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## 0. Introduction

In 1788 the news coming from Paris that the Estates General had been summoned encouraged Jeremy Bentham to write a series of proposals on the theory of representation, on the functions of a representative assembly, and on the most urgent policy measures to adopt.<sup>2</sup>

This paper studies these proposals, on the assumption that Bentham examined the problems of a representative constitution assuming a marked politico-economic stance. The close connection between political representation and political economy emerged many times in his writings of this period. On the one hand, Bentham was convinced that many crucial decisions the new parliament was called to take concerned the organisation of markets and public finance. In his analysis of these aspects the influence of Smith's *Wealth of Nations* was palpable: Bentham endorsed the Smithian point of view to discuss the problems of public debt, taxation, monetary policies, colonial policies, trade regulations, the protection of the landed interest, and the social cost of aristocratic privileges. However, this was not the only area in which an economic approach was instrumental to examining the "institutional design" of a representative system. In his early manuscripts on punishment and reward and on the principles of civil and penal codes – basically, the materials Etienne Dumont included in *Traité de législation civile et pénale* (Bentham 1802) and in *Théorie des peines et des récompenses* (Bentham 1811)<sup>3</sup> – Bentham had developed an accurate "economy" of incentives and penalties, based on hedonistic standards, as a basis for an utilitarian reform of law (see Hume 1981; Lieberman 1989; Guidi 2002). He now applied the principles there established to the analysis of constitutional reform, focusing on the fundamental question of the correspondence between the interest or representatives and that of the represented. Such an "economic" approach allowed Bentham to produce a systematic analysis of the mechanisms of representation, based on a principal-agent logic and on rules of transparency, accountability and economy (Blamires 2008: 4). The list of questions he examined was impressive: they ranged from the selection of representatives and the limits to suffrage, to the optimal dimension of an assembly, the optimal duration of parliaments and sessions, the timing of parliamentary speeches, the value of votes and of participation in elections, absenteeism, corruption, lobbying and logrolling, bribery, demagoguery, and the role of public opinion in preventing these evils.

It is argued in this paper that Bentham's writings on the French Revolution are an example of the politico-economic analysis of politics and public administration of which we find further evidence in his texts on "parliamentary tactics" (Bentham 1843; see Guidi 2008a) on the Panopticon prison (Bentham 1791; see Guidi 2004), and on Poor management (Bentham 2001 and 2009, forthcoming). Obviously, this does not mean that these texts can be read only with economic lenses. There are genuine questions of legal and political normativity that appear for example in the analysis of the right to vote and of the (for Bentham fallacious) language of natural law and natural rights. The thesis advanced by the present paper is more limited: I suggest that there is an independent and recognisable set of economic arguments that are mixed with, and contribute to, Bentham's political vision.

Another argument underlying this paper is that there is a strong connection, in Bentham's thought, between the political economy of trade, colonies and public finance and the political

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1 A partial draft of this paper was presented at the History of Public Economics Conference, Paris, December 10 - 12, 2008. I collectively thank all those who commented on it for their invaluable suggestions.

2 A critical edition of these texts, most of which remained manuscript, has been recently proposed by the Bentham Project (Bentham 2002).

3 The history of these texts has been recently reconstructed by Blamires (2008).

economy of representation. As I have pointed out in another paper (Guidi 2002), Bentham's conception of political economy – not differently from Smith, Edmund Burke and other contemporaries – was broader than the nineteenth-century notion of “the science of wealth”. Political economy was an “art-and-science” of the legislator concerned both with commercial and financial policies, and with the efficient organisation and administration of the political machinery and of every branch of governmental action. In a way, this conception inherited the Aristotelian notion of *oikonomia* as wise and moral management of means to attain the end of a community's “good life”, a notion that had been transposed to the State level by the politico-economic discourse of the early modern age (Raeff 1983). The reform of political economy Bentham proposed consisted less in the delimitation of its scope than in the utilitarian restatement of its goals, focusing on the rational economy of punishment and reward as the best means to attain “the greatest happiness of the greatest number” in the political sphere.

## 1. On Bentham's political attitude at the time of the French Revolution

The publication of Bentham's manuscripts on France contributes to revise one of the longest controversies in the interpretation of his politics: they demonstrate that, as John Dinwiddy (1975) and James Burns (1984) largely argued, there was no “conversion” to representative democracy in 1788-1789 and no “Fabian retreat” to more conservative attitudes after the establishment of the regime of Terror in 1793-1794. Bentham's “transition to political radicalism” occurred in the first decade of the nineteenth century as a result of the failure of the Panopticon scheme (Semple 1993; Blamires 2008) and (at least partially) under the influence of James Mill (Schofield 2006, ch. 6).

The misunderstanding was largely generated by Élie Halévy's publication of some excerpts from the manuscript entitled “Considérations d'un Anglois sur la composition des États-Généraux y compris réponses aux questions proposées aux Notables &c.” (Bentham 1788b) as an appendix of the first volume of *La formation du radicalisme philosophique* (Halévy 1901-3, pp. 314-21), under the title *Essai sur la représentation* [Essay on Representation]. The appendix was not included in the English translation. It was translated and published by Mary Mack as an appendix to her book on Bentham (Mack 1962). It was Mack who largely contributed to spreading the belief that Bentham had an early conversion to representative democracy in 1788.

Taken in isolation, the pages published by Halévy seemed to show that Bentham was arguing in favour of universal suffrage with only “technical” exclusions (the minors, the insane, and less obviously women). As we will see further on, the integral publication of the manuscript reveals that Bentham's reasoning was much more sophisticated and dealt with the problems raised by the composition of the Estates-General (notice that the manuscript was written in 1788, i.e. *before* the outbreak of the Revolution). As the editors of the new edition (Schofield *et al.* 2002) argue, at that time Bentham was a sincere admirer of the British constitution and a moderate in politics. Referring to *Defence of Usury* (Bentham 1787), he declared himself an innovator in politics.<sup>4</sup> But in one of the manuscripts included in the new edition (Bentham 1888a, p. 7) he asserted that in the case of Britain all (“à peu près” [approximately]) what should be made to secure a free constitution “est déjà fait et bien fait” [is already done and well done]. Britain did not need “une représentation égale pour le bien faire” [an equal representation to do it well]. And he concluded: “Enfin avec toute [*sic*] mon ardeur de voir s'établir chez vous une représentation parfaitement égale, je vous avoue que je n'ai pas encore trouvé de raisons suffisantes pour former le même vœu par rapport à ma patrie [...]. Vous n'attendiez pas à recevoir dans une parenthèse un traité sur la constitution Britannique, encore moins sur la meilleure constitution possible”<sup>5</sup>.

4 A passage in a manuscript quoted by Schofield *et al.* (2002, p. lix) states: “I am no enemy to improvement, or if the word please better to innovation. I am a projector – an avowed advocate for projectors: I am as far as wishes and endeavours go an innovator: my whole life has been, & what remains of it will be, devoted to the pursuit (UC clxx, 176).

5 Translation: “Finally, despite all my ardour in seeing established in your country a perfectly equal representation, I must confess that I have not yet found enough reasons to formulate the same wish as regards my home country [...]. You did not expect to receive in a parenthesis a treatise on the British constitution, still less on the best possible

## 2. The right to vote and to be elected

Bentham's analysis of the composition of the electorate for the French Parliament is a remarkable example of economic analysis of the representation mechanisms. This analysis can be divided into two parts: the study of the right to vote and of the right to be elected.

Concerning the first problem, Bentham examines the relationship between the franchise and the economic and social conditions of electors in "Considérations d'un Anglois sur la composition des États-Généraux". The main problem in this area is who should be excluded from the franchise and for what reasons, considering that the assumptions of equal capacity for pleasure and equal consideration of interests attached to the principle of utility<sup>6</sup> imply – at least in abstract terms – an equal capacity to vote.<sup>7</sup>

After briefly considering the obvious exclusion of the younger and the insane, and the less obvious exclusion of women (Bentham 1788b, pp. 69-70),<sup>8</sup> Bentham examines the question of the unpropertied. He proposes to exclude them from suffrage, justifying this measure by the threat to private property that their vote might produce. Bentham foreshadows Tocqueville's argument of the "tyranny of the majorities" when he argues that exclusion should affect "ceux auxquels il doit paroître que, s'ils pourroient réussir à faire entre tout le monde, la répartition de la masse totale des propriétés, ils trouveroient leur avantage" (1788b, p. 73).<sup>9</sup> This formulation – possibly due to the hardships of Bentham's French – is quite unhappy, since it potentially justifies the exclusion of all those who have an amount of property below the average! However the pecuniary qualification he suggests is quite low (a 10 to 20 *livres* rent) (1788b, p. 80), since a parallel evil he wants to avoid is an excessive influence of the wealthy. He rejects the current argument that a high pecuniary qualification is a guarantee of honesty and impartiality (equally for voters and for representatives), arguing that the most important and rarest quality in a representative is not probity but "le talent de bien gouverner" [the ability of well governing], and this quality is stimulated by the spur of necessity rather than by wealth (1788b, pp. 75-6).

Bentham equally rejects the argument that a high pecuniary qualification limits the suffrage to those who are most interested in the security of the country. Such an argument is plausible for those who are elected, not for electors. Why excluding those who have small and medium properties? The only valid reason "c'est de préserver les propriétaires de se voir dépouillés par les votes des non-propriétaires" (1788b, p. 85),<sup>10</sup> not that of protecting rich proprietors from all other proprietors.

The rule to follow in establishing the extent of the suffrage is then the following: "... qu'il soit impossible que dans le nombre de ceux admis il se trouve une pluralité capable d'avoir ou de se croire un intérêt à faire au bonheur des classes admises le sacrifice d'une somme de bonheur plus grande (égard eu à la grandeur de chaque portion et [au] nombre des parties prenantes) d'aucune des classes exclues" (1788b, pp. 77-8).<sup>11</sup> Widening the franchise is a security against oligarchical coalitions attempting to sacrifice the interests of the excluded. For the same reason Bentham rejects plural voting. "Plus on a de richesse, plus on a des facilités pour influencer sur les votes de tout le monde, surtout sur ceux qui en ont moins. Ce seroit plutôt au possesseur d'une seule portion qualifiante, [étant] trop mal pourvu en toute façon pour influencer sur personne, qu'il faudroit plutôt

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constitution".

