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Prudence and the Use and Abuse of the New Learning About Salience

Abstract: We have learned that tax policy preferences are sensitive to how questions are presented to voters (their salience). If one believes, reasonably, that there is also evidence that voters do not vote for their preferred tax policy, then manipulating salience could help voters arrive at their preferred outcome. Such manipulation has been strongly criticized as not only impinging on voter autonomy as to their legitimate policy preferences, but also likely to be worse than ineffective because it would violate norms of procedural justice and possibly engender blowback. In this article, I will sketch the line between what is permissible and what is not. Choosing the right level of salience is a practice in prudence. Prudence is the virtue of mind associated with making better decisions when there are many reasonable options to choose from. A prudent salience engineer will use the new learning about salience to present the information a citizen needs to make a decision using her own practical judgment.

Keywords: Tax policy; behavioral finance; salience; bond elections

I. Introduction

It is hardly a secret that people have limited time and capacity in which to make decisions, and yet we make the decisions anyway, often responding to cues that are not rationally related to the choice or even our own self-interest (rational or otherwise) or reported policy preferences. In the last several decades, scholars from several related fields have made major strides in mapping this domain of bounded rationality, eventually applying its lessons to the world of tax (Gamage and Shanske 2012).

Empirical work has revealed, not surprisingly, that people are (at least) as boundedly rational in thinking about tax as they are in other areas. On the basis of such data, scholars have offered various normative proposals. One type of proposal suggests that the government should exploit these biases, within limits, in order to achieve better public policy results, results that are at least arguably what the voters really want (Schenk 2011). Indeed, one might believe that persistent public policy failures across a number of domains indicate that the imperative to help citizens make better decisions is urgent. There is evidence that earmarking taxes increases

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support for those taxes (Hemel and Porter 2019), which suggests not only that tax revenues should be earmarked but *presented* as earmarked. This is because it matters *how* proposals are presented; the study of salience means attending to this “how.” There is also evidence that providing voters with more accurate information about income distribution encourages support for more redistributive taxes (Boudreau and Mackenzie 2018). Thus, if one believes that there ought to be more redistribution, then perhaps the presentation of tax increase proposals to the voters should present more information about income distribution—that is, make this information more salient.

Another school suggests that such approaches are not only normatively dubious, but doomed to fail for related reasons of social psychology. Just as it has been shown that individuals are, for instance, irrationally loss-averse across many contexts, there is also considerable evidence of a strong sense of procedural fairness that would be offended by manipulation of salience, perhaps to the detriment of an otherwise sound policy.

This last argument is made particularly strongly by Steven Sheffrin and his is the argument I will respond to (Sheffrin 2013), though not to defend *exploiting* political salience as such. I will, however, sketch a theory as to how and why governments (or other political actors) should and could attend to political salience, with a focus on issues relating to taxation, though the analysis applies to other domains as well.

I will argue that it cannot be the case that governments are not permitted to *present* information on difficult issues to their citizens and to aim to do so perspicuously by taking into account what we know about salience. Issues relating to taxation occupy a Bermuda triangle of woe: ignorance of basic information (Bartels 2005, 124), cognitive limitations involving computations (Lusardi and Tufano 2009), and also limitations involving planning for the future (MacKenzie 2017). Furthermore, if it turns out, as is likely, that citizens hold a variety of not entirely consistent values (for example, desert theories versus concerns with equality), then it would seem all the more proper to present information responsive to a wide array of such values. Relatedly, it also can't be the case that structural reforms that make taxation itself *less* salient are somehow prohibited. Even assuming we know what it means to make a tax less salient, how can it be that we can individually enroll in automatic bill pay for our internet hookup, but can't collectively enroll in automatic payment options for our property taxes?

To be clear, Sheffrin would likely agree with much of this argument. Sheffrin himself highlights an example of a government presenting tax information in connection with a tax reform successfully and properly. Sheffrin also intimates that we are not stuck catering to our impression of current voter preferences, but can work to educate them. Yet these are hints, whereas the thrust of his book is about critiquing theories of salience and/or taxation that would, he believes, go too far in manipulating salience and thus be problematic in terms of procedural fairness or other aspects of folk tax justice. In this article, I will attempt to sketch the line between what is permissible and what is not. It is not a bright line rule, but a rule of prudence.¹ A prudent approach to salience is respectful of individual autonomy and thus does not have a clear political valence. That said, to the extent one believes public policy has been

¹ Not surprisingly, at least some scholars of disclosure, a related issue, have reached a similar conclusion. For example, see Bubb (2015).

derailed by false information, then respectful, but efficacious, presentation of true information will only be for the good.

