to

be served liquor, the law cooperating by making it a misdemeanor to serve such a person in a public place or even in private, there being some form of identification to establish liability. There might even be “citizen’s arrest” of anyone caught smoking or drinking in public who had voluntarily enrolled among those for whom it is forbidden to smoke or drink.

An innovation might permit people to make contracts from the terms of which they could not release the second party. We contract that you may and must expel me from the airplane if I am unable to make myself jump, when I have signed up for parachute instruction. Or you may keep me in a cell until I sober up, lose weight, or go thirty days without smoking. When I scream to be released there must be some provision for inspection to see what it is that I am screaming about; but when it becomes clear that I am screaming only for cigarettes or heroin, or complaining that they don’t feed me enough, the authorities will certify that the contract is merely being enforced and that my screams needn’t be attended to any further.<sup>6</sup>

A difficulty with enforcing my vows is that there needs to be somebody with an interest in enforcing the rule on me. If you finance my business and I promise to return your investment, there is no need for the state to take any initiative; you take the initiative if I don’t come through. But when I vow to do twenty push-ups before breakfast, even if there are techniques by which to

<sup>6</sup> There is one proposal for a legally binding act of “self-paternalism” that has received attention, most recently in an exhaustive analysis by Rebecca S. Dresser, “Ulysses and the Psychiatrists: A Legal and Policy Analysis of the Voluntary Commitment Contract,” *Harvard Civil Rights—Civil Liberties Law Review* 16 (1982), pp. 777–854. This is letting a patient give a psychiatrist authority to have the patient committed for treatment to an institution during an episode in which the psychiatrist prescribes such treatment and the patient refuses. In some ways this proposal is the epitome of our subject. It does, however, represent an extreme method, incarceration. All kinds of constitutional rights are impinged on, from the right to travel to the proscription of involuntary servitude. And it abuts the issue of involuntary commitment, which has a long civil-rights history. The careful analysis cited above demonstrates that concern for the merits of the case is only part of the matter; what might appear best for the rights and welfare of such patients could conflict with constitutional principles of much wider scope.

establish whether or not I comply, there is no one to bother unless we make it in somebody's interest to spy on me and denounce me to the authorities. We might offer rewards to people who catch me overweight and bring me in for weighing; that means assimilating the self-directed promise to criminal rather than civil law, which I think is a strike against it.

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When I contemplate the aloofness of the law and the needs that so many of us have for help, including legal help, in binding ourselves for our own good (as we can bind ourselves in contractual exchange), I see a gap in our legal institutions. The law has grasped the paradox that freedom should include the freedom to enter into enforceable contracts; it seems to overlook the need that people often have, and perhaps the right that they should have, to constrain their own behavior for their own good. And this could mean, as I have mentioned, either submitting oneself to a personal "criminal law" with rewards for private enforcement, or entering into contracts entailing reciprocal obligations from which one could not release the second party. But having identified an important legal right that seems to be missing, I have to ask myself whether I really think it would be a wise society that permitted me to make irrevocable decisions, or decisions that I could revoke only at a high and deterrent cost. Do I really wish that there were some magical way that I could put certain acts forever beyond reach? Do I really wish that I could swear out a warrant for my own arrest in the event I violate some pledge, offering a large reward and complete immunity for anyone who apprehends me?

It is ultimately an empirical question whether even the right to enter a contract is a good one. If people were continually entering contracts shortsightedly we might want to protect them by requiring every contract to be ratified three times with prescribed time intervals between, to avoid contracts entered in haste. We have

laws that deny minors the right to borrow money. We forbid indentured labor. People may not assign their earnings. Involuntary servitude may not constitutionally be voluntarily incurred. One cannot offer a pound of flesh as collateral, even if there is no other security to offer and one is desperate for a loan. But except for some constitutional and paternalistic safeguards, enforceable contract is popular because it has proved itself. Would the legal power of unilateral determinism, of eliminating options, of entering an enforceable vow, prove to be a blessing or a curse?

