

THE DEVIL IN DETAILS: BENTHAM'S *POLITICAL TACTICS* AS A THEORY OF AGENDA

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I. INTRODUCTION

Economists have recently started exploring the distinction between the nature and content of social choice and the decision agenda—that is, the procedure required to make such a choice. Assuming that the problems raised by Arrow's "general possibility theorem" can be solved and that an optimum collective decision exists, it is still necessary to find a "neutral procedure" that avoids "manipulations" by organized minorities. By exploiting the imperfections of decision procedures, such minorities are able to induce a large majority of citizens to vote against their own interest (Hargreaves Heap *et al.* 1992, ch. 17).

However, despite some valuable insights, this promising branch of economic theory has not progressed as much as could be expected. This paper aims to stimulate new research in this area of social theory by exploring Jeremy Bentham's pioneering contribution to it. It examines a less known work by this philosopher, entitled *Political Tactics*. This work was printed, but not published, in 1791, and was brought about by the summoning of the French Estates-General in 1788. It contains a comparative analysis of British and French parliamentary procedure and an outline of the general principles of "political tactics." As to the content of this branch of knowledge, Bentham himself states that: "The word *tactics*, derived from the Greek . . . , signifies, in general, *the art of setting in order*. It may serve to designate the art of conducting the operations of a political body, as well as the art of directing the evolutions of an army" (Bentham 1843, p. 15). Political tactics is the art of setting the agenda and the procedures of a deliberating public organism.

Despite David Manning's (1968, p. 64) dismissive description of this work as an application of "the principles of mechanical engineering to the problem of reform,"

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Political Tactics is a highly theoretical work, in which the fundamental role of procedures in promoting the general welfare is examined in the light of the general principles of utilitarian ethics. Bentham warns his readers that every detail of procedure—from motions to voting—can be arranged in such a way that the greatest happiness for the greatest number is sacrificed to the interest of the few. Agenda does affect social choice, and the establishment of an optimal procedure is a necessary precondition for the Greatest Happiness Principle to be achieved.

This paper is composed of four sections: section II describes *Political Tactics* and its context; section III discusses the relationship between this book and Bentham's economic theory; section IV highlights the general framework of Bentham's analysis of the problems of agenda—that is, the connection between procedure, general interest, and publicity; finally, section V examines Bentham's vision of optimal procedure.

II. THE TEXT

The text of *Political Tactics*, recently published in a critical edition, is the result of three succeeding versions (See James *et al.* 1999). The first one, entitled *Essays on Political Tactics*, was printed and privately distributed in 1791. It contained the plan of the work, a Preface, and two fragments entitled “Essay V” and “Essay VI.” The other essays were probably never finished by the author. In 1816, Bentham's friend and French editor, the Genevan Calvinist pastor Etienne Dumont, published a *digestum* of the *Essays*, entitled *Tactique des assemblées législatives, suivie d'un traité des sophismes politiques*, based on the printed sections and on Bentham's manuscripts. Although the original sources have been lost, it is clear from a comparison of Essays V and VI with the equivalent chapters that Dumont had substantially compressed Bentham's original text.¹ The third version, by Richard Smith, contained the translation into English of Dumont's *Tactique*. It was published under the title, *An Essay on Political Tactics* in Volume 2 of *The Works of Jeremy Bentham*, edited between 1838 and 1843 by John Bowring. Unlike Dumont's version, Smith's edition followed the order of chapters announced in the 1791 plan and included the full text of Essays V and VI, which now formed, respectively, part of chapter five and chapter six.