II. Tax Salience, Market and Political

We will need to start with definitions.² Tax salience refers to the extent to which taxpayers account for the costs imposed by taxation when the taxpayers make decisions or judgments. Tax salience is relevant to (at least) market decision-making (for example, consumer purchasing) and political-judgment formation (for example, individual voting). I labeled the two phenomena in earlier work (with David Gamage) as “market salience” and “political salience” accordingly.

For both market salience and political salience, the concept of tax salience indicates whether taxpayers would make *systematically* different market or political judgments when faced with equivalently sized tax liabilities depending on *how* the tax liabilities are presented. Extended to other kinds of information, salience could refer to whether voters are asked a question about taxation after being provided with information on distribution, the provision itself making an issue salient. Further, the information on distribution can be presented in different ways and those differences in design themselves raise salience issues.

As to market salience, we argued that there is a general but defeasible argument that it would be better to design tax systems that reduce market salience. The argument was straightforward: in general, we do not want the tax system to interfere with the decisions that market actors would otherwise make and so the less attention spent on taxes the better.³

We reached a different conclusion as to political salience. As to political salience, we argued, scholars lack a sound basis for evaluating whether manipulating political salience in either direction is good or bad. This is because, for political decision-making, we lack a reference point equivalent to the market prices charged by private-sector vendors. Lacking a useful baseline, we cannot ascertain the normative implications of raising or lowering political salience. We simply do not know enough about how voters reach political judgments (or how they ought to do so) for us to say anything meaningful about the normative implications of political salience with respect to real-world fiscal policy debates.

To get a fuller flavor for our position, I will briefly review two of our specific arguments as to political salience here. First, recent work in behavioral psychology undermines the notion that voters have “true” preferences as to fiscal matters. Consider that it turns out that *how* researchers ask questions of voters can dramatically affect the answers received. And we have no means for assessing the correct manner in which questions should be asked.

For example, in experiments conducted by McCaffery and Baron, the experimental subjects expressed significantly different preferences regarding fiscal policies depending on whether tax prices were expressed in dollar values or as percentages (McCaffery and Baron 2006, 113-14). In particular, subjects tended to prefer more progressive tax structures when the tax

² This discussion follows Gamage and Shanske (2012).

³ Note that any decision to reduce market salience first requires a procedurally fair political process, a point developed in this article in the context of political salience.

system was represented in percentage terms rather than using dollar values. This evidence suggests that voters often support tax-rate progressivity without having a strong sense about what progressivity means or about how much progressivity they favor. Under the standard definitions, a “flat tax” is defined as when all taxpayers pay the same percentage of their incomes in taxation, and a “progressive tax” as when higher-income taxpayers pay a greater percentage of their incomes in taxation than do lower-income taxpayers. But, when tax liabilities are displayed in dollar values, rather than as percentages, higher-income taxpayers are shown as paying more tax dollars than lower-income taxpayers even under a flat tax. It perhaps should come as no surprise then that displaying tax information in dollar values appears to dramatically reduce voters’ support for progressivity.

It is not clear whether voters’ “true” preferences are better reflected by the opinions voters express when shown percentage-based tax information or when shown dollar-value-based information. Indeed, we might infer from the experimental evidence on voters’ tax preferences that voters frequently make aesthetic judgments about taxation based on superficial characteristics of tax systems (McCaffery and Baron 2005).

A second argument goes to the relationship between taxes and the larger system of public finance. If voters could be made to accurately understand the costs of government, but not the benefits, we would still lack a baseline capable of honoring voters’ true fiscal preferences. To put the matter prosaically, there is widespread belief that governments waste money. If this is so, then a voter, understanding her tax burden correctly, would vote to reduce her taxes. Yet if the voter is wrong about the benefits of governments—and for the same types of salience-related reasons—then she has made a mistake.