I do not know, but we can identify some dangers. One is that the wrong self gets the jump and legally protects its power to beat up the kids, keep liquor in the office, get fat or get skinny — I forget which is the “wrong one” here — or never to go jogging again. It is one thing to ask the law to recognize an individual’s right to become legally forbidden or legally obligated to engage in certain acts or to live a certain way; it is something quite different for the law to select the authentic or legitimate or socially approved self and deny Mr. Hyde the right to oblige Dr. Jekyll to keep some of that stuff around that he drinks to become Mr. Hyde, or deny him the right to move away to where Mr. Hyde will have no place to play or people to play with when it is his turn to emerge.

Then there is changing your mind. I have arranged to pay a forfeit if I am observed smoking, and my informer draws a reward from that forfeit. I later discover that I am terminally ill and may as well smoke; or harmless tobacco is developed; or new research discovers that not everybody is susceptible to the hazards of tobacco, and specifically that I am not, and I’d like to enjoy smoking again. Can we design procedures for backing out of a commitment that was skillfully designed to make it impossible to back out?

Then there will be unforeseen emergencies in which people who were never to lay eyes on their children again need to see them, people who wanted their licenses revoked need to drive, or people who wanted to be confined need to be released. Procedures

that cannot be abused to undo the virtues of the original commitment would have to be devised.

I have heard expressions of concern that struggle builds character and the merchandising of “instant self-control” will weaken the human spirit. I acknowledge the possibility but cannot help comparing the argument to a similar argument we used to hear against taking the pain out of childbirth.

We would want to avoid frivolous commitments — showing off, momentary demonstrations, excursions into martyrdom while under some kind of infatuation. (I conjecture that the tattoo has been popular among youngsters precisely because it is indelible; it is a permanent mutilation; it is an act of daring, precisely because it admits no change of mind and shares if ever so slightly the finality of suicide, loss of virginity, or enlistment in the foreign legion.)

As both law and medicine deprecate suicide, they both deprecate castration of children. Sterilization is allowed for adults, but I understand that psychiatrists are not at ease about sterilization that may be undertaken for convenience by people who haven't the maturity to appreciate how they may react at a later age. Children under the age of contract can probably be dismissed from these problems; but there is a slightly desperate quality to this whole subject which suggests that this legal opportunity would be of least interest to the people who could best claim sanity, adulthood, maturity, responsibility, and emotional stability.

The objection that appeals to me most strongly is that people may be coerced into “voluntary” self-denial, self-restriction, even self-removal. A Los Angeles judge offered probation to a welfare mother convicted of fraud on condition she let herself be sterilized, thereby saving herself six months' incarceration; he was giving her a free option only if — which was doubtful — six months was the sentence he would have given her had her childbearing not been at issue. Employers, parole boards, judges and probation officers, even school admissions officers and spouses, not to mention various

moral minorities in the electorate, may demand assurances of both good behavior and good intentions as conditions for what they can offer, once those assurances are publicly available. Certain rights, like early retirement (even early death), can come to carry some implied obligation. (Imagine an option, perhaps upon application for marriage license, legally to forswear forever one's right to a divorce. Who could believe it was voluntary?) The "vow" itself, in its more traditional meaning as a profession of faith, was sometimes coerced by the vilest means. (Religious minorities have at least one advantage when the majority religion is one that a person must be born into — no coercive proselytizing.)<sup>7</sup>

Coercion shows up in two ways, the one I just mentioned and the direct act of enforcement. If the government itself is responsible for enforcing the sanctions one has voluntarily incurred, in the manner of criminal law, there is both unpleasantness and an enlargement of that domain of government, the manipulation or harassment of individuals, that many of us like least. Enforcement by a private party, in the manner of civil law, would probably be felt to involve a noticeably lesser governmental role in the coercive enforcement. If damages only, not actual performance, could be claimed, the arrangements might be less effective but less threatening to society. Finally, there is the question whether the government should void or deny or prohibit privately available means of binding ourselves. Thomas Nagel has remarked that few governments any longer make it easy to enter into a permanently indissoluble marriage. Governments might regulate measures that