Although the earliest known reference made by Bentham to a work on parliamentary procedure dates from 1778, his interest in this matter was reawakened in the summer of 1788 by the news coming from France, reporting that the *Parlement* of Paris was going to decree the imminent opening of the Estates-General. From then on, Bentham turned his attention to France; he intended to contribute to the debate on the composition and activities of the French Assembly with a work on parliamentary procedure and with other essays on representation, political economy, public finance, and penal law. He made some efforts to obtain the approval of Count Mirabeau, André Morellet, Mme Necker, the Duc de la Rochefoucauld, and the Marquis de la Fayette, and he asked Morellet to secure a translation of *Tactics*. But their responses were not encouraging. Only a small fragment appeared, without acknowledgment,

¹A second edition of Dumont's recension was published in 1822.

in Mirabeau's journal (June 1789), the *Dixième lettre du Comte de Mirabeau à ses commettans*. Conversely, Dumont's edition was published at the time of the early liberal conspiracies against the Holy Alliance, and it enjoyed a great success on both sides of the Atlantic Ocean. It was translated into German, Italian, Portuguese, and Spanish.

Political Tactics is considered by the editors of the critical edition as "probably the first attempt ever made to theorize broadly about parliamentary procedure" (James *et al.* 1843, p. v). It has the characteristics of a theoretical work in which the reasons for recommending certain procedures are carefully examined in the light of historical evidence.

III. AN ECONOMICS OF PROCEDURE?

Contemporary agenda theory can be defined as a branch of the theory of social choice that enjoys an interdisciplinary status. Although it relies on the economic theory of social choice for its foundations, it is part and parcel of the toolbox of political science and other social disciplines.

Bentham was basically a legal theorist, and at the time he wrote *Political Tactics* he had just emerged from an attempt to write a *Pannomium*, a general body of principles embodying every branch of law. Many discussions in *Tactics* reveal that in establishing the principles of procedure Bentham had in mind not only the regulations of the British Parliament, but also the functioning of the courts, a topic to which he later devoted one of his most impressive works: the *Rationale of Judicial Procedure* (1808–12). He considered his analysis of parliamentary "tactics" as an element of the theory of constitutional law, a branch that the onset of the French Revolution had made particularly significant. This work accompanied other essays written approximately in the same period, such as the *Considérations d'un Anglois sur la composition des États-Généraux y compris réponses aux questions proposées aux Notables & c.* (better known as *Essai sur la Représentation*) (1788) and *Nonsense upon Stilts, or Pandora's Box Opened, or the French Declaration of Rights prefixed to the Constitution of 1791 laid open and exposed* (1795, published by Etienne Dumont in 1816 under the title *Sophismes anarchiques*), which discussed, respectively, the theory of representative democracy and the theory of natural rights that formed the basis of the French constitutions of 1791 and 1795 (see Bentham 2002).²

Before 1788 Bentham had written only one work on political economy, *Defence of Usury* (1787), although the debates in the French Assembly soon drew his attention to issues of public finance, monetary policy, and patent law. These beginnings of an interest in economics may explain the presence in *Tactics* of examples, analogies, and models taken from the economic world. For example, in the Preface, Bentham describes the French Assembly as being "in the situation of a manufacturer, who, besides the work that was the object of his manufacture, should find himself under the necessity of making the very tools he was to work with" (Bentham 1843, p. 1).

²On Bentham's attitude towards the French Revolution and on the evolution of his political and economic ideas in this period, see Dinwiddy (1975), Cot (1990), and Guidi (1990a). For general presentations of Bentham's utilitarian philosophy, see Harrison (1983) and Dinwiddy (1989).

An economic metaphor is employed to illustrate the benefits of publicity: “The public will repay with usury the confidence you repose in it” (1843, p. 30). Finally, he makes a mockery of the conservative opinions of judges on the indeterminacy of British law texts by employing an economic analogy: “Our forefathers lived for ages without the knowledge of commas, stops and figures: why should they be adopted now? The argument amounts to this—Our forefathers lived upon acorns and mast; corn is therefore a useless luxury” (1843, p. 119).