And, indeed, just as there are reasons to think that existing tax instruments might cause voters to sometimes underestimate their tax burdens, there are also reasons to think that existing fiscal policies might cause voters to sometimes underestimate the benefits of public spending. Suppose it is true that voters systematically underestimate the cost of “indirect” taxes, such as sales taxes. Yet, just as with many taxes, the benefits of government spending are often indirect. A prime example is the whole class of benefits that are provided in order to remedy what are perceived as market failures. In a society where the primary decisions as to resource allocation are left to the market, the role of the government generally recedes to the background—for instance, deterring crime, regulating the food and water supply, and providing national defense. For many government services, a taxpayer often may only focus on the services when the government has failed.

Our normative conclusion on political salience was therefore modest. As to actual tax policy issues, such as whether or not to impose a value-added tax, we argued that political salience should not be a consideration. This was because even if we knew whether or not such a change would reduce political salience, and we do not, we certainly do not know whether in the larger context facing voters any change in salience would be a help or a hindrance.

In sum, this analysis indicates that a reduction in political salience—should there be any—ought not to weigh on tax policy decisions one way or another.

III. Sheffrin's Critique: The Claims of Procedural Justice and Folk Justice

Steve Sheffrin, a leading tax economist, wrote an important book about the psychological underpinnings of how people generally think about the tax system. He critiques various theorists for offering approaches untethered to the deep intuitions ordinary people have about taxation. One line of critique involves the import of procedural justice (Sheffrin 2013, 30–34). He specifically critiques our account of market and political salience (Sheffrin 2013, 219) and does so with particular reference to what he believes to be the lessons to be learned from his discussion of property taxes.

Sheffrin's short discussion of our argument could be understood as critiquing us on one of several grounds. First, the criticism might be that we are advocating changes to the tax system in a manner that would *itself* not be politically salient. That would be unfair for several reasons. First, we specifically maintain that deliberate government deception is clearly wrong. Second, we do not offer an argument one way or the other as to political salience. Furthermore, our main focus was on how the *presentation* of a tax—for example, tax-inclusive or tax-exclusive pricing—affected the tax's political salience and we do not discuss how salient the political process itself should be. Sheffrin is presumably not arguing that every tax must be as salient as possible.

And so a better critique, and what I believe Sheffrin is getting at, is that the reduction of the salience of the process, market or political, is inherently problematic. We just assert that a sneaky process is out of bounds but seem to accept that a less salient tax instrument might be acceptable. On what grounds do we do so?

I think Sheffrin is correct that the claims of procedural justice limit the manipulation of political salience. I also agree with Sheffrin that manipulation that was procedurally inadequate, if attempted, might be worse than self-defeating. Yet Sheffrin also accepts, at least sotto voce, that the salience of the political process is itself subject to design and, further, that lower salience taxes are permissible. He even accepts that we do not need to accept the citizens' perceived notion of folk justice as a given (Sheffrin 2013, 224); rather, he warns that these folk notions must be given their due. Thus Sheffrin's focus is on the critique of a too-glib approach to these notions of folk justice, but he does not himself outline the proper limits of the use of what we are learning about salience.

Before proceeding, I should consider a different part of Sheffrin's argument, though not one targeted at our account of salience in particular. In general, Sheffrin believes that taxpayers have a notion of folk justice relating to desert that is not consistent with the prescription of academic economists. Put crudely, most people would not accept taxing the rich to the extent (some) economic theory might suggest to help the poor because most people have a sense that the rich earned at least much of their income/wealth and so very high marginal tax rates are not acceptable.

The role of this desert theory is connected to Sheffrin's concern about salience in two ways. First, he clearly thinks that those who would manipulate salience are ignoring lessons drawn from folk psychology just as much as those who would over-tax the rich.

Second, and somewhat more implicitly, he might think that those who are too little concerned with procedural justice might manipulate salience in order to short-circuit constraints on the level of taxation imposed by desert theory. That is, if ordinary voters are more likely to approve higher rates if shown tax rates—or are primed in some other way—then such manipulation could be justified in order to get voters to the “right” answer.

A. Sheffrin and the Case of Wales: Salience Design in Action (Implicitly)

Sheffrin lauds the approach taken by the Welsh government in explaining how a new property tax system was going to work; he hails this as “an example of successful attention to procedural justice” (Sheffrin 2013, 109). What did the Welsh government do? It presented taxpayers lots of information, convened numerous fora meant to answer questions, and allowed voters an opportunity to object if they disagreed with their property tax assessment (Sheffrin 2013, 109).