6 I have developed these aspects in Guidi 2008b.

7 "Ainsi, dût-il ne s'agir que de s'en rapporter au degré de désir, si la capacité de juger de la tendance d'une opération d'ajouter au bonheur étoit dans tous égale à leur désir, la question de la meilleure forme de gouvernement seroit une affaire bien simple. Il ne s'agiroit que de donner [...] à chaque individu de cette société son vote." (Bentham 1788b, p. 69).

8 On this see Campos Boralevi 1984, ch. 2.

9 Translation: "those to whom it should appear that, if they could make a distribution of the total mass of wealth among all, they would find it advantageous to themselves".

10 Translation: "is to preserve proprietors from seeing themselves dispossessed by the vote of the unpropertied".

11 Translation: "that it be impossible that in the number of those admitted there be a plurality susceptible of having – or believing to have – an interest in sacrificing to the happiness of the admitted classes a larger sum of the happiness (allowing for the size of every portion and for the number of interested parties) of any of the excluded classes".

accorder des votes en nombre” (1788b, p. 84).<sup>12</sup> This does not mean that Bentham is in favour of inverse plural voting to the benefit of the less propertied: he only argues that constitutional devices should counterbalance the influence of wealth rather than favour it.

However, in another text entitled “Lettre d’un Anglois à M. le C. de M. sur l’objet soumis aux Notables de 1788” Bentham is quite optimistic about the risk of tyranny of the majorities: “L’ineptie et la pauvreté du plus grand nombre des commetans n’empêchera pas que la supériorité de talent ainsi que de force et de richesse ne se trouve appartenir aux commis. Il aura le Négoce et la Finance pour le soutenir, et le Barreau pour le conduire” (1788a, p. 41).<sup>13</sup> Bentham has clearly in mind a Parliament dominated by an economic and professional bourgeois élite.

Let us now turn to Bentham’s ideas about the right to be elected. The question is examined in terms of a principal-agent logic in which the main problem is avoiding adverse selection and securing the best identification between the interest of governors and the interest of the governed. As I have highlighted elsewhere (Guidi 2002, 2004), this approach derives from Bentham’s analysis of rewards. Interestingly enough, this logic leads Bentham to conclusions that sharply contrast with the democratic views he developed two decades later.

A first question is whether candidates should be allowed to stand in one or more constituencies at a time. Bentham is in favour of maximum freedom. Elections should maximise two qualities in representatives: talent and probity. But while the threat of non being re-elected is seen as a sufficient incentive for encouraging probity, the favourable selection of talents through elections is a mere matter of probability.<sup>14</sup> Extending as much as possible the chance of electing a talented individual is then the only efficient rule: “à quoi bon se priver soi et la nation des services d’un homme supérieur, sans autre motif que de couronner le mérite d’être né ou fieffé en Picardie?” (Bentham 1788b, p. 92).<sup>15</sup>

As to the proportion between the representatives of the three orders, the aristocracy, the clergy and the third estate, Bentham suggests a solution that *de facto* neutralises the representation by orders. The number of deputies in each order should be: “Celui qui est proportionnel au nombre total des individus dont chaque ordre est composé” (Bentham 1788b, p. 123) [the one which is proportional to the total number of individuals of which each order is composed]. He then examines the solution adopted by the Assembly of Dauphiné (one fourth to aristocracy, one fourth to the clergy, and two fourths to the third estate), and another one suggested by a lawyer and later member of the Estates-General, Gui-Jean-Baptiste Target (four ninths to the privileged orders and five ninths to the third estate) (see Target 1789).

For Bentham “la vraie proportion seroit non seulement la meilleure en elle-même, c’est-à-dire la plus convenable aux intérêts du plus grand nombre, mais aussi la plus convenable aux intérêts des ordres même auxquels elle paroît contraire” (Bentham 1788b, p. 125).<sup>16</sup> On the contrary, Target’s

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12 Translation: “The more one is rich, the more he has opportunities to influence the vote of everyone, and especially that of those who possess less. The plural vote should better be accorded to the possessor of a single qualifying portion, who is anyway too poorly endowed to influence anyone”.

13 Translation: “The inanity and poverty of the greatest number of constituents will not impede that the superiority of talent, strength and wealth be the attribute of the agents. The greatest number will be supported by Trade and Finance, and led by the Bar”.

14 See the following passage: “Les qualités à désirer pour un tel emploi, sont le talent et la probité, mais par-dessus tout, des talens. Ceux-ci rien ne peut en créer: on sera trop heureux de parvenir à les trouver là où ils sont. Il en est autrement de la probité: dans une assemblée de députés choisis et destituables par le peuple il y a des recettes aussi sûres que simples pour créer la vertu. Établissez entre l’intérêt de l’employé et son devoir une liaison manifeste et indissoluble, ou il sera vertueux, ou il agira tout de même comme s’il l’étoit” (Bentham 1788b, pp. 91-92). Translation: “The qualities to be desired for such an employment are talent and probity, but above all talent. Nothing can create this: we will be fortunate enough to find it where it is. Probity is different: in an assembly of deputies chosen and dismissible by the people, there are some simple as well as certain prescriptions to create virtue. Establish a manifest and indissoluble link between the interest of the employee and his duty: either he will be virtuous, or he will act as if he were so”.

15 Translation: “Why to deprive oneself and the nation of the services of a superior man, for no other reason than to crown the merit of being born or feuded in Picardy?”

16 Translation: “the true proportion would be not only the best in itself, that is, the most advantageous to the interests of the greatest number, but also to the interests of those orders to which it seems to be opposed”.

proposal creates an adverse incentive, since it encourages the majority to crush the minority. It stimulates jealousy and envy against a group that, although a minority in the country, is over-represented in the assembly. Ordinarily, a “foiblesse manifeste et absolue” [manifest and absolute weakness] attracts protection and mercy rather than hatred: a child is spared by a bandit more frequently “d’un homme désarmé mais robuste” (1788b, p. 125) [than a unarmed albeit strong man]. For this reason dividing the assembly into different estates is an error. The privileged orders have more to gain from “indistinction” than from distinction, since distinction generates “une foule de dispositions pour maintenir en effet la proportion apparente” (1788b, pp. 126-127) [a host of provisions for keeping unchanged the apparent proportion]. Moreover, the aristocracy and the clergy will conserve their social influence as landowners.<sup>17</sup>

Another interesting question discussed by Bentham is the proportion between the deputies of the cities and those of the country (1788b, pp. 114-117). This problem is related to the dialectics of town and country examined by Smith (often quoted here).

After reaffirming his egalitarian arguments, Bentham rejects the traditional reasons in favour of a larger weight of the country, *i.e.*:

1. Que, à valeurs nominales égales, leur travail est plus utile à l’état que ne l’est celui des habitans des villes.
2. Que dans la sûreté et la prospérité de l’état les premiers ont un intérêt plus constant et plus immuable que n’en ont ces derniers.
3. Que pour faire valoir et augmenter leur puissance quelconque, les habitans des villes ont de plus grandes facilités que n’en ont les habitans dispersés de la campagne (1788b, p. 115).<sup>18</sup>

We recognise in the first argument a trace of the Physiocratic thesis of the highest productivity of agriculture, a thesis that was substantially adopted by Adam Smith in Book II, chapter 5 of *Wealth of Nations* (Smith 1776: 360-75. See Brown 1994), and by Bentham himself in his economic writings (Bentham 1811: 227).<sup>19</sup> The second argument derives instead from a classical tenet of the civic republican ideology (Pocock 1975; Ignatieff and Hont 1983). Bentham maintains that these

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17 Interestingly, Bentham is in favour of a two-ballot plurality voting system. The following are his reasons:

“Observations pour servir de Raisons.

On voit que sans une institution pareille, le district pourroit bien ne pas avoir le député que le plus grand nombre des votans préférera à tout autre.

Supposé

Le nombre total des votans	10,000
Votans pour Antoine	3,400
Pour Barnabé	3,350
Pour Charles	3,250

Sur cette supposition Antoine, faute de cette institution, sera député préférablement à Barnabé, bien que pour le 3,400 qui voudroient le voir envoyé par préférence à même Barnabé, il puisse y avoir 6,600 qui aimeroient mieux voir envoyé Barnabé que lui” (1788b, p. 138).

Translation: “Observations serving as Reasons:

We see that without such a regulation, the district could not have the deputy that will be preferred to all others by the greatest number of voters.

Suppose

Total number of voters	10,000
Voters in favour of Antoine	3,400
In favour of Barnabé	3,350
In favour of Charles	3,250

On this supposition Antoine, without this regulation, will be deputy instead of Barbabé, although against the 3,4” who would like to see him sent rather than Barnabé, there may be 6,600 who would prefer to send Barnabé rather than him”.

18 Translation: “1. That, the nominal value being the same, their labour is more useful to the State than that of the inhabitants of towns. 2. That the former have a more constant and more unchanging interest in the security and opulence of the State than the latter. 3. That in order to improve and increase their given power, the inhabitants of towns have greater opportunities than the dispersed inhabitants of the country”.

19 Although this passage has been assembled by Etienne Dumont and is included in book IV of *Théorie des récompenses*, there are proofs that the underlying ideas belong to Bentham. See Guidi forthcoming.

arguments are “démontrés, par quantité d’écrivains François à ce que je crois<sup>20</sup>, et en tout cas par M. Smith” (1788b, p. 115) [demonstrated by a large number of French writers, as far as I know, and in any case by Mr. Smith]. However, they provide no justification for an increase of the representation of the country at the expense of towns (Bentham 1788b, p. 116).

Bentham refers to Smith’s critique of the mercantile system when he discusses the third argument, pointing out that the favours the British Parliament granted to cities were less the effect of lobbying by the town representatives than of errors “de puissances impartiales, ou des députés des habitans de campagne même” (1788b, p. 116) [of impartial powers, or even of the deputies of the country inhabitants].<sup>21</sup> More than that, the laws in favour of towns were made by the House of Commons at a time when its members “osoient à peine regarder les grandes puissances de la Chambre Haute” (1788b, p. 116) [barely dared to look at the great powers of the House of Lords]. Increasing the number of representatives would not avoid these errors, and the treatment against this evil is the education of countrymen, while liberty is the pre-condition of education.