But there are more substantive uses of economic terms. For example, at the core of Bentham’s analysis of the distortions generated by flawed procedures, the benefit gained by organized minorities through manipulations is described as a “profit”: “Every cause of disorder is a source of profit to undue influence, and prepares, in the long run, for the approach of tyranny or anarchy” (1843, p. 20). The term profit is used here to identify a rent-seeking type of action: procedural disorder creates opportunities for pecuniary or non-pecuniary “profit,” a net return over illicit “investment.” Moreover, Bentham believes that a procedure is optimal not only when it promotes the interest of the greatest number, but when it generates this result by making “economy” of time and energies. Thus, for example, there is economy of time when the vote on questions on which a large agreement has not yet been reached is postponed: “When an indefinite adjournment is adopted, it is probable that the original motion would have been rejected. The prompt termination of the debate is then an economy of time” (1843, p. 142).

The last quotation reveals an aspect that can be found in other legal texts written by Bentham at that time: the ordinate regulation of a branch of law or administration is considered as an “economy” of means and an “economic” management. Thus, there must be an “economy of punishments,” an “economy of rewards,” and an “economic” management of prisons and other public establishments.³ These ideas illustrate Bentham’s peculiar approach to the science of “political economy.” Although in the course of time he became aware of Adam Smith’s contribution, he had already developed an interest in this discipline some years before the publication of *The Wealth of Nations* (WN) (1776). In a way he shared with Smith the same intention to turn into a scientific body of positive knowledge the older “art of political economy.” This was what Smith himself called “the science of a statesman or legislator” (1776, p. 428), a body of regulations concerning not only the commerce and public finance, but also every other branch of public administration, from security to health, transports, poor management and defense. However, as the trajectory from the *Lectures on Jurisprudence* to *The Wealth of Nations* reveals, Smith’s reformation of the economic discourse resulted, *inter alia*, in a substantial narrowing of its scope to what concerns commerce and economic development, although book 5 of *The Wealth of Nations* also dealt with problems of public works, education, defense, and taxation. Bentham, for his part, took a slightly different path. As the parts of the *Pannomium* that addressed the principles of political economy and finance reveal, on the one hand he focused more on the redefinition of the normative principles that should preside to the work of the legislator than on the positive side of the analysis. The Greatest Happiness Principle and the doctrine of the “subordinate ends of legislation”

³See Guidi (2002, 2004).

(security, abundance, subsistence, and equality) provided the guidelines to such a reformation. On the other hand, Bentham's study concentrated on the instruments that the legislator should employ to foster these goals. This part of his analysis had many points in common with what was developed in the sections of the *Pannomium* on punishment and reward. It was in these sections—and especially in the theory of reward—that he discussed some questions concerning the organization of public establishments, public works, education, and the encouragement of the arts and sciences—some of the topics that were included in the “old” political-economic doctrines. In a way, Dumont's decision to publish Bentham's reflections on economics as book 4 of *Théorie des récompenses* (1811)⁴ mirrored this unity of discourse and its common origin in Bentham's “reformation” of political economy (see Guidi 2002).

Some fundamental principles of such an “economic” theory are also at work in *Political Tactics*. And they are crucial to the understanding of this work. A first application concerns the role of incentives and penalties in a procedure aimed at promoting the general interest. An example is represented by Bentham's analysis of the duty of attendance, which according to him is decisive for the correct functioning of representative assemblies. Bentham considers first the evils deriving from absence. Among them there are what in modern terms we might call adverse incentives and adverse selection: the main adverse incentive created by a right of absence from debates is the encouragement of negligence. But there are also important adverse selection effects: “So soon as an employment becomes a source of consideration and of power, without imposing any restraint, it will be sought after—will be bought and sold, by men who have neither inclination nor power to render themselves useful in it” (Bentham 1843, p. 58). Therefore, Bentham adds: “Such places will often become the apanage of fortune and dignity” (1843, p. 58).