In providing information over a reasonable time, the Welsh government had to act as a salience engineer. It did not send out mailings every day; it had to decide what kind of information to put in the mailings and *how* to present it. It had to decide how much time was enough time to digest such a significant change. We should also attend to the details of the tax that was reformed. It was a property tax, and property taxes are subject to annual adjustment in opaque ways. For example, if a formerly valuable big-box store goes out of business, then it will, of course, no longer be paying much in property taxes. The way property taxes work, this will mean that the rate of the tax on all other property owners will go up in order to raise the same amount of money. Sheffrin argues at the beginning of his discussion of property taxes that this feature of the property taxes is one of the reasons they are so unpopular (*ibid.*, 73, 81, 94). Nevertheless, the Welsh government reformed its property tax through a revaluation that shifted, and in many cases increased, individual tax burdens upward because of market forces over which taxpayers did not have control (*ibid.*, 106). And yet the Welsh reforms were a success, with, for example, far fewer appeals than expected (*ibid.*, 108–09).

The point here is not that Sheffrin somehow contradicts himself and actually is on board with *manipulation* of salience. He is not, but he also, quite rightly, intuits that procedural justice does not stand in the way of all considerations of salience in designing a political process. The Welsh government made reasonable judgment calls as to its information campaign. Indeed, note that this campaign was to implement a policy already chosen; it was not even to assess what the voters wanted. (Of course, if the information campaign failed, then the voters could have tried to force the government to abandon the reform.)

And so, as this example illustrates, Sheffrin would seem to permit government communication about a change to a controversial tax, a change that will, in effect, permit other changes, low-salience changes, going forward. And so, just as I owe Sheffrin an explanation of why certain manipulations of salience are not permitted, he must explain why certain manipulations *are* permitted.

B. *Some Additional Framing*

Before proceeding to respond to Sheffrin, we should be sure to understand that there are many types of policy proposals implicated by the ethics of salience. Specifically, there is the question of how to frame political choices using what we know about salience and then there is the question of whether certain policy expedients, that are arguably low-salience in some way, should be off limits.

Property Tax Withholding. People really hate the property tax, even as they relatively like the local governments that the property tax funds. Indeed, they hate the property tax even though in many cases it is not the most significant tax they face. I think that one reason that this is so is *how* the tax is collected. Unlike your payroll taxes and income taxes, which are mostly withheld from your income, property taxes are due once or twice a year in a lump sum. According to some, this makes the tax particularly salient. Salient or not, this method of collection also requires citizens to be able to budget to pay for the tax, something behavioral economics has taught us that many people cannot do. One fix for the budgeting and liquidity problems caused by the property could be to have it withheld every month in the same way that income taxes are withheld (Shanske 2014).

Carbon Tax Fed. If we are going to save the world, then we will need, somehow, to set a price on carbon. The price needs to be high if we want to get the behavioral response we need, but not so high so as to cause needless suffering, especially because in that case the whole initiative would not be politically sustainable. Also, in order to get the response we need, we would ideally pre-commit to a high price for a long time. And so the proposal would be to entrust the slow raising of the carbon price to a set of experts who could assess how the price is doing and adjust it accordingly.⁴ The adjustments might even be downward. Also, to the extent that a carbon tax would likely be regressive, the primary tool to mitigate the problem would be to dividend back most of the tax proceeds, especially to communities disproportionately affected by the tax. As a matter of politics, it might be necessary also to pre-commit to the dividend because of the not-unreasonable concern that current politicians might spend the carbon tax revenue on other projects.

These two proposals illustrate somewhat different aspects of the salience challenge. The first proposal, moving to property tax withholding, is in the nature of an ordinary change to the functioning of a longstanding tax, a change that, possibly, reduces the salience of the property tax. Let's assume that it does for our purposes. Would it be a permissible change? Under what circumstances?

Now consider moving to a Carbon Tax Fed. This is a little different. Such a change represents a significant shift of political authority into the future where the new authority will be able to make numerous low-salience decisions. How should such a change be considered?

To further simplify the analysis, let's consider the government communicating about these issues to voters in the context of an exercise in direct democracy. That is, if such measures were to be put before the people, *how* should the issues be communicated?

⁴ For a related proposal, see Kamin (2017, 198). For a proposal to entrust taxes more generally to a kind of Tax Fed, see Hines and Logue (2015).