<sup>7</sup> Voluntary submission to polygraph testing is a perfect example. "In addition to its uses in prisons, the military, police work, FBI and CIA investigations, and pretrial examinations both for the prosecution and for the defense, the polygraph has also found its way into corporate America, where it is widely used for detecting white collar crime and for screening potential employees. This year, it is estimated, half a million to a million Americans, for one reason or another, will take a lie detector test." Alfred Meyer, "Do Lie Detectors Lie?" *Science* 82 (June 1982), p. 24. Refusal to submit "voluntarily," like pleading the Fifth Amendment or declining to make financial disclosure, is construed as an admission of having something to hide.

operate directly on the brain, The implantation, requiring the services of a surgeon, of devices that monitor behavior could be discouraged by several means. I tend to feel that the dangers in allowing long-term renunciations of freedom are least when they do not depend on the government for enforcement; that leaves open whether government should deny the freedom to impair freedom where enforcement of contract by the government is not involved.

I do not conclude that the dangers are so overwhelming that we should continue to deny any legitimacy to the demand for legal status for these unilateral self-commitments. But I also do not conclude that we should discover a new disadvantaged minority, those that need help in self-defense against themselves, and acknowledge their right to enlist the law in their behalf. I conclude instead that there are probably innovations along the lines I have suggested, and that with care there might be some tentative exploration, with adequate safeguards and the expectation that it may be years or generations before we converge on a reasonable legal philosophy. The law is still groping for how to cope with rights to life and rights to death, rights of children and rights of the unborn, rights of separated parents, rights of the emotionally unstable or the mentally retarded, and the proper legal sanctions on drugs, adultery, contraceptive advice to minors, and the entrapment of drunken drivers. There should be no easy solution to this one.

I have spoken of the *legal* status of vows, but the issue could be more broadly formulated as one of social *policy*. The method could be legislative as well as judicial. Bartenders have been found liable for serving drinks to people who had already drunk too much and went on to get themselves destroyed by automobile, The liability could be established by legislation as well as by judicial interpretation. There have been and are societies in which particular kinds of individuals may not be served alcohol; what would be new is the provision for voluntarily putting oneself, per-

haps with some indelible mark like a tattoo on one's forehead, in the statutorily recognized category of persons who may not be served.

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The law aside, there are difficult discriminations in determining the authenticity of a request for help in somebody's dying.

If your moral convictions never permit you to help someone die, or even to let someone die in the belief that that is what he wants, no authentication is necessary, no request being admissible no matter how authentic. But if you wish to credit a request to be allowed to die, or a request to be helped to die, authenticating the source of the request — which self it is that is in command and controls the decision to make the request — is certainly important and probably difficult.

It is hard to imagine there being no question of authenticity. Death is so complete, so final, so irreversible, that a self that controls the decision may be unable to command the action. Inability to produce one's own death does not seem to be reliable evidence that one "really" prefers to live, any more than inability to cut one's own thumb out of its socket testifies to one's preferring to drown. Even asking for help may be subject to inhibition, and only a transient surge of determination could galvanize it. And while the self that is created by that transient surge may be the one that deserves recognition, it is not the only self involved.

We are dealing with an even more unambiguously "divided self" when the requests vacillate. To plead in the night for the termination of an unbearable existence and to express relief at midday that one's gloomy night broodings were not taken seriously, to explain away the nighttime self in hopes of discrediting it, and then to plead again for termination the next night creates an awesome dilemma.

How do we tell the authentic self? Maybe the nighttime self is in physical or mental agony and the daytime self has a short

memory. Maybe the daytime self lives in terror of death and is condemned to perpetuate its terror by frantically staying alive, suppressing both memory and anticipation of the more tangible horrors of the night. Or perhaps the nighttime self is overreacting to nocturnal gloom and depressed metabolism, trapped in a nightmare that it does not realize ends at dawn.