As a “[m]eans of insuring attendance,” Bentham suggests a combination of incentives and penalties. Each member of Parliament should make a deposit “at the commencement of each quarter, of a certain sum for each day of sitting in the quarter; this deposit to be returned to him at the end of the term, deduction being made of the amount deposited for each day for every day he was absent” (1843, p. 58). Alternatively, if a salary is attached to his function, a corresponding portion of this salary should be deposited for the same purpose. This taxation mechanism is very similar to what was suggested in *Panopticon* (1791, pp. 53-54) to avoid the death of convicts. Both systems belong to the class of self-executing laws (Bentham 1843, p. 59) analyzed in the *Rationale of Reward* (Bentham 1825, p. 198), and differ from other methods, such as fines, which require a (costly) procedure of inquiry and accusation.

These contrivances introduce the price mechanism into the core of political representation. On the one hand, when members of parliament receive a payment for their functions, their salaries are seen as the price of the public services they render. Bentham considers piece-work and payment by the job as the best wage system, since it is one of those “self-executing” mechanisms that he always recommends (Bentham 1825, book 1, chapter 4). The deposit system he proposes to apply to parliamentary

⁴*Théorie des récompenses* was the second book of a work entitled *Théorie des peines et des récompenses* (Bentham 1811). The two volumes were separately republished in English respectively in 1825 (*Rationale of Reward*) and 1830 (*Rationale of Punishment*).

activities is similar in essence to this mechanism: “Emoluments are the price of service,—Is there any ground of complaint, if they are attached to the rendering of service?” (Bentham 1843, p. 59). On the other hand, if members of the Assembly do not receive a salary, the deposit is interpreted as the price of places, which is paid for the pure pleasure of obtaining them. The incentive consists in the fact that if the “service” of attendance is guaranteed, no sum must be disbursed (more exactly: the deposit is returned). In the end, a member of parliament pays this price only if he does not render the required service: “If the employment be of the kind to be undertaken without salary, the chance of losing a part of the deposit ought to be regarded as the price of the place” (1843, p. 59).

In the *Rationale of Reward* Bentham also argues that in most cases incentives must be combined with punishment. In the management of labor, for example, the positive effect created by the hope of receiving a wage must be strengthened by the fear of being dismissed or fined if minimum conditions are not respected or if damages are caused (Bentham 1825, pp. 207–208). In the case of parliamentary procedure the penalty consists in “one day of arrest for each contravention” (Bentham 1843, p. 59). Such a penalty is necessary for constraining the rich, who would not suffer from the loss of the deposit, to attend sessions. It is also a measure of equality, since otherwise “there would perhaps be formed two classes in the assembly—those who were paid for their functions, and those who paid for not fulfilling them” (1843, p. 59).

A second crucial element of *Tactics* is represented by the pervasive role of emulation and competition as efficiency-generating mechanisms. This is another subject that in Bentham’s view is at the edge between the theory of reward and political economy. In French local *parlements* and in the Estates-General, representation by orders entailed some rules of precedence that fixed the order in which the members of these bodies were allowed to speak. Bentham was convinced that such a “fixed order of pre-audience” was contrary to general utility (1843, p. 101). The main reason was that a fixed order discourages emulation, considered as an incentive to the industrious exercise of intelligence: “a fixed order is unfavourable to the growth of that intelligence on which rectitude of decision in great measure depends; to wit, in as far as intelligence is the fruit of industry, excited by emulation” (1843, p. 101). In *Manual of Political Economy*, Bentham bases his case for free trade on the same role that competition plays in stimulating agents to develop the knowledge and motives which lead to their own success and indirectly to general welfare (1793–95, pp. 228–31; see Guidi 1990b). The role of emulation is equally crucial: the lower an intelligent man is in the order of precedence, “the less will it appear to be worth his while to be at the pains of studying the subject, for so small a chance of distinguishing himself, or being of use” (1843, p. 101). More than that: “Should superior ability or perseverance now and then get the better of this obstacle, still it is an inconvenience in itself, and a disheartening circumstance to reflect on, that his arguments cannot be produced till after the attention of the hearers may have been exhausted, and their appetite palled” (1843, p. 101). Finally, there is also a dynamic negative effect: “In this line, as in every other, the less a man’s faculties seem likely to be worth, either to himself or others, the less labour will be bestowed in cultivating them” (1843, p. 101).⁵

⁵On the evolution of Bentham’s analysis of the role of emulation, see Guidi (2008).