Smith had clearly “démontré la mauvaise économie de toutes les faveurs ou prétendues faveurs accordées au commerce” (1788b, pp. 116-117) [demonstrated the bad economy of all favours or supposed favours granted to commerce], and so had done Arthur Young. The problem is that politics still ignored the teaching of political economy: “Tout le monde lit ces deux auteurs: tout le monde les admire: personne ne leur répond” (1788b, p. 117) [everybody reads these authors, everybody admires them: nobody answers to them]. On the contrary,

... soit en Grande-Bretagne soit en Irlande, point de séance où l’on n’accorde de ces faveurs: et ce sont toujours les gentilshommes campagnards intéressés contre, et le gens de ministère, personnages impartiaux à cet égard, qui s’y montrent au moins aussi empressés que les autres. Croyant ou faisant mine de croire avoir créé toute l’industrie qu’ils ont détournée de ses carrières naturelles, ne sachant tenir pour existant que ce qu’on a payé pour défiler devant leurs yeux, c’est ainsi que le préjugé, la petite vanité et la charlatanerie suffisent sans aucun intérêt direct et personnel pour faire accorder des préférences injustes. (1788b, p. 117).<sup>22</sup>

This explanation of wrong policies is typical of Bentham’s economic analysis in this period. We find it at work, for example, in a passage of *Defence of Usury* in which he examines the origins of prejudices against money-lending (Bentham 1787, pp. 156-61), or in the sections of *Manual of Political Economy* that discuss encouragements to industry (Bentham 1793-5, pp. 228-9). Here prejudices and vanity are at times more important than the “sinister interest” of statesmen and privileged classes, although the latter argument is also present.

What is more, these passages reveal that Bentham’s analysis of mercantilistic policies is grounded on a study of parliamentary mechanisms and of political representation.

### 3. The optimal dimension of representation

One of the questions that appeared more critical to Bentham was that of the extent of membership in the Estates-General, fixed at 1200 representatives:

Que faire avec 1200 membres à la fois? Le moyen de conserver l’ordre? Le moyen d’en venir à aucune résolution? Il seroit difficile même de faire écouter comme il faut, toute cette multitude (1788a, p. 31).<sup>23</sup>

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20 Notare che Bentham dichiara di avere una conoscenza indiretta della letteratura francese e fisiocratica in particolare!

21 These arguments are very similar to those expressed by Smith in WN IV.I.x (Smith 1776, p. 434).

22 Translation: “Both in Great Britain and in Ireland, no session in which these favours are not granted: and it is always the country gentlemen whose interest is against them, and the people in ministries, who are impartial figures in this respect, who show themselves at least as zealous as others in it. As they believe or pretend to believe they have created all the industry they have just diverted from its natural course, and as they are able to believe in the only existence of what has been paid to parade before their eyes, it follows that prejudice, petty vanity and quackery suffice – without any direct and personal interest – to let them grant unjust preferences”.

23 Translation: “What shall we do of 1200 members at the same time? How to preserve order? How to get to any decision? It would even be difficult to have all this multitude listened to as it would be necessary”.

As usual Bentham tries to turn this apparently practical question into a sophisticated theoretical analysis, whose object is to establish whether there is an optimal dimension of Parliament and, more in general, of representation. In a passage of “Lettre d’un Anglois” he states:

Il est certain qu’avec le nombre s’accroît et la probabilité d’une décision sage plutôt que mauvaise, et la probabilité contre la formation d’une décision quelconque, et la lenteur de cette décision, supposé qu’elle se formera (1788a, p. 35).<sup>24</sup>

This passage contains three arguments: firstly, the probability of a “wise” decision is a positive function of the number of members of an assembly; secondly, the probability of reaching a decision is a negative function of the number; and thirdly, the slowness of decisions is a positive function of the number.

A difficulty connected to the first argument is that the notion of “wise decision” is not falsifiable. This difficulty could be obviated by measuring “wise” in terms of the preferences of those to whom the decision applies, that is to say, by introducing some measure of the utility of the represented. Such a redefinition certainly captures Bentham’s intentions, since he always evaluates the goodness of acts in terms of utility-maximisation.

The second argument is distinct from the first, since in this case the dependent variable is not the “useful decision” but *any kind* of decision. However, the two variables are not completely independent, as the amount of useful decisions may be considered a subset of all decisions actually taken. The value of a decision for a citizen might be defined as  $U_i = \beta - \delta$ , where  $\beta$  is the standard utility of a decision and  $\delta$  the deviation from this utility when the preferred decision is not taken. For the sake of simplicity, however, we assume that for a “useful decision”,  $\delta = 0$ , and therefore its utility is  $U_i = \beta$ .

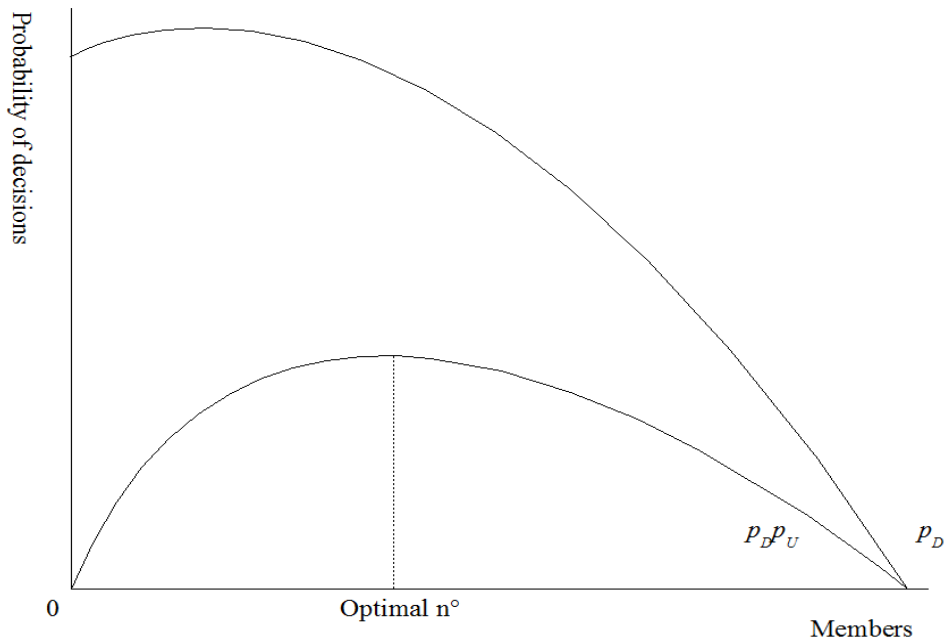
With this specification, we can concentrate on the probability that an individual useful decisions be taken by a parliament. Both the probability of a decision  $p_D$ , and the probability of a useful decision  $p_U$  are a function of the number of members  $n$ . Although Bentham does not specify their laws of variation, a standard assumption might be that, with the increase of the number of representatives, the probability of a decision decreases more than proportionally, while the probability of a useful decision increases although in a decreasing proportion. Therefore:

$$\begin{array}{ll} p_D = p_D(n), & \text{with } p_D' < 0 \\ p_U = p_U(n), & \text{with } p_U' > 0, \text{ and } p_U'' < 0 \end{array}$$

We examine next the combination of these probabilities ( $p_U p_D$ ), which represents the probability that among the decisions taken by the parliament, the decision actually taken be useful. When the number of representatives is low,  $p_D$  is high, but the proportion of useful decisions is very low. Then this proportion increases under the influence of an increasing  $p_U$ , until it reaches a maximum. After this, it starts decreasing under the prevailing influence of  $p_D$ . Therefore an optimal dimension of the assembly is for  $\max p_U p_D$ . Figure 1 describes these relationships:

Figure 1. Probability of decisions as a function of the number of members

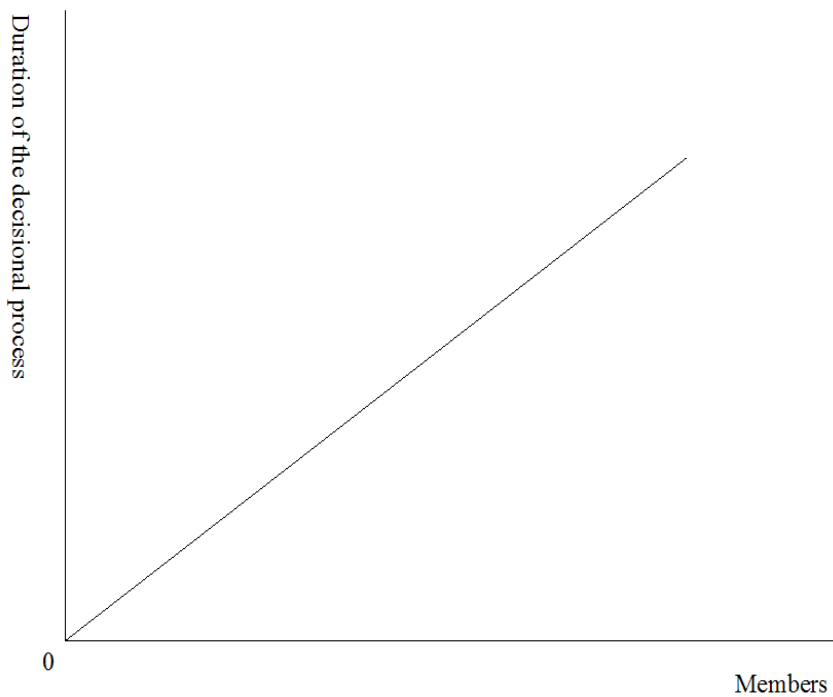
24 Translation: “It is certain that, with the number, the probability of a wise rather than bad decision increases, while the probability against reaching any decision, and the slowness of such a decision also increase, assuming that it will be reached”.



This conclusion is entirely consistent with Bentham's assumptions and captures the nature of the trade-off between the two variables he highlighted.