IV. Salience and Prudence

The general demands of procedural justice do restrain what it is proper for the government to do in providing citizens with information, but procedural justice, alone, does not answer the question of *how* information is to be provided. This is a practical question that requires tradeoffs. To return to our example involving using percentages or numbers to represent a tax increase, the government must make a choice. It can use one or the other or both. Both might seem an obvious choice, but there are going to be diminishing returns with more information. There is also a question of percentage of *what* and *whose* absolute tax burden. The median voter? A range of taxpayers? And what of information about the current tax system? Shouldn't this be provided in some form in light of widespread ignorance? If such information should be provided, how much and in what form? And on it goes.

We would not say a process that chose only to display absolute numbers was on that ground alone procedurally unjust, even if we might reasonably disagree with the choice. When there can be more than one proper way forward, we are in the realm of prudence (Aristotle, *Nicomachean Ethics*, 6.5). Prudence is the virtue of mind associated with making better practical decisions when there are many reasonable options to choose from. Accordingly, I am calling an appropriate political salience in this context “prudential salience.” Choosing the right level of salience is itself a practice in prudence. But prudence does more work than that. “Prudential” also indicates that what the prudent designer is aiming at is presenting the information a citizen would need to make a decision using her own practical judgment.

Prudence also has ethical components, or at least it has since first identified as a virtue of the mind by Aristotle (*Nicomachean Ethics* 6.12; see Russell 2009, 25). Two components are important to highlight here. First, the prudence in salience design requires a respect for the capacity of decisionmakers, the voters, to make decisions for themselves. Not respecting the capacity of others to exercise their intellectual capacities is to undermine one of the bases for living in a political community to begin with (Frank 2005, 175).

Second, prudence counsels a certain generosity as to the ends of procedural justice. The particular end I think important here is legitimacy, especially as to accepting an outcome contrary to one's preferences (Solum 2004, 277-81).

The unity of the various virtues is a deep question that would take us very far afield. Suffice it to say that it is relatively uncontroversial to argue that a certain amount of prudence is necessary for all the virtues of character. For instance, without prudence, there is no way to distinguish courage from foolhardiness. It is a little harder to quickly make the case for an ethical component to prudence, but, for our purposes, a quick sketch will do.

Aristotle observes that someone who is a stickler for the law, even a just law, might well fail to be just because of the limitation of law as law (Aristotle, *Nicomachean Ethics* 5.10). Laws cannot take into account every possible case and, therefore, they will sometimes render injustice if their greater purpose is not understood. Keeping the just law just in spite of its generality is the task of the character virtue of equity (*epieikeia*). Without the right character, in this case without an equitable character, then one cannot prudently follow the law because you do not understand what it is the law is trying to achieve.

This is as far as I wish to go with this. Whatever the ultimate conceptual analysis of prudence and equity, my notion of prudential salience is meant to highlight an ethical component, a component that I do not think is ad hoc, but immanent to the project. As the designer of a system for how we are all going to make important choices, a certain generosity of character, along with a prudent mind, is important—if only to secure the legitimacy of the ultimate decisions.

Here are examples to illustrate this last point about prudential salience. There is no question that the prudent designer cannot design a process that takes every possible relevant consideration—and *presentation* of that consideration—into account. Such an approach would be costly, ineffective, and could not even achieve its goal of covering all possible approaches. But this does not mean that there are not options that are more equitable, more generous, than others. Consider accommodations for the disabled or linguistic minorities or even the provision of lots of information on a website. Consider also providing relevant information in a number of ways, written and visual, a more pure salience issue. These options could be costly and perhaps in the aggregate could be off-putting or confusing, at least for some. It is an exercise in prudence how far any or all of such expedients should go; they cannot all be done as much as some might wish. Yet the prudent choice is not the choice that satisfies a cost-benefit analysis and is minimally procedurally just. The prudent choice is the one that would be made by a generous character, looking, prudently, to err on the side of securing more legitimacy rather than less by providing more information, and more useful information, to someone making an important decision when that someone might have any number of values, including values the engineer may be wary of.

To sum up, the notion of prudential salience provides the answer to the question Sheffrin asked of me and I threw back in another form: what can properly be done with salience? The answer is what can be done is what prudence permits, and this rules out outright manipulation, but permits thoughtful deployment of what we have learned.