The conclusion is obviously that free competition in registering for speaking maximizes the static and dynamic efficacy of emulation. Bentham also examines the comparative efficiency of different criteria for ordering interventions. He ranges hierarchically two methods: (i) first-come-first-served; (ii) lottery (1843, p. 78).

Both are better than a fixed order since they give to those who are most eager to speak a fair chance of being among the first speakers. They leave people free to register or not for debates and ensure equality of treatment. However, Bentham's prefers the first method for the static and dynamic effects on emulation that it produces: the most motivated rush to the presidency desk at the opening of registration, and if a lottery places them at the end of debates, they could be frustrated. But there is a second reason to prefer this criterion: Bentham is aware that a fixed order "tends to waste time by increasing the quantity of useless discourse" (1843, p. 101). Those who rank higher in precedence feel themselves obliged to speak, whereas they would have been silent in a free competition. Bentham does not emphasize enough that this is an additional argument against lotteries. Third, free order and free competition maximize the benefits of cooperation and division of labor: an orator who is able in description and narration speaks first, followed by a rhetorician who emphasizes the most important aspects of the motion, then by another speaker who is talented in suggesting amendments and improvements, and finally by another who is specialized in synthesis (1843, p. 102). The probability that this order is respected under the system of precedence is minimal, and it is low in lotteries. Finally, precedence, if based on social hierarchy, strengthens the "seductive influence" of the higher ranks on the lower (1843, p. 102).

Considering these arguments together we can conclude that:

- (i) precedence destroys emulation, minimizes the division of labor, and maximizes waste of time, useless discourse, and aristocratic privilege;
- (ii) lotteries allow limited emulation and reduce waste of time, but there is a strictly positive probability that the negative effects of precedence are maintained;
- (iii) free competition on a first-come-first-served basis excites emulation, maximizes efficacy, useful discourse, division of labor, and destroys aristocratic privilege.

That Bentham's ranking depends on the value he attributes to emulation is demonstrated by another case: that of the admission of visitors attending the sessions of parliament. In this case the first-come-first-served criterion is not optimal. Bentham suggests that visitors ought to pay a ticket for each day of attendance. As he comments: "This arrangement is most favourable to equality, in a case where equality is justice" (1843, p. 63).⁶ His argument is that in this case the price mechanism maximizes welfare. We have again a hierarchy of alternatives:

- (i) The first-come-first-served criterion, in a large public, is analogous to lotteries, and lotteries do not maximize welfare since there is a strict positive probability that they favor those who profit less from attendance. Bentham intermingles reasons of equality with reasons of welfare: "The strongest and the rudest will have all the advantage in the struggle. The gallery would be filled with spectators,

⁶It should be observed that equality is one of Bentham's "subordinate ends" of government and that the desirability of equality is defined in terms of the Greatest Happiness Principle.

- who would be the least profited by the debates, and who have the most to lose by the cessation of their labours” (1843, p. 63).
- (ii) Discretionary allocation reserved to government generates “partiality and dangerous intention” (1843, p. 63): “it would restrict the prerogative of publicity, instead of extending it, by making a common right degenerate into a personal favour, and thus opposing the principle of equality without any advantage” (1843, p. 63).
 - (iii) Pricing is the best alternative, since it generates a favorable selection in terms of “consumer” surplus. Bentham is aware, however, that this measure is neither “perfect” nor “noble,”⁷ “but the employment of the produce may ennoble it” (1843, pp. 63–64). The justification is made according to an implicit notion of willingness to pay: “A price of admission unites all the conditions. It is an imperfect measure, it is true, but it is the only possible one, of the value attached to this enjoyment. It is also a proof of a condition in life which guarantees a respectable class of spectators” (1843, p. 63).