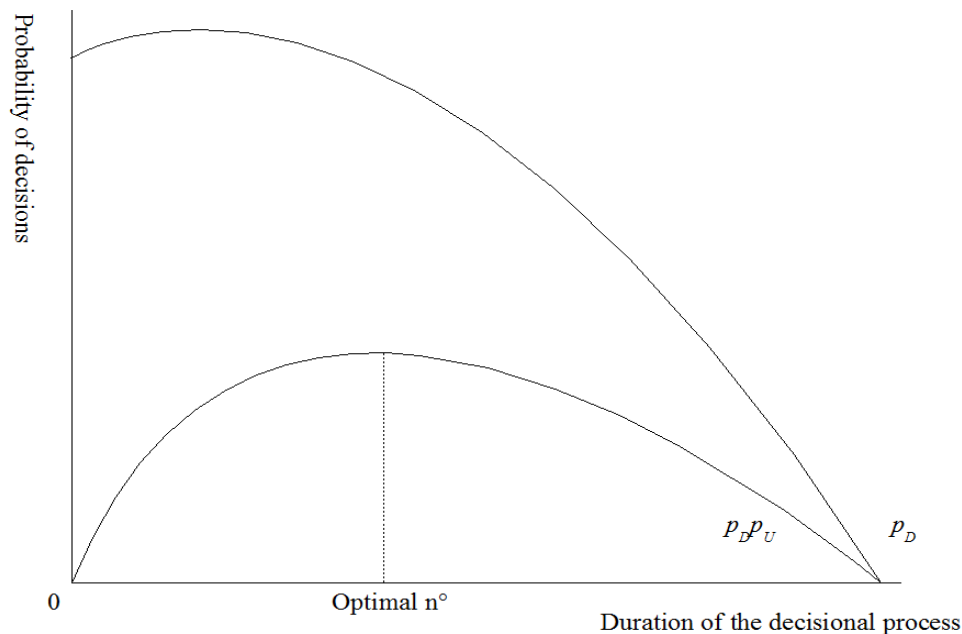
The third argument to which Bentham object correlates to the number of members of an assembly to the rapidity of decisions. We can restate this relationship by stating that the duration of the decisional process increases as the number of participants increases. We assume for simplicity that this is a linear relation, captured by figure 2.

Figure 2. Duration of the decisional process as a function of the number of members



On the basis of this relation, we are able to reduce our variables to two: the probability of a useful decision and the duration of the process, both function of the number of members (figure 3). Duration is then an explanation of the reasons why the probability of decisions decreases as the number of representatives increases.

Figure 3. Probability of decisions as a function of the duration of the decisional process



The above analysis presupposes that all members are present in the house and the discussion and deliberation of acts of parliament is made in plenary sessions, and this may explain why Bentham recommends to delegate decisions to commissions. In the assembly of “Notables” examined in this text, composed of 144 members, almost all decisions were taken by commissions (1788a, p. 37). The difficulty of taking decisions is essentially related to the high number of speeches before voting. As Bentham observes: “Ce qui menace l’embarras, ce n’est pas la multitude des votans mais la multitude des parleurs” (1788a, p. 37) [what menaces to produce congestion is not the multitude of voters but the multitude of speakers].

Bentham concludes with a word of caution. The theory only provides a framework to assess the optimal dimension of Parliament. The choice of the actual number of representatives could be made only by comparing a large number of empirical data on the membership of different parliaments. But parliamentary experiences were so limited at that time that no conclusion could be sure.<sup>25</sup>

Another analysis of this problems can be found in “Considérations d’un Anglois”, where Bentham examines a trade-off (“deux considérations qui agissent en contresens l’une à l’autre” [two considerations acting in contrary directions]) between two variables, “toutes les deux malheureusement indéterminées” (1788b, p. 119) [both unfortunately indeterminate]: the dimension of polling districts and the number of representatives.

As to the dimension, Bentham argues that the number of representatives “ne doit pas être si petit que, vu la grandeur des districts électoraux, et la multitude des votans dans chaque district, la force influente de chaque vote se trouve réduite à une valeur impalpable” (1788b, p. 119).<sup>26</sup> The dimension of a district should be small enough to attribute a significant influence to each elector. This formulation contains something of an utopia in a large nation, where the marginal influence of an individual vote is near to zero. But Bentham is probably considering the notion of “influence” in a broader sense, including the strength of communication between representatives and represented before and after the vote, and from this point of view it is certain that small districts increase the voters’ influence on the elected.

25 “Nous n’avons point d’expérience propre à nous assurer ni de part ni d’autre. La politique moderne ne nous fournit l’exemple d’aucun corps aussi nombreux qui ait maintenu une gestion constante” (1788a, p. 35). Translation: “We do not have enough experience to decide us in one sense or another. Modern politics provides us with no example of so numerous a body keeping a constant administration”.

26 Translation: “It should not be so small that, given the size of the polling districts, and the multitude of voters in each district, the influential force of each vote is reduced to a trifling value”.

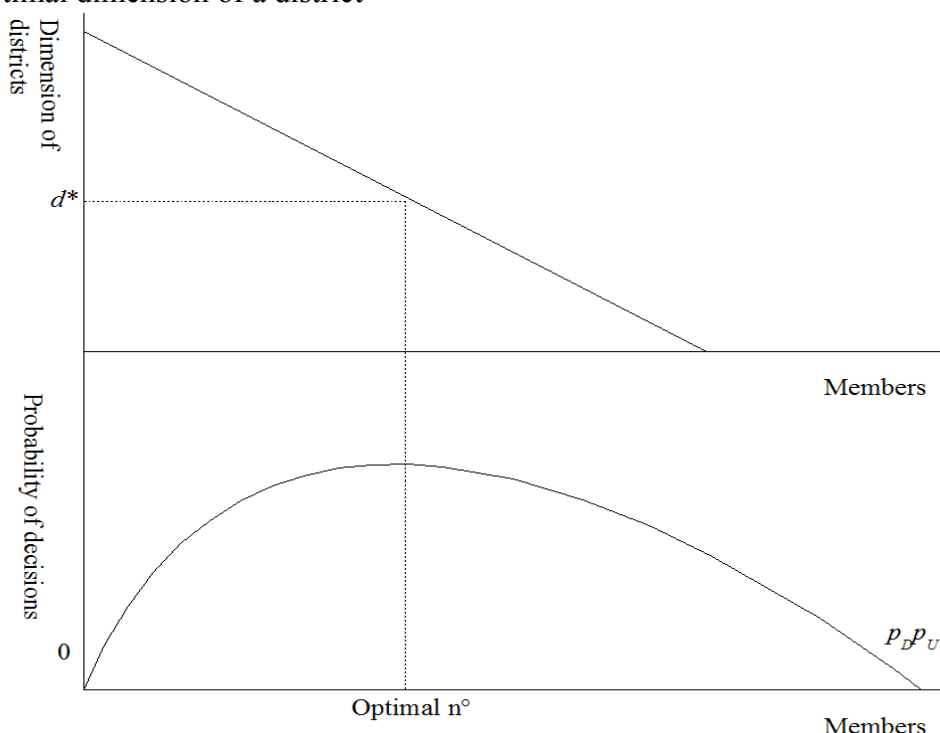
Concerning the number of representatives, “[i]l ne doit pas être assez grand pour amener à la terminaison des affaires des difficultés qui semblassent menacer de se trouver insupérables” (1788b, p. 119).<sup>27</sup> A plausible interpretation of this passage might be that the number of deputies should be small enough to maximise the probability of decisions, or, consistently with the already examined analysis, of *useful* decisions.

Let us try to reformulate this trade-off in terms of the optimal dimension problem. The following arguments hold:

- a) the value of votes decreases as the dimension of polling districts increases: the smaller the district, the stronger is communication and the more “imperative” is the mandate;
- b) in a first pass the post system, there is an inverse relation between the dimensions of districts and the number of representatives. Therefore, the value of votes increases as the number of representatives increases;
- c) forcing a little Bentham’s text, the value of votes could be translated into the probability of a useful decision. As we already know, the latter depends on the number of representatives, that is, it increases with it. By the way, this argument offers a further explanation of this relationship, as each representative knows better the interest of her electors when the dimension of the district is small. Bentham also assumes that the compromise between different interests established by the majority rule (whatever its qualification) is more favourable to electors when the number of representatives is higher.

We can then try to put together the problem of the optimal dimension of districts and the probability of useful decisions, arguing that in order to be optimal, the dimension of a district should maximise  $p_U p_D$ . The results are described in figure 4. The optimal dimension of a district depends on the number of members that maximises the probability that a useful decision is actually taken.

Figure 4. Optimal dimension of a district



Finally, following an usual pattern of argumentation, Bentham examines a series of reasons in favour of a large number of representatives, and presents his objections.

<sup>27</sup> Apart from the invention of the neologism “insupérable”, as observed by the editors (1788b, p. 119 note), the translation of this passage is quite difficult: “It should not be so large to bring to an end those affairs whose difficulties appear to be insuperable”.

A first argument he rejects is the following: “Avec le nombre s’accroît [...] la chance de probité. Plus de personnes il y a à corrompre, plus les fonds disponibles aux frais de la corruption risquent de se trouver insuffisants” (1788b, p. 121).<sup>28</sup> Bentham objects that this argument holds only for the corruption “from above”, that is, the influence of the court.<sup>29</sup> It does not apply to that “prévarication qui se trouve dans les prétentions personnelles exorbitantes d’une classe ou de plusieurs classes entre les membres même” (1788b, p. 121).<sup>30</sup> He probably alludes to the sinister interest of the aristocracy and the clergy, but this remarks could be applied to any other class or group of interest. Class corruption depends in turn on the efficacy of logrolling: “A cet égard le nombre absolu des individus ne fait rien: tout dépend de la proportion relative entre classes” (1788b, p. 121).<sup>31</sup> Representation by orders must therefore be rejected. Furthermore, the lack of funds to corrupt large numbers is not a valid argument in their favour: “Négligeant la foule, on se borneroit à acheter les chefs de file. La corruption, au lieu de se faire *per capita*, se feroit *per stirpes*”» (1788b, p. 122).<sup>32</sup>

The last remark reveals another interesting functional relationship:

Car moindre est devenue l’importance de chaque vote, moins le votant même en fait de cas, moins la force des motifs incitatifs qui tendent à le faire vaincre le *vis inertiae* de l’indolence est grande, plus il se livre facilement à l’influence de ces esprits dominans qui s’offrent de se charger pour lui de la peine de penser (1788b, p. 122).<sup>33</sup>

This passage affirms that the subjective value of an ordinary representative’s vote decreases as the number of members increases, until it becomes lower than the cost of voting. Hence the role of political leaders, who increase the “objective” value of votes by controlling large numbers of representatives, and then divide the rent thus obtained with their followers.