A. Prudential Salience and Normative Diversity

In making a reasonable guess at providing what reasonable people would want to know and how, there are (at least) four types of important axes of diversity that prudent, ethical salience engineers must consider. Outlining these will be important for refining how prudential salience is to work.

First, most obviously, there are differences in values between people. There are some taxpayers who are not going to care about distributive differences no matter the frame. The art is in presenting such information to citizens who might care, while also presenting information of use to the non-distributivists. Second, there is, of course, going to be diversity in capacity for any number of reasons. In the realm of tax, assuming a generally low level of sophistication seems warranted.

Third, there is likely diversity even within one person. It seems a strained reading, to me, to claim that providing information about earmarking or presenting information as percentages (rather than numbers) is actually shifting a person's normative preferences (at least under most conditions). It seems more plausible to argue that most (all?) people have multiple, competing,

and not entirely consistent commitments, and that the presentation can have the effect of bringing different commitments to the fore. It is this instability that seems, to me, to explain why Sheffrin can conclude based on some studies that more information about the tax system reduces support for redistribution (Sheffrin 2013, 125-30), but others conclude that more information on income distribution leads to a different result (Boudreau and Mackenzie 2018).⁵ The fact that these studies seem to rely on somewhat different kinds of information⁶ only reinforces the notion that what people are responding to with different normative commitments—to desert or equality—is based on small differences in presentation.

That a citizen has many actual commitments does not excuse bringing one to prominence as part of a scheme to manipulate, but it adds another wrinkle to the task of the prudent salience engineer. It would not do, for example, wholly to discount commitments to theories of either desert or equality. And so, to be specific, it would be appropriate to present information on the current tax system (apparently, likely to discourage further distribution) and current income distribution (apparently, likely to encourage further distribution). If based on such a presentation, voters opt for the choice that is not best or right, well, then that has to be okay with the salience engineer.⁷ This is not to say that the voters cannot be asked again, but however they are asked has to again comply with the ethical and practical demands of prudence.

Fourth, and somewhat different, is that the same person can have different values through time. Most importantly, people can learn. Just as it is arguable that some have over-read the new learning about psychology to conclude that big changes are possible, the same learning can be read to reinforce a form of the status quo. After all, if ordinary citizens—and their leaders, who are people too⁸—make their decisions using all manner of dubious shortcuts, especially when matters get complex and long-term, then one ought to be skeptical of any big social initiatives and should instead keep matters close to home, trusting in individuals to make the right decisions on the matters that affect them directly. Richard Epstein makes a version of this argument (Epstein 2006).

Sheffrin is careful not to endorse this kind of conservative conclusion. To this end, he cites work by the philosopher Sam Scheffler in which Scheffler argues that changes are necessary to our everyday notions of desert, but also warns that any reform “must be compatible with a realistic account of the role played in human psychology and social responsibility by ideas of desert and responsibility” (Sheffrin 2013, 224, citing Scheffler 2005, 24). Following this line of

⁵ And there is still more complexity if one takes into account, following Stark, that citizens might adopt certain preferences as expressions of value. For instance, one might actually not be against distribution to the poor, but be eager to be seen as the kind of person who believes in desert (Stark 2015).

⁶ Note that the fact that this issue is about different kinds of information might suggest that this is not about salience—the how of presentation—at all. But this is not so, as simply presenting this information at all is to make it salient and this presentation might have significant effects.

⁷ And this is how this discussion of salience should be distinguished from the related nudge literature (Thaler and Sunstein 2008). One gives a nudge when one knows the right answer (or thinks one does), say more retirement savings, and one does so by manipulating salience (for example, making savings the default). And so, for example, one can coherently reject nudging as an affront to individual dignity, but can accept labeling and other types of presentation of information (McCrudden and King 2015).

⁸ To be clear, I don’t think the fact that officials and politicians make their own cognitive errors undermines the whole enterprise; it just requires thoughtful consideration as to how to design institutions to limit these errors (Rachlinski and Farina 2002).

thinking, which I think is correct, there is no requirement that citizens be spoon-fed only information likely to confirm what they already believe. Only feeding into preconceived notions is as disrespectful to the capacity of fellow citizens to choose as it would be not to provide information that might lead citizens astray according to the lights of the salience engineer. It is therefore okay—at least prudently—to present distributive information to the avowed non-distributivist not only because others might want that information and not only because that voter might, in fact, have other values to which this information could be relevant, but also because presenting information that might be challenging is, in fact, the right way to treat another as an equal.