Similar arguments in favor of competition are advanced concerning the right to initiative, which, according to Bentham, should be extended to all members of parliament and not only to the government or the majority:

There is as good a chance for obtaining the best advice from one party as from the other. To limit the right of proposing, is to renounce everything which might be expected from those who are excluded: it is to institute a monopoly mischievous in every respect, both because it extinguishes the emulation of those whom it reduces to merely a negative part, and because it may retain the greatest talents in a state of inaction. The most intelligent and clever men may, under this exclusive system, be enchained by those who are greatly their inferiors in genius and knowledge (1843, p. 110).

It is clear from this passage that Bentham is arguing that monopoly creates adverse incentives and adverse selection.

These examples reveal that the use of economic notions is far from being metaphorical. There is a firm economic belief in the virtues of competition and emulation that migrates from Bentham’s “enlarged” conception of economic discourse as formulated in *Rationale of Reward* into constitutional and political analysis. The examples above also show that the economic calculus, associated to the utilitarian criterion, has the advantage of providing flexible and adaptable solutions with problems of efficiency and efficacy arising within organizations.

In conclusion, although *Political Tactics* is a work in constitutional law, there is a strong economic analysis of many crucial aspects of the theory of parliamentary procedure. Therefore, the answer to the question contained in the title of this section is that, yes, there is an economics of agenda in Bentham’s thought, although his analysis of procedure belongs to a broader area of social and legal theory.

⁷J. S. Mill’s critique of Bentham’s ethics and policy was based exactly on this point: Bentham relies on “external sanctions.” See Mill (1861, pp. 227–29; 1838, pp. 94–99).

IV. PUBLICITY, GENERAL UTILITY AND THE NEUTRAL PROCEDURE

According to Bentham, publicity is a central characteristic of parliamentary procedure. He devotes chapter 2 and most of chapter 14 of *Tactics* to this issue, and under this heading he discusses the underpinnings of the utilitarian analysis of procedure.

Publicity in parliamentary procedure has two main goals: securing the union of interest and duty among governors on the one hand, and the confidence in government among the public on the other hand. Again, the issue of the “junction” of interest and duty derives from Bentham’s theory of reward. Bentham maintains that the private interest of governors and the public interest at which they ought to aim might be opposed (in the works of his maturity, and especially in *Constitutional Code* (1830b), Bentham argued that they are *constantly* opposed).⁸ A combination of incentives and penalties could reduce this conflict.

It is at this point that publicity makes its entry. Perhaps the most interesting aspect of *Tactics* is represented by a detailed discussion of the connection between the principle of the union of interest and duty and the role of transparency in securing the control of the “tribunal” of public opinion on the activities of government, an issue that was later to be developed in *Constitutional Code*. In Bentham’s words:

The greater the number of temptations to which the exercise of political power is exposed, the more necessary it is to give to those who possess it, the most powerful reasons for resisting them. But there is no reason more constant and more universal than the superintendence of the public. The public compose a tribunal, which is more powerful than all other tribunals together (1843, p. 29).

Arguing in favor of open vote, Bentham explains that: “This supposes that publicity is in accordance with the public welfare.” And he comments: “In general, this supposition is well founded. The opinion formed by the public is always conformable to what appears to be its interest; and in the ordinary course of things it sees its interest, whatever it may be” (1843, p. 144). Answering the objection that publicity creates a “system of distrust,” Bentham argues that:

every good political institution is founded upon this base. Whom ought we to distrust, if not those to whom is committed great authority, with great temptations to abuse it? Consider the objects of their duties: they are not their own affairs, but the affairs of others, comparatively indifferent to them, very difficult, very complicated,—which indolence alone would lead them to neglect, and which require the most laborious application. Consider their personal interests: you will often find them in opposition to the interests confided to them. They also possess all the means of serving themselves at the expense of the public, without the possibility of being convicted of it (1843, p. 37).

⁸On Bentham’s democratic ideas at the time of the *Constitutional Code*, see Hume (1981), Rosen (1983), and Schofield (1996, 2006).