As to the cost of voting, it is composed of two elements: the ordinary toil and trouble, and the “peine de penser”, or the cost of deliberating, that is to say, the cost of evaluating alternative proposals. Therefore, when the vote of a representative is “bought” by a leader, the cost of deliberating is transferred to the latter, who benefits from obvious economies of scale.

Figure 5. Value and cost of representatives’ votes

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28 Translation: “The number increases [...] the chance of probity. The larger is the number of persons to corrupt, the more the funds available for corruption risk to be insufficient”.

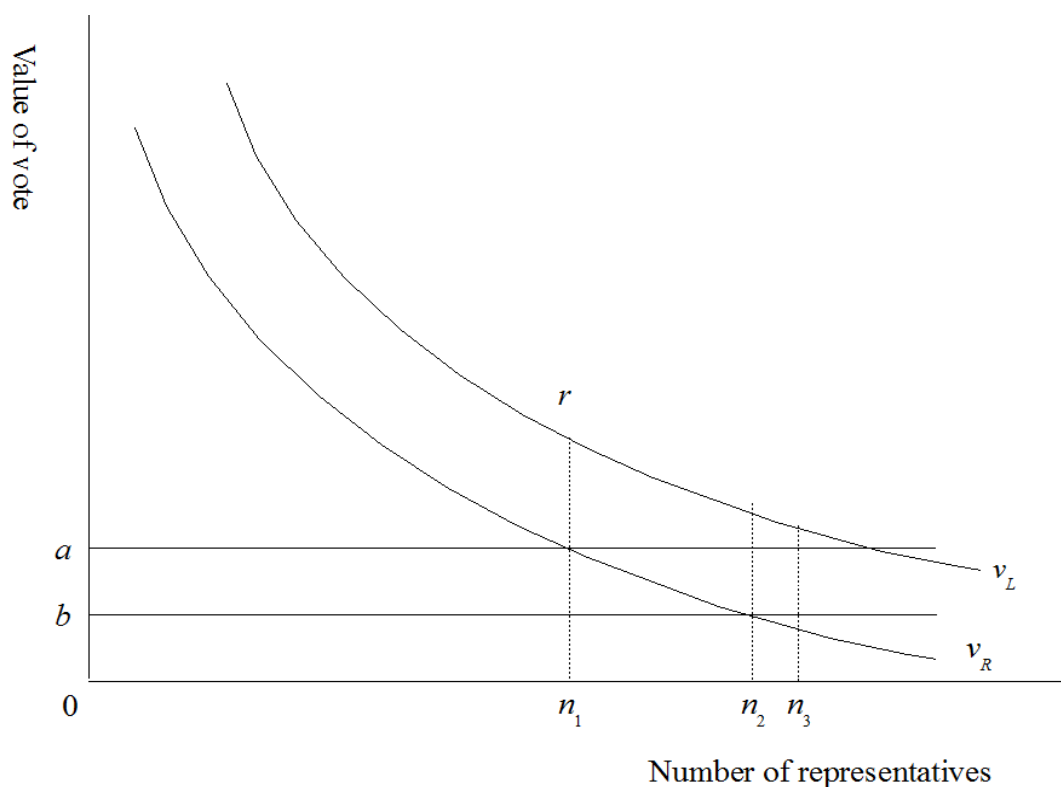
29 That he has not yet experienced the strong disappointment following his attempt to implement the panopticon plan can be shown by his comment: he considers the corruption of the court as “l’antidote que présente le bonheur du moment contre la corruption innée” (1788b, p. 121) [“the antidote offered by the happiness of the moment against innate corruption”].

30 Translation: “prevarication that can be found in the exorbitant personal pretensions of a class or of more classes among the members of Parliament”.

31 Translation: “To this effect, the absolute number of individuals has no effect: all depends on the relative proportion among classes”.

32 Translation: “Neglecting the mass, it would limit itself to buy the heads of factions. Corruption, instead of being made *per capita*, would be made *per stirpes*”.

33 Translation: “Because the lower becomes the signifiante of each vote, the less the voter cares for it, and the lower is the force of the incentives tending to persuade him to overcome the *vis inertiae* of indolence, the more he submits himself to the influence of those dominant minds who offer to take charge of the pain of thinking in his place”.



Let us call  $R$  the ordinary representative,  $L$  the leader,  $a$  the cost of voting including the cost of deliberation, and  $b$  the cost of the ordinary toil and trouble. Then  $(a - b)$  is the cost of deliberation. By assumption, costs  $a$  and  $b$  are equal for  $R$  and  $L$ . We then call  $v_R(n)$  the function of the value of votes for  $R$ , and  $v_L(n)$  that of  $L$ . The distance between the two resulting curves represent the benefit of aggregation.<sup>34</sup> If we suppose that the number of representatives is equal to  $n_1$ ,  $R$  obtains no value from his individual vote without participating in coalitions. If he “sells” his vote to  $L$ , he reduces his cost to  $b$ . On her side, as a result of aggregation,  $L$  obtains an extra value equal to  $r$ . Who appropriates the difference  $a - b$ ? As  $R$  is indifferent whether to vote or not,  $L$  can ask him a fee for the cost of deliberating, equal to this difference. Therefore, the leader’s rent is  $r - b$ , and that of the ordinary representative is null.<sup>35</sup> However  $n_1$  is not the maximum number of representatives for which voting is advantageous to  $L$ . Clearly, moving right of  $n_1$ ,  $L$  has to drop an increasing amount of fees, to compensate  $R$  for the loss of welfare, until the number of representatives is equal to  $n_2$ . Beyond this size, if there is still some profit in voting,  $L$  will have to pay  $R$  a premium as now  $R$ ’s value of voting is lower than the toil and trouble. However she has still an interest in buying votes until her benefit equals the reimbursement paid to  $R$  ( $n_3$ ).

A property of this relationship is that  $R$  has an interest in selling his vote to  $L$  *whatever* the number of representatives, since he always reduces his cost of voting from  $a$  to  $b$ . However his reserve price is higher when the value of his vote is higher than  $a$ . So  $L$  must leave  $R$  a share of the total “rent from coalition” ( $v_L(n) - b$ ) at least equal to the benefit he would reap from voting independently ( $v_R(n) - a$ ). This implication is not fully grasped by Bentham, who plausibly points out that  $R$ ’s inducement to sell his vote increases as its value tends to equal the cost.

Bentham then considers a second reason in favour of a large number of representatives: “Avec le nombre des membres s’accroît la chance de sagesse. Autant de membres, autant de sources de lumière” (1788b, p. 122).<sup>36</sup> Bentham had already argued that the probability of useful decisions, after reaching a maximum, decreases with number. This argument is strengthened here by two

<sup>34</sup> They run parallel by assumption.

<sup>35</sup> More practically, a light discount on this fee will suffice to induce  $R$  to participate in the coalition.

<sup>36</sup> Translation: “The chance of wisdom increases with the number of members. Enlightenment increases as members increase”.

further reasons:

1. if the probability of a useful decision does increase with number, “la force des motifs nécessaires pour faire sortir ces lumières” [the intensity of motives required to produce this enlightenment] diminishes, because the value of individual votes decreases;
2. in modern times, “wise” proposals are formulated by the public opinion, and there is no reason to increase the number of representatives to encourage their emergence from inside the Parliament (1788b, pp. 122-123).

These remarks complete Bentham’s study of the optimal dimension of Parliament, by highlighting the importance of other variables: motivations and the value of voting.

#### 4. The optimal duration of parliaments and sessions

Bentham’s “economical” approach to the analysis of representative institutions is also revealed by his study of the duration of parliaments and, within them, of sessions.

As to the duration of parliaments, in line with what he had already expressed in the *Fragment on Government* (1776), Bentham states that frequent elections are indispensable to strengthen the correspondence between the interest of representatives and that of the represented (1788a, pp. 21-22). A long duration increases the risk that the assembly may become too independent from the will of electors. On the other hand, too short parliaments create other inconveniences:

- a. too many bills are not passed for lack of time;
- b. because of contested elections, the assembly is incomplete or illegally composed for proportionally too long a time;
- c. probably due to this incompleteness and to membership turnover, “ses opérations n’auoient pas assez de solidité pour fonder la confiance générale: et nommément celle des créanciers de l’état, et celle des puissances étrangères” (1788b, p. 131).<sup>37</sup> Bentham is again underlining the politico-economic consequences of institutional design;
- d. newly elected members would lack the political and technical experience to run parliamentary debates and deliberations;
- e. finally, elections have a cost. Therefore it would be necessary “[q]ue les dépenses en fait d’argent, de tems et de peine, enfin les incovéniens si variés qui s’attachent à cet état de fermentation et de crise, ne se renouvelassent plus souvent qu’il ne seroit nécessaire” (1788b, p. 132).<sup>38</sup>