B. An Extended “Ordinary” Example: Not Just Wales

This has all been somewhat abstract, with the exception of Sheffrin’s example from Wales. In this section, I would like to illustrate the functioning of prudential salience with an extended example. Following Scheffler’s advice, if a practice has gained widespread acceptance, then it is a promising start as a baseline of what is, in fact, permissible.

It has been an important part of the state and local government landscape since the nineteenth century that the voters need to specifically approve new debt issued by a state or local government. This separate election requirement had its origin in the hard experience of state and local governments taking on too much debt (Briffault 2003). There is also a sensible rationale for such special regimes as to debt. After all, the ability to saddle future generations with debt might seem to be too tempting an option for current politicians looking to get re-elected. Note that there is an argument in the other direction as well, namely that we owe future generations some debt. Consider what things would be like for our descendants if we did not borrow now for schools, roads, and bridges.

So now we have a fiscal provision meant to protect the public (but not too much!)—and especially a future public—from profligate politicians, but how to implement it? The electorate needs to be given a choice. If it is given too much information, or irrelevant information, then this will not be helpful. But what is relevant and what is too much? There is no absolutely correct answer of course, only reasonable surmises. And note that the information provided is as to a long-term commitment that will be hard to break.

Though the law of bond measures was not, so far as I know, influenced by cutting-edge social science, it does seem to have reached a reasonable template. I will use the example of California school bonds.⁹ A bond measure involves borrowing a lot of money and with interest; the voters should know the total amounts, but arguably such large numbers are too abstract. Accordingly, a bond measure must spell out the terms of the borrowing on a scale meaningful to voters. Specifically, if the bonds are to be secured by the property tax, then the cost per \$100,000 of assessed value is required. California Elections Code § 13119(b).

The taxes are for something and that something is also specified on the ballot. Certain politicians would prefer citizens imagine that their tax dollars are being catapulted into the ocean. Hence “the purposes for which the proceeds of the sale of the bonds are to be used,

⁹ The rules I mention are scattered in the California Education and Election Codes. For one-stop shopping, see <https://www.orrick.com/en/Insights/2007/03/The-XYZs-of-California-School-District-Debt-Financing>.

shall be printed upon the ballot.” California Education Code § 15122. This description cannot be too long (75 words). Furthermore, the question the voters are asked is simple: “Bonds-Yes” or “Bonds-No.”

The decision as to the bond measure is made at a specified time, an election. There are rules governing when elections can be held,¹⁰ as well as numerous rules concerning how a school board conducts itself before it can put a bond measure on the ballot—this too includes numerous rules requiring notice. The county will also prepare a ballot pamphlet that will include an impartial summary of the ballot measure and arguments from proponents and opponents; these parties can choose to highlight different aspects of the issues that they think are important and likely to resonate with the values of voters. California Elections Code § 13300. The county will send out a sample ballot. California Elections Code § 13244. There will, at a minimum, be translated ballots available at the polling place for members of linguistic minorities provided they make up at least 3% of the local population.¹¹

Has the California law I have outlined gotten it right? I don’t know, but I do think it is defensible (and it strongly resembles an institutionalized version of what happened in Wales) and I’d be hard-pressed to improve it on one dimension without causing some harm along another. Citizens learn about benefits and burdens in a manner that is reasonably digestible and direct. They do so after having had a reasonable amount of time to learn more—and to give voice to their opinions. Further, they do so in a manner (a separate question on just this issue) that is meant to signal the seriousness of their decision. Finally, in creating numerous opportunities for notice and participation, arguably more than necessary, the law has a certain generosity. Making translations available is costly, for example, but it is a way of encouraging participation in a manner that does not impose a cognitive burden on other voters.

But note that there *are* hidden taxes here. Once the choice is made to issue bonds, bureaucratic machinery is put in motion that will operate behind the scenes for decades. When a community approves a bond measure and its government issues the bond, then the community has promised to make payments for a long time. These payments often come from taxes, particularly property taxes. Based on the debt payment schedule of the bonds and the property tax base of the community, a government official (usually a county assessor) will adjust everyone’s property taxes so that the payments are made. These adjustments will be made automatically and, if the tax base declines, say in a recession, this will result in automatic property tax increases.¹²

¹⁰ For example, sometimes they must be held on the same day as a statewide election, but in no circumstances can the school district schedule at election less than 88 days in advance of the proposed date.