The search for a test of the authentic self may define the problem wrong. Both selves can be authentic. Like Siamese twins that live or die together but do not share pain, one pleads for life and the other for death — contradictory but inseparable pleas. If one of the twins sleeps when the other is awake, they are like the two selves that alternate between night and day.

That both selves are authentic does not eliminate the issue. We must still decide which request to grant. But if both selves deserve recognition, the issue is *distributive*, not one of *identification*. We can do cost-benefit analysis and try to maximize their joint utility. But it is *we* and not *they* who are concerned with joint utility. The need for commensurable utility, for adding the desires of the one and the desires of the other, is like the need, under the authenticity formulation, for assessing the probabilities and the severities of the two errors: wrongly crediting the plea to die and wrongly crediting the plea to live. If the nighttime self is authentic we commit error in heeding the daytime self; but also vice versa. In the absence of certainty about which self is authentic, we have something like the distributive issue of dealing fairly with two selves that have opposite needs.<sup>8</sup>

<sup>8</sup> In discussion I find that responses to a hypothetical ambivalence about wanting to live and wanting to die are sensitive to the way the alternative preferences are described. If the choices are presented as symmetrical — a strong desire for life expressed at one time and a strong desire for death at another — people, while recognizing a grave conflict, elect to credit or defer to the voice in favor of life. But descriptions of actual patients who display the ambivalence often lend themselves to an alternative, nonsymmetrical formulation: there is a preference for *death*, and there is a horror of *dying*. Death is the permanent state; dying is the act, the transition — the awesome, terrifying, gruesome, and possibly painful event. Presented this way, the choice can be compared to Ahab's. Ahab can enjoy permanent relief — minus a leg, to be sure — only by undergoing a brief and horrifying event, as the

What about a promise made with certainty about the currently authentic self — authentic at the time the promise is made — to disregard the alternate self that may make an appearance? I ask you to promise to let me die, if necessary to help me, even to make me die, in certain gruesome and degrading circumstances that I specify in detail. Your promise is to disregard any countermand. No matter how much I plead to be left living you are to honor your obligation. And I urge you to contemplate, if tempted to heed the countermand, that it may be the voice of a terrified self that is incapable even of letting its terror be terminated.

The worst happens, and I plead persuasively. I claim that the self that demanded my execution couldn't know what I know now.

The same dilemmas can arise for pain rather than death. But the miraculous progress of anesthesia in our society makes Ahab's predicament uncommon, while the miraculous progress in medical life support is increasing the concern with dying.

If I can get relief from chronic pain only through an interval of acute pain and I cannot be sufficiently anesthetized to keep me from screaming for relief and pleading that the surgery be discontinued, there arises the ethical question. Do you let me change my mind when I discover how painful the ordeal really is that I committed myself to before I could ever know what it felt like to be in such pain? Or do you take note on my behalf that pain is short and life is long — or that pain will be past and life will be ahead — and not bother even to measure my pain's intensity?

Dying, killing, and suicide are unlike pain, confinement, disablement, and even torture, which, however horrendous, have a finiteness that death lacks in our culture. Imagine a patient allergic

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permanent relief of death can be obtained only by undergoing a brief and horrifying event. Of course, the person whose momentary preferences are dominated by the terror of dying may not be able to cooperate in making this discrimination for us. Indeed he or she may misrepresent (even to himself or herself) the terms of the choice, just as people who face a frightening trip to doctor or dentist may misrepresent their symptoms. In somewhat the same way, the novice parachutist might be described as badly wanting to *have* jumped while frightened of jumping.

to anesthesia solemnly signing a request before witnesses that the operation about to be embarked on proceed irrespective of the patient's vehemently expressed later wishes that the pain and the operation stop. I expect the surgical team to abide by the request, secure in the belief that no punitive action could be taken against them until the operation had been completed and the pain had subsided, by which time the patient's original self, the one that signed the request, would again be gratefully in charge. I can even more easily imagine the surgeon's assuring the patient that the operation requires confining his head so that no request could be voiced, and confining his head, whether it were necessary for the surgery or not. (The rule might be: anesthetize the tongue if you cannot anesthetize where it hurts.)