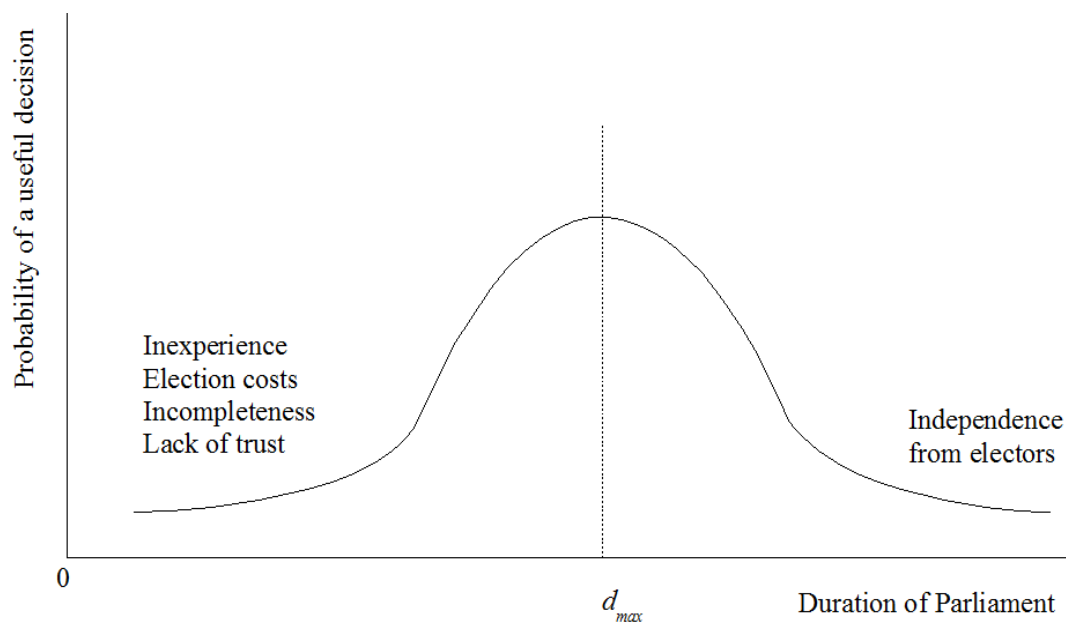
These elements (especially those illustrated sub *c* and *e*), reveal that Bentham acknowledged the existence of politico-economic cycles connected to public trust, search of popularity and electoral costs. The optimal duration of parliaments must therefore be evaluated considering the efficiency of its activities. And efficiency, as we know, is related to the probability of useful decisions. There is an initial period in which the efficiency of parliaments is low because of electoral costs, incompleteness, lack of experience, and lack of trust; then efficiency increases until it reaches its pitch; after this point, efficiency decreases on account of the excessive independence obtained by representatives. The optimal duration of a parliament depends therefore on the relative length of these two “tails”.

Figure 6. Efficiency as a function of the duration of parliaments

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37 Translation: “its operations would not have enough solidity to establish general trust; and notably, that of public creditors and that of foreign powers”.

38 Translation: “That the expenses in money, time and pain, and more generally the manifold inconveniences attached to this state of fermentation and crisis, were not renewed more frequently than necessary”.



The “durée moyenne” [average duration] recommended by Bentham results then from this calculation and could be made to correspond to the modal value of the probability of a useful decision ( $d_{max}$ ). Bentham estimates here that a duration of four years would approach a fair compromise, although he insists again on the lack of evidence required to pronounce a surer verdict (1788b, pp. 130-1).

Another important variable in relation to the efficiency of parliamentary activities is the duration of sessions and the alternation of sessions and periods of vacancy. In line with what he argued in *Tactics*, Bentham emphasises the importance of discussion as a means to promote the emergence of useful decisions. Fairly long sessions strengthen the influence on individual representatives of an “internal opinion” that mimics the virtuous mechanisms of public opinion outside the Parliament. Therefore: “L’influence de ce public intérieur sera d’autant plus grande sur chaque membre, que le tems de séance est plus grand à proportion du tems de vacance” (1788b, p. 121).<sup>39</sup>

## 5. Incentives to engagement and assiduity

Strictly connected with *Tactics* are also Bentham’s recommended provisions to incentivate representatives’ engagement and assiduity, minimising moral hazard. The originality of these analyses is that they relate less to the organisation of parliamentary agenda than to the choice of tasks and roles attributed to members.

Bentham suggests that the right to introduce bills must be granted to all representatives, not only to members of the cabinet. This is the only way to stimulate emulation and increase the chance of useful proposals and useful decisions.

Qu’il soit libre à chaque Membre de proposer en forme de Loi ses idées quelconques. Les Membres dévoués à la Cour, les Chefs des départements respectifs n’en continueront pas moins de donner |<sup>40</sup> en vertu de son influence qui pervade tout, et du négatif dont il reste le maître. L’usage de l’initiative communiqué à tous les autres membres indistinctement est de réveiller par l’aiguille de l’émulation l’activité des membres de l’administration, de suppléer à leur négligence, de réprimer leur témérité ou leur mauvaise foi (1788a, pp. 20-1).<sup>41</sup>

39 Translation: “The influence of this internal public on each member will be larger, as the time of sessions is larger in proportion to the time of vacancy”.

40 Above this space Bentham writes “take the lead”.

41 Translation: “The liberty to propose his various ideas in the shape of laws must be granted to every member. Members devoted to the Court, and the Chiefs of its departments will not cease to take the lead, on account of its pervasive influence, and of the right to veto of which it has the prerogative. The use of attributing initiative to all other members is to arouse by the spur of emulation the activity of members of the administration, to compensate for their negligence, and to repress their recklessness or their bad faith”.

For similar reasons, it is not wise to set limits to the right of speech, although protracted discussions can slow down the process of deliberation (1788a, p. 37). And this for two reasons: firstly, if the number of members of parliament is higher than the number of those who are allowed to speak, “cet expédient ne diminue pas la difficulté d’obtenir le consentement nécessaire” (1788a, pp. 37-38) [this expedient does not reduce the difficulty of obtaining the necessary consensus]; secondly, if members are free to intervene, in many circumstances “le sentiment de la nécessité opposera à l’envie générale de jouir de ce droit un frein quelconque” (1788a, p. 38) [the sentiment of necessity will oppose to the general desire to enjoy this right a casual check]. On the contrary, if a maximum number is fixed, “le droit sera pris pour devoir” (1788a, p. 38) [the right will be exchanged for a duty]. For example, if the average number of interventions is twenty-five, and the limit is fixed at fifty, the speakers will be fifty. “Celui-ci est envoyé pour parler: il faut donc qu’il parle: ne fût-ce que pour se distinguer de l’ordre des muets” (1788a, p. 38) [This one is sent to speak: it is necessary that he speaks, were it not to distinguish himself from the order of dumb]. A maximum number is therefore an adverse incentive: “il n’y aura que dissipation de temps au lieu d’économie” (1788a, p. 38) [there will be dissipation of time instead of economy].

Furthermore, sacrificing the inclination to intervene is psychologically harder than pecuniary sacrifice. Money can be dispensed of for two valid reasons: “l’amour du bien publique [*sic*] et l’amour de la gloire” [the love of public good and the love of glory], that is, in Bentham’s terms, a “social” and a “semi-social” motive. The sacrifice of an act of speech can have as only spontaneous motives “la désinclination ou le sentiment de l’insuffisance” [disinclination or a sentiment of inadequacy]. Only political virtue can limit this inclination, and election mechanisms that maximise favourable selection can obtain this result, by sending to parliament less vain and more efficient representatives: “Si ces places avoient des appointemens amples et établis, un tel sacrifice plus difficile en apparence le seroit moins en réalité”<sup>42</sup>.

Another measure that can improve the representatives’ commitment to public interest is an oath obliging every member “de préférer l’intérêt général à l’intérêt particulier vrai ou supposé de ses constituans” (1788a, p. 51) [to prefer general interest to the true or supposed interest of his constituents]. The issue at stake is how imperative should be the representatives’ mandate. An imperative mandate is seen as a kind of “sinister interest” obliging the representative to act against general interest. Bentham believes that when a decision does not concern the interest of the representative or the interest of his constituency, the motives of general benevolence and love of reputation suffices to protect moral integrity. But when the interest of electors is concerned, then it is highly probable that the sentiment of friendship may prevail over reputation, and “particular benevolence” over “general benevolence”. This set of motives “lui conseille de suivre aveuglément la volonté de ses commettans” (1788a, p. 51) [pushes him blindly to follow the will of his principals]. An oath may counterbalance these motives, since perjury undermines the trust a representative should inspire. This conclusion sharply contrasts with the opinion Bentham expressed some years later in the pamphlet entitled *Swear not at all* (1817), where he argued that “of all those several operations, on each of which the life of the body *politic* is no less continually dependent than that of the body *natural* on respiration, not one is there to which, in the opinion of that assembly, any necessary security against deceptions incorrectness or incompleteness, is by this ceremony afforded – any useful service rendered” (1817, p. 197). Bentham listed six reasons against oaths, among which “weakening in various ways the efficacy of the Laws”, “giving aid and force to the enterprises of malefactors”, and “corrupting the national morals and understanding”

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42 Translation: “If these places had large and established appointments, a similar sacrifice, apparently more difficult, would be less so in reality”. There is however a passage in “Considérations d’un Anglois”, in which Bentham seems to contradict this opinion: “Tout ce qui occasionne de l’embarras, tout ce qui menace de longueur et d’indécision la masse entière des affaires, c’est le droit de parler: l’exercice de celui de voter est bientôt fait. Limitez dans les bornes que l’on juge convenables le nombre de parleurs: le nombre des votans ne sera plus à craindre” (1788b, p. 123) [All what produces confusion, all what threatens of indecision the whole mass of affairs, is the right to speak: the exercise of the right to vote is easily accomplished. Set suitable limits to the number of speakers: the number of voters will no longer be to fear].

(1817, p. 190 and *passim*).

A connected issue largely discussed in *Tactics* is the members' assiduity to Parliament sessions. But while *Tactics* concentrates on remedies against absenteeism, the manuscripts of 1788 on representation contain an analysis of its causes. The question is strictly connected to that of the value of voting. When this value falls below a certain floor, absenteeism is encouraged. The problem is that the rates of absence are not necessarily equally distributed over the mass of representatives, and casual absences is taken can distort the representativeness of a deliberation: "De l'avilissement de ce droit résulte la négligence dans la manière de l'exercer, les grandes fluctuations dans le nombre de ceux qui l'exercent: fluctuation qui livre à la merci du hazard le sort des intéressés. Car plus le nombre présent est petit par comparaison avec le nombre total des personnes députées, plus le tableau que la députation présente de la volonté des députans est sujet à se trouver infidèle" (1788a, p. 35).<sup>43</sup>

Bentham adds to this picture the analysis of some "coefficients" of parliamentary efficiency. Comparing the British Parliament to the Assembly to be instituted in France, he affirms: "Deux causes concourent à en augmenter la difficulté. L'une est la différence en fait de vivacité entre les deux nations. L'autre est le défaut d'exercice, la nouveauté de la position" (1788a, p. 36).<sup>44</sup> "National vivacity" and "novelty" explain different performances of legislative bodies. Furthermore, the rate of absenteeism grows with the age of Parliaments, because the work made by early members generates a positive externality on those who follow. Overcoming the initial problems, laying down the foundations of law, and creating routines, required an effort and a commitment of which later representatives reap the benefit. With a lower effort, they reach greater results.<sup>45</sup> However this positive externality generates in turn a negative consequence, in that it reduces the effort of later members of Parliament. This externality grows with the number of terms, although at a decreasing rate.