¹¹ See *Asian Americans Advancing Justice-Los Angeles v. Padilla*, 41 Cal. App. 5th 850, 877 (Ct. App. 2019) (interpreting California Election Code § 14201).

¹² This is a feature common to many other types of bonds as well. Consider revenue bonds. Such bonds would typically be issued by a government utility and would be secured by promises to raise the relevant rates or tolls as necessary to pay debt service (and maintain a reserve fund).

C. The Importance of a Strong Independent Ground for Reduced Political Salience

How to think about the case of bond measure elections? I think it would be reasonable to disagree with the details on California bond election law, but strange to argue that it is normatively out of bounds. It would seem to pass the test of prudence.

But what of the end result, “hidden” taxes? Is this permissible? Public entities, like most people and private businesses, do not and cannot save for capital expenditures. And we would not want them to. Suppose a school district had to save enough money to buy a new school building with cash. To do so, it would need to raise taxes on current residents (a lot) and/or reduce current services in order to produce a long-lived asset that will benefit future residents and students.

Why would procedural justice require such a substantively unjust, not to mention impractical, result? This is not to say that there is not good reason to be extra worried about the present burdening the future, just that an a priori rule that the future cannot be burdened at all goes too far. We might say therefore that there is yet another way the proper use of salience requires an exercise in prudence. We have, after all, already decided that this is a question worth asking. Put slightly differently, there is a strong independent reason, having nothing to do with salience, to organize taxes in this way. The county assessor does not increase taxes for debt service automatically *in order to* hide the taxes, but because this automatic procedure is an essential part of the guarantee of future payment that makes the whole exercise tenable. Again, the voters might reject *this* particular proposal, but there are good underlying reasons for proposals structured like this to include “hidden” taxes.

Back to our proposals, it seems like a ballot measure that provided information roughly on the California model should be a fair tool for imposing either property tax withholding or a Carbon Fed, even if, in the end, these reforms would lead to less salient taxes. In both cases, the reduction in salience is not an end in itself, but a reform with strong independent justification and, assuming the presentation to the voters was appropriate, there is nothing untoward with binding themselves in this way in order to achieve an important goal.

A final pass on prudential salience is in order. Prudential salience is relevant when we are designing a decision-making procedure as to an important matter on which there are reasonable different options. Prudent people do not deliberate among silly options. The prudent salience engineer makes an informed choice among imperfect options in trying to provide the information a person would need to make an important decision using their own capacities and values. In choosing among these options, the salience engineer errs on the side of options that will tend to make the procedure more legitimate rather than less. Again, neither prudence nor procedural justice might require one more mailing or translation into an additional language, but, at least in close cases, the prudent salience engineer will be equitable and will therefore provide for more rather than less, especially if more can be provided to some at no cognitive cost to others. Finally, a process that is procedurally just that addresses voters in a manner that is prudentially salient, can result in a tax system that is comparatively less salient.

V. Conclusion: Much Is Permitted (Prudently)

The conclusion is anticlimactic. Sheffrin is right. Procedural justice does bar certain low salience political processes. Sheffrin is also right that the model of property tax reform in Wales provides a compelling model. And yet if Sheffrin can explain why salience can't be exploited too much, he does not explain how it can be properly used at all.

But it is necessary to design procedures by which we can make decisions. This can be done better or worse. Not using what we have learned about ourselves in this process would be the opposite of prudent. Why design a procedure we know will be confusing? Why not try to provide information of the sort and in a manner that we believe will be useful?

There is also no reason that the voters cannot use an appropriate process to decide to impose relatively low salience taxes on themselves if there is an independent reason to do so and the procedure is appropriate. As consumers, individuals bind themselves to convenient payment systems all the time. Again, how can it be that someone can pre-commit to pay for Hulu but not schools or a livable environment when there are independent reasons beyond convenience justifying the less salient entrenchment? Again, and to be sure, procedural justice and prudence may dictate that taking such entrenching choices may well require *more* procedure because the stakes are higher, but that is not the same as taking such choice off the table. And, as the example of bond elections demonstrate, such options have, in fact, been on the table for a long time.

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