Our thinking on this may be affected by the observation that, at our ages, examples of unbearable pain are usually episodes, like surgery or cauterization. When instead protracted intervals of pain are the lifetime price one pays for mobility or even for just living, doctors have to cope with patients who occasionally can't take it any more and who ask in desperation that the source of the pain, life itself, be removed.

We probably wouldn't hesitate to deny the request if it were a child. (It may be easier to cope with adults, especially elderly adults, the more childlike they become when at the mercy of a physician.) I don't know whether that is because we assume that the child's current self has a poor appreciation of the future, and other successive selves may be grateful that the younger self was not allowed to make that decision before they came on the scene. How many later selves have to endorse that early decision before we count a quorum and let those who have now spoken have their way at last?

Pain is often the obverse of dying. Dying is just the back side of the coin, when removing the source of the pain means removing life from the body. There is no later grateful self to express satis-

faction if the doctor withholds relief, and no self able to thank him if he complies.

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For centuries people were terrified by Hell, a condition worse than life itself, one that awaited after death, an inescapable sequel to which self-destruction made one especially susceptible. Death was no escape. But the audience for these remarks probably believes that death is the end of pain, an exit, not the entrance to an eternity of horror. And whatever the morality of suicide, it is probably not thought by many in my audience to be punishable by eternal damnation.

But the medical ability to keep people alive, to keep them alive irrespective of their wishes or despite them, and the legal obligation or ethical compulsion to do so — the obstinate unwillingness to recognize a right to death as well as a right to life — may have recreated Hell. While science and enlightenment were emancipating us from Hell after death, medical technology has recreated Hell as an end-stage disease. And our social institutions have made it a fate not easy to escape.

But expressing a wish to die or to live, when circumstances are tragic enough to make the choice genuine, is subject to multifarious dimensions of authenticity. The preferences themselves may not be voiced. Just as a person may be incapable of the initiative to commit so awesome an act, a person may be incapable of speaking about it. If the decision requires moral support or intellectual guidance, if one needs advice or at least an opportunity to discuss it, there is no way to discuss it without engaging another person; and the other person will be an interested party, perhaps himself unable to identify or to authenticate an expressed preference. Anyone intimate enough to be asked for help, even in arriving at a decision, is likely to have a selfish interest in the outcome, one that may conflict with his interest in identifying the authentic wish of the person whose death is at issue.

If I am the unhappy patient I may prefer to live but wish to die to stop being a burden to you. I may not want to burden you with guilt if I choose death, or to suggest that I think you resent my living. I may not be able to ask you to help me die to relieve you of the burden of me. And if I wrongly think you will benefit from my death, how can you persuade me my belief is wrong.

If you genuinely believe I prefer death, how can you be sure your own preferences are not mingled in your judgment of what is best for me, or of what I think is best for me? How can you avoid being suspected, even by legal authorities, of excessive zeal in helping me to relieve you of me? May the legal availability of a right to invite death acquire the character of an obligation? How can you keep your willingness to help me reach a decision to die from being, or appearing to be, an effort to persuade me? And how do several interested parties — kin and medical attendants — participate in the decision when they are themselves in dispute about the death and about responsibility for it?<sup>9</sup>

There is no graver issue for the coming century than how to recognize and authenticate the preferences of people for whom dying has become the issue that dominates their lives. This is the ultimate dilemma of authenticating the self, of discovering the legitimate sovereignty of the individual.

<sup>9</sup> I have written more on this in “Strategic Relationships in Dying,” in Ernan McMullin, ed., *Death and Decision* (Boulder, Colo.: Mestview Press, 1978).