## 6. "Bribery laws bad"

Under this title, Bentham examines the expediency of the so-called "Bribery laws". In Britain a statute against bribery in elections had been introduced in 1728 (2 Geo. 2. c. 24) to counteract the practice of buying votes. According to this act, where "any person claiming a right to vote at any election shall ask, receive, or take any money or other reward by way of gift, loan, or other device, or agree or contract for any money, gift, office, employment or other reward whatever, to give his vote, or to refuse or forbear to give his vote, or if any person by himself, or any person employed by him, shall, by any gift or reward, or by any promise, agreement, or security for any gift or reward, corrupt or procure any person or persons to give his or their vote or votes" (Anonymous 1826, p. 9), that person had to pay a penalty of 500 £ and his vote was declared void.

This practice was usual before the Reform Bill of 1832 especially in the famous "rotten boroughs", in which the number of electors was limited to some units. Historians of economics know very well that David Ricardo became MP for Portarlington in 1819 exactly in this way.

Bentham's viewpoint *vis-à-vis* these laws was quite unconventional, with a dash of radical libertarianism. In his words: "le bien que font ces loix est très douteux: le mal est indubitable" (1788b, p. 97) [the good produced by these laws is doubtful: the evil is indisputable]. He explained the first part of this argument in this way:

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43 Translation: "The result of the debasement of this right is negligence in the way of exerting it, and large fluctuations in the number of those who exert it: such fluctuations leave the fate of the interested party to the mercy of hazard. The smaller the number of present in relation to the total number of representatives, the more the picture of the will of the represented revealed by the deputation is liable to find itself unfaithful".

44 Translation: "Two causes concur to increase its difficulty. One is the difference in point of vivacity between the two nations. Another is the lack of exercise, the novelty of the position".

45 "L'Anglois [...] a perdu jusqu'à l'idée des difficultés qui ont du accompagner les premiers essais de cette tactique, dont il recueille chaque jour le bénéfice sans le savoir, et sans jamais s'en demander les raisons" (1788, p. 36). Translation: "The British [...] has lost even the notion of the difficulties accompanying the first attempts of this tactic. Every day he reaps the benefits of it without knowing it, and never asking the reasons of it".

Qui consent de tant donner pour cette charge montre la force du désir qu'il sent de la remplir, cette charge: or ce désir n'est pas, des conditions requises pour qu'il en exerce bien les fonctions, une des moins considérables. Que si l'on peut aimer posséder la charge sans en bien exercer les fonctions, au moins il est difficile que l'on exerce bien les fonctions si l'on n'aime pas posséder la charge (1788b, p. 97).<sup>46</sup>

Explicitly referring to *Tactics*, Bentham adds that some incentives to assiduity could easily encourage the effort of those who bought an office. According to Bentham, being prepared to pay to obtain a public office is a mark of a “relish” for this position. This opinion had already been formulated by Bentham in the manuscript on reward published by Dumont in 1811. A chapter of *Théorie des récompenses* (book II, chapter 9) is devoted to the “vénalité des charges” [sale of offices], one of the main issues in the political debate of the Enlightenment. Implicitly referring to Louis de Jacourt’s article “Venalité des charges” in Diderot and d’Alembert’s *Encyclopédie*, Bentham declares that he is aware of the unconventionality of his views but at the same time he charges of prejudice his adversaries: “Public opinion is at present adverse to the sale of public offices. It more particularly condemns their sale in the three great departments of war, law, and religion. This prejudice has probably arisen from the improper use to which it has sometimes been applied; but whether this be the case or not, the use of the word *venal*, seldom if ever but in an odious and dyslogistic sense, has tended to preserve it” (Bentham 1825, p. 247).<sup>47</sup> Bentham’s argument is very simple:

If it be desirable that the public servants should be contented with small salaries, it is more desirable that they should be willing to serve gratuitously, and most desirable that they should be willing to pay for the liberty of serving, instead of being paid for the services (1825, p. 246).

Applying the “axiom of mental pathology” that “by the nature and constitution of the human frame, sum for sum, enjoyment from gain is never equal to suffering from loss” (Bentham 1800-4, p. 348).<sup>48</sup> Bentham believes that “[t]he loss of a salary paid by the public, is merely the cessation of so much gain; the loss of an office which has been purchased, is the positive loss of so much capital which the individual has actually possessed”, since “[t]he cessation of a gain is generally much less severely felt, than a loss to a corresponding amount” (1825, p. 246). Consequently, those who purchase an office will care for it and will try to avoid its loss. However, this policy is efficient only when the appointment is purely honourable or when the emolument attached to it is fixed: in this case it “does not differ from a perpetual rent” (1825, p. 247). When on the contrary the profits of the charge are variable, the sale is bad economy, as “it is not probable that these uncertain profits will sell for so large a price as would willingly be paid for a salary equal to their average amount” (1825, p. 247). In other words, only those offices will be bought for which the return is higher than the investment.

In *Constitutional Code* (1830, p. 338), Bentham again proposed a “patriotic auction” as an efficient mechanism to select the most apt civil servants.

This framework of analysis is applied in the present case to bribery in elections. Once more, Bentham’s starting point is that public opinion may be misled by prejudice: “de la vénalité de la charge on a inféré la vénalité du titulaire. La conclusion contraire auroit été la raisonnable” (1788b, p. 97) [from the venality of offices the venality of the titular has been inferred. The contrary conclusion would have been more reasonable]. Then he observes that “La politique des anti-vénalistes est exactement en contradiction avec la politique des qualifications pécuniaires” (1788b, p. 97) [the policy of anti-venalists is just contradictory with the policy of pecuniary qualifications]. If, according to the proponents of limited suffrage, the possession of a certain fortune has “à l’égard

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46 Translation: “The man who accepts to give so much for this office reveals the intensity of the desire he feels to occupy it: now, this desire, among the conditions required for a good exercise of its functions, is not one of the most important. For, although it is possible to wish to hold an office without exerting its functions, at least it is difficult to exert well its functions if one does not like to occupy the office”.

47 In this paper we quote from the English translation of *Récompenses* published in 1825.

48 For a discussion of this axiom see Lapidus and Sigot (2000), and Guidi (2007).

des coeurs une vertu antiseptique” [an antiseptic virtue for hearts], why should wealth be rejected as a proof of aptitude when it is used to purchase an office? Furthermore, bribery is a more individualised proof than a fixed pecuniary qualification: “Tel sera à l’aise avec deux mille livres de rente: tel autre sera pauvre avec deux cent mille. La présomption tirée de la quantité de richesse possédée ne porte que sur l’espèce de riches: la présomption tirée de la quantité déboursée porte jusque sur l’individu” (1788b, pp. 97-98).<sup>49</sup> The Marshallian notion of “willingness to pay” implicitly lies behind this analysis of the “demand” for offices.

Bentham uses this reason almost paradoxically to answer the further objection that those who bribe electors are rent seekers looking for personal advantages. The candidate who is ready to spend money to purchase an office “[fait] voir qu’au moins il peut se passer de cet argent pour un temps déterminé” [shows that he can do without this money at least for a certain time], and even for many years: on the other hand, the individual in possession of a pecuniary qualification at a certain moment, “peut relativement à ses besoins se trouver, dès l’instant même de son élection, dans le besoin le plus extrême” (1788b, p. 98) [can find himself, in relation to his needs, in the most extreme need just a second after his election].

Bentham almost dogmatically argues that bribery is liable to produce a favourable, rather than an adverse, selection. “Qu’il n’y a que des personnes à grands talents et à grandes prétentions qui puissent concevoir l’espérance d’obtenir une place de valeur capable de les indemniser contre la dépense qu’il faut pour acheter un siège” (1788b, p. 98).<sup>50</sup> Obviously the “value” to which he refers here must be honour and self-fulfilment rather than pecuniary profits, otherwise this argument would contradict the preceding one.

As in *Defence of Usury* (letter 7 “Efficacy of anti-usurious laws”; Bentham 1787, pp. 147-50), he uses the argument that this kind of practice is very difficult to stop and its prohibition very easy to evade. “Les exemples où l’on trouve le moyen quelquefois de faire exécuter les loix servent bien plus à tourmenter les intéressés qu’à prévenir la pratique. Quand il y a tant de gens qui ont envie d’acheter et tant d’autres qui ont l’envie correspondante de vendre, quoi de plus difficile que de les empêcher d’être d’accord?” (1788b, p. 98).<sup>51</sup> And similarly to usury laws, Bentham sees in these useless norms an undue encouragement to treachery and a cause of weakening for social bonds (1788b, p. 99).

There are only two ways of reducing the occasional risks of “bad economy” related to the sale of offices: punishment for those who use their political power for corrupted aims, and extension of the franchise, so that bribery becomes more and more costly and unpractical (1788b, p. 99).

Connected to this theme there is Bentham’s discussion of the representation of the aristocracy. Bentham rejects every restriction of the right to vote within the aristocracy. While some parties demanded that only the most ancient *noblesse d’épée* were allowed to vote, Bentham looked with a more favourable eye at the aristocracy of more recent origin: “Il est certain qu’il [le nouveau noble ndr.] est propriétaire, et même propriétaire assez riche. Qu’il ait acquis sa noblesse à prix d’argent, jamais n’aura-t-il dépensé dans cette denrée si peu substantielle au delà de son superflu” (1788b, p. 103).<sup>52</sup>

However, Bentham’s view of aristocracy is quite critical. In a way, his opinion negatively mirrors that about the motivated middle-class individual who is willing to pay to obtain a seat. “Les distinctions qu’annonce le mot de *noblesse* présentent des inconvéniens considérables et multipliés, sans le moindre avantage” (1788b, p. 104) [the distinctions introduced by the word *aristocracy* offer

49 Translation: “One will be well-off with a rent of two thousand pounds: another will be poor with two hundred thousand. The presumption derived from the quantity of possessed wealth is only based on the species of wealth: the presumption deriving from the amount of money spent refers up to the individual”.

50 Translation: “Only people with great talents and great ambitions can conceive of a hope of obtaining a position whose value can indemnify them against the expense required to purchase a seat”.

51 Translation: “The examples where this laws happens to be executed serve more to persecute those who are concerned than to prevent the practice. When there are so many people who want to purchase, and so many others who have the corresponding will to sell, is there something more difficult than to restrain them from making a deal?”.

52 Translation: “It is certain that the recent aristocrat is a proprietor, and quite rich a proprietor. If he has acquired his title for money, he would have never spent in so trifling a merchandise something beyond his superfluous”.

some remarkable and multiple shortcomings, without the least advantage]. Firstly, aristocracy “est une source de péculation, aux dépens de la caisse publique” (1788b, p. 104) [is a source of peculation, to the expense of the public purse]. Since the aristocratic class demands financial support to the government because it believes to be “[t]rop illustre pour travailler” [too illustrious to work], and it demands a support equal to its dignity, the result is moral hazard:

Voilà l’origine des pensions pour la pauvre noblesse: autant de péculation commise aux dépens de la caisse publique. Il seroit aisé de faire voir que de ces prodigalités l’effet nécessaire est d’augmenter le mal même auquel elles cherchent à remédier: et que plus on donne, plus on accroît le besoin de donner (1788b, p. 104).<sup>53</sup>

Second comes an economic argument: the custom of derogation produces a “défalcation dans la masse de la richesse nationale” [a defalcation from national wealth]; and third, a social argument, *i.e.* the encouragement of conflicts and envy (1788b, p. 104). Finally, this custom reduces the efficacy of rewards: “Source de diminution de valeur pour les récompenses tant naturelles que factices, et par là de découragement pour le mérite, en tout genre pour les véritables services. Plus on jouit de considération sans peines, moins on se voit de motifs pour se donner de la peine” (1788b, pp. 104-5).<sup>54</sup>

Bentham also comments upon Montesquieu’s reasons in favour of aristocracy. To the argument that this class contributes to “[t]empérer le pouvoir du monarque” [temper the power of the monarch], Bentham replies that such a belief is “illusory”, and that there are more efficacious checks and balances. To Montesquieu’s statement that aristocracy is there to “Soutenir le pouvoir utile du Monarque” [to support the useful power of the monarch], he answers that in France, like in Britain, the government will be sustained “par la conviction de son utilité” [by the belief in its utility]. Lastly, to the idea that this class can “[f]aire fleurir le principe de l’honneur” [make the principle of honour flourish], Bentham gives the following, ironical, “Réponse. Oui: comme un monopole fait fleurir le commerce” (1788b, p. 105) [Answer. Yes: like a monopoly makes commerce flourish].

Bentham’s representative government is based on merit as much as it is based on free competition.

## 7. The role of public opinion and political communication

The principal-agent logic that underpins the analysis of representation and parliamentary activities raises the problem of the correct incentives to promote the union of the interest of representatives and represented. Institutional design can avoid gross *internal* dysfunctions and adverse selection in elections. However Bentham thinks that only the external check of the “tribunal de l’opinion publique” (1788b, p. 90) [tribunal of public opinion] can efficiently monitor political institutions (and also of administrative establishments, see the Panopticon), avoiding moral hazard. One of the reasons why a large number of members makes an assembly inefficient is that: “Elle est moins soumise à l’influence de l’opinion publique. Elle forme en elle-même une espèce de petit public réuni dont l’opinion peut intéresser chacun des membres plus que ce public de dehors si éloigné, si bigarré, si dispersé, si foible” (1788b, pp. 120-1).<sup>55</sup> The “internal opinion” of an assembly is stronger and more coherent than the “external (public) opinion”, and therefore its efficacy must be counteracted in some way, for example by reducing the number of members.

This and similar aspects are also discussed in *Tactics* and other works. However, an original

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53 Translation: “Here is the origin of pensions for the impoverished aristocracy: so much peculation at the expense of the public purse. It would be easy to show that this prodigality produces the opposite effect of increasing the evil itself they try to remedy: and the more it is given, the more the need to give is increased”.

54 Translation: “Source of diminution for the value of recompenses, both natural and artificial, hence a discouragement of merit of all kinds for true services. The more one enjoys consideration without pain, the less one will find some motives to make efforts”.

55 Translation: “It is less submitted to the influence of public opinion. It constitutes in itself a kind of small convened public, whose opinion may interest every member more than this external public, so remote, so multicoloured, so dispersed, and so weak”.

proposal introduced in “*Considérations d’un Anglois*” merits some attention, because it highlights the threats that political communication can generate for representative democracies, creating distortions in the relationship between electors and the elected. For this reason Bentham opposes the praxis of canvassing (“*visites de tournée*”), *i.e.* the systematic direct contact of candidates with electors during a political campaign, since he believes that it is a cause of adverse selection. The questions raised in this discussion are extremely important, because they highlight the problem of avoiding a spectacularization of politics in which appearance and communicativeness count more than aptitude and talent: a problem that modern media have increased at a level unknown at Bentham’s times.

The principle Bentham states is the following: “*Dans les élections il est à désirer que le choix se trouve déterminé chez la foule des électeurs plutôt par la renommée générale, que par la connoissance particulière*” (1788b, p. 141).<sup>56</sup> The main problem, in selecting the most apt, is asymmetric information. Now, “*sur un très grand nombre il n’y aura pas un qui aura la moindre capacité pour former un tel jugement par lui-même: et la proportion de ceux qui sont grevés de cette incapacité se trouvera d’autant plus grande que la distribution des droits de voter sera plus conforme aux dictées de l’égalité*” (1788b, p. 142).<sup>57</sup> The only “oracle” that can help people to formulate this judgment is public opinion: “*cette opinion, de laquelle, malgré toutes ses imperfections, il seroit toujours bon de dire pour règle générale que chacun contribue à sa formation d’autant plus qu’il est plus digne d’exercer cette influence; et qui, quelque faillible qu’elle soit, est le moins trompeur de tous les oracles que dans leur situation on puisse prendre pour arbitres*” (1788, p. 142).<sup>58</sup>

The correct parameters to meet the favour of public opinion are the results of professional activities, of experiences in local assemblies, or of former mandates in Parliament. Publicity is the best means to show these results “*aux compositeurs de l’opinion publique, c’est-à-dire tout le monde*” (1788, p. 142) [to those who compose public opinion, that is, everybody]. On the other hand, the qualities emerging from personal contact are “*la beauté de sa personne, la dignité ou la popularité de ses manières, la grandeur de sa fortune, la splendeur de ses équipages, la force de son vin ou de sa bière*” (1788, p. 143).<sup>59</sup> Bentham clearly formulates the notion of adverse selection in his comments:

Seront-ce là des preuves légitime de cette suffisance? Avec plus de vérité les appelleroit-on preuves de la qualité contraire. Plus on possède de ces titres si utiles au possesseur et qui s’acquièrent sans peine, moins on se sent le besoin de ceux qu’on n’acquiert qu’à proportion de ses peines (1788, p. 143).<sup>60</sup>

Bentham concludes that correct information can come only from the “*lecture qu’on ne trouve que dans les feuilles périodiques*” (1788, p. 143) [accounts found only in periodical press]. Therefore, a total freedom of the press is essential to promote newspapers and to encourage the “*gens de lettre*” [men of letters] to engage themselves in political information.

## 8. Concluding remarks

The subjects above discussed are only some of the instances in which Bentham applies an

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56 Translation: “In elections, it is desirable that the choice by the mass of electors be determined by general reputation, rather than by private acquaintance”.

57 Translation: “in a large number, no one will have the ability to formulate such a judgment by himself: and the proportion of those who are burdened with this inability will find itself the larger in proportion as the distribution of the right of voting will conform itself to the dictates of equality”.

58 Translation: “this opinion, of which, despite all its imperfections, it would be always good to say as a general rule that everybody contributes to its formation the more he deserves to exert this influence; and which, however fallible it may be, is the less deceptive of all oracles that in their situation can be taken as arbiters”.

59 Translation: “the beauty of his person, the dignity and popularity of his manners, the greatness of his fortune, the magnificence of his equipage, the force of his wine or of his beer”.

60 Translation: “Are these legitimate proofs of this sufficiency? With more truth they could be called proofs of the contrary. The more useful titles to himself and acquired without pain one owns, the less he feels the need of those that can be acquired only in proportion to his pains”.

economic analysis to the study of political problems. They implicitly depict the utilitarian philosopher as a forerunner of some contemporary branches of economic and social studies such as law and economics, the economic analysis of politics, the theory of public choice, and political science. Furthermore, in examining some questions, like the dimension of Parliament and the duration and timing of terms and sessions, we have consciously forced the letter of his texts to rationally reconstruct the meaning and internal logic of his reasoning.

There are however some justifications for this way of approaching Bentham's texts.

Firstly, the economic analysis we have found in his writings is not a formal method artificially applied to problems of a different nature – a typical feature of the so-called “economic imperialism” (Raditzky and Berholz 1987; Lazear 1999): for Bentham it is a substantive characteristic of the relationships established in the sphere of politics, where asymmetric information and a potential opposition between the interest of represented and representatives, governed and governors, administered and administrators, creates the problem of how to identify interest with duty.

Secondly, the typical arguments of the principal-agent logic are explicit and recurrent in Bentham's analyses, where concealed information, adverse selection and moral hazard are almost literally defined in modern terms.

Thirdly, the temptation to offer a consistent rational reconstruction of Bentham's arguments is so strong because he himself develops a detailed analysis of the “functional relations” among the different “variables” that are at stake in these questions. Only rarely his reasoning is not falsifiable, and it is never inconsistent. He sees the relations among parties as equilibria between counteracting forces, although these equilibria are not necessarily first bests for the “subject many”. In this framework, punishments and rewards are seen as incentives to which individuals react modifying the existing equilibria in ways the utilitarian legislator thinks more appropriate.

This does not mean that the legislator must set up authoritarian policies based on inspection and punishment. Foucaultian panopticism is not the ideal term of utilitarian politics: as noticed above, the emphasis on open competition and emulation as the best mechanisms of selection confers to Bentham's economic analysis of representation a distinctive libertarian flavour.

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