The only safeguard against what Bentham later defined as “sinister interest” is then “an interest of superior force,” and this interest is “respect for public opinion—dread of its judgments—desire of glory” (1843, p. 37).

It is important to observe that Bentham does not naively think that public opinion is the depository of truth in every circumstance. However, he argues that “An individual may pretend to disregard its decrees—to represent them as formed of fluctuating and opposite opinions, which destroy one another; but every one feels, that though this tribunal may err, it is incorruptible, that it continually tends to become enlightened, that it unites all the wisdom and all the justice of the nation” (1843, p. 29).

This passage shows that the objectivity of public opinion is an effect of self-emendation in the long run. There is an opposition between short-run “opinion of to-day,” which may err, and long-term enlightened wisdom (1843, p. 144). Therefore, “the man of virtue, in resisting the opinion of to-day—in rising above general clamour, counts and weights in secret the suffrages of those who resemble himself” (1843, p. 30). He has only to consult his reason and general utility: public opinion will certainly tend towards the latter. Obviously, self-emendation is possible only with publicity and an open debate:

Experience will soon disclose the great difference between the opinion which arises out of a particular circumstance, and that which is formed after mature reflection—between the clamour of the multitude, which is dissipated in noise, and the enlightened opinion of the wise, which survives transitory errors. Freedom of opinion conciliates the respect even of those whom it opposes, and mental courage is no less honoured in free states, than military bravery.

It is, therefore, in a correct knowledge of public opinion, that the means must be found for resisting it when it is considered ill founded: the appeal lies to itself—as from Philip misinformed, to Philip correctly informed.¹⁹ It is not always according to public opinion that an enlightened and virtuous man will decide,—but he will presume, in consulting general utility, that public opinion will take the same course; and there is no stronger moral probability in a country where discussion is free (1843, pp. 144–45).

Bentham also considers demagogic eloquence transmitted through publicity and the manipulative effects that it generates. However, he argues that in a representative democracy this danger is minimized: the opinions of members of parliament arrive to the public mediated by the press. There, they are accompanied by the comments of the opposition so that the public is not left under the direct influence of demagogues. “The publicity of debates has ruined more demagogues than it has made. A popular favourite has only to enter parliament, and he ceases to be mischievous. Placed amidst his equals or his superiors in talent, he can assert nothing which will not be combated” (1843, p. 36).

Bentham adds that party opposition cannot entirely replace the tribunal of public opinion in this controlling function. The members of opposition:

¹⁹Paraphrase of a dictum quoted by Valerius Maximus (*Facta et dicta memorabiles*, VII.ii ext. 1): “appeal from Philip drunk to Philip sober.” See Bentham (1843, p. 145 n.)

will not be impartial. Whatever the conduct of an individual may be, he will almost always be secure of the suffrages of one party, in opposition to the other. The internal censure will not be sufficient to secure probity, without the assistance of external censure. The reproaches of friends will be little dreaded, and the individual will become insensible to those of enemies. The spirit of party shut up within narrow limits, equally strips both praise and blame of its nature (1843, p. 30).

As to the second function of publicity, that of securing public confidence, Bentham states that: “Suspicion always attaches to mystery. It thinks it sees a crime where it beholds an affectation of secrecy; and it is rarely deceived” (1843, p. 30). The long-term logic is still at work here: “That a secret policy saves itself from some inconveniences I will not deny; but I believe, that in the long run it creates more than it avoids” (1843, p. 31). Public debate strengthens virtuous governments: “Objections have been refuted,—false reports confounded; the necessity for the sacrifices required of the people have been clearly proved . . . It is in this sense that it has been well said, *that he who resists, strengthens*” (1843, p. 31). The style of these passages, partly due to Dumont’s re-writing, has something utopian in it. It recalls the descriptions of public virtue and public honor contained in *L’an 2440* by Louis-Sébastien Mercier, a novel that Bentham (or perhaps Dumont) quotes in the *Rationale of Reward* (Bentham 1811, p. 141). Both authors share the same confidence in the long-term spread of enlightened opinion in public life. The basic idea is that liberal democracy is self-educating and self-restraining; and that this form of government is the only security against manipulation and tyranny. Conversely, unsocial passions are the fruit of the absence of liberty:

Among a people who have been long accustomed to public assemblies, the general feeling will be raised to a higher tone—sound opinions will be more common—hurtful prejudices, publicly combated, not by rhetoricians but by statesmen, will have less dominion. The multitude will be more secure from the tricks of demagogues, and the cheats of impostors; they will most highly esteem great talents, and the frivolities of wit will be reduced to their just value. A habit of reasoning and discussion will penetrate all classes of society. The passions, accustomed to a public struggle, will learn reciprocally to restrain themselves; they will lose that morbid sensibility, which among nations without liberty and without experience, renders them the sport of every alarm and every suspicion. Even in circumstances when discontent most strikingly exhibits itself, the signs of uneasiness will not be signs of revolt; the nation will rely upon those trustworthy individuals whom long use has taught them to know; and legal opposition to every unpopular measure, will prevent even the idea of illegal resistance. Even if the public wish be opposed by too powerful a party, it will know that the cause is not decided without appeal: hence persevering patience becomes one of the virtues of a free country (Bentham 1843, p. 31).

This passage contains a key argument of Bentham’s political thought, which was first formulated in the *Fragment on Government* (Bentham 1776): the power of a sovereign is constantly limited by the habit to obey of the governed. Publicity creates a culture of legal opposition. Bentham reasons here in probabilistic terms: the larger the majority, the higher the probability that the decision taken will promote the general interest of the community. The narrower the majority, the higher the probability that it

may be overturned by a larger majority supporting the decision that maximizes welfare:

The existence of a government regulated by an assembly, is founded upon an habitual disposition to conformity with the wish of the majority; constant unanimity is not expected, because it is known to be impossible; and when a party is beaten by a small majority, far from finding in this circumstance a motive for illegal resistance, it only discovers a reason for hope of future success.

If afterwards a legal opposition be established, it is no evil; for the comparative number of suffrages being the only measure of probability as to the correctness of its decision, it follows that the legal opposition cannot be better founded than when guided by this probability (1843, p. 38).

This passage highlights an important connection between majority vote and public opinion: a majority decision, in a representative body, is the best “probabilistic” approximation to the general utility of those who have elected this assembly, although it may require the sacrifice of minorities. These however have still access to public opinion to express their needs and try to form a new majority in which their interests are better represented.

Finally, a connected advantage of publicity is that it favors communication, especially that concerning the needs of the governed (1843, p. 32). Bentham develops here an analysis of the use of knowledge in society that has a distinctive Hayekian flavor. Without publicity, the parliament and the government have insufficient information:

A nation too numerous to act for itself, is doubtless obliged to entrust its power to its deputies. But will they possess in concentration all the national intelligence? Is it even possible that the elected shall be in every respect the most enlightened, the most capable, the wisest persons in the nation?—that they will possess, among themselves alone, all the general and local knowledge which the function of governing requires? (1843, p. 33).

It is worth noting that in *Manual of Political Economy* this argument is turned into a powerful reason in favor of *laissez-faire* (Bentham 1793-95, pp. 229–30).

In conclusion, Bentham’s discussion of publicity highlights his attitude *vis-à-vis* the theory of agenda. An optimal procedure should minimize the strategic use of agenda for fostering private or “sinister” interests. The majority decision of a representative assembly should reflect the best approximation to the greatest happiness of society, and every use of procedure that avoids this outcome should be interpreted as the expression of private “sinister” interests. Publicity is a crucial instrument to this end, since it submits every act of a representative body to the control of the “tribunal of public opinion” and unveils manipulations.

V. OPTIMAL PROCEDURE AND MANIPULATION

Even though public opinion is omnipotent, “the devil is in the details.” A badly arranged procedure multiplies the cases that meet the censure of the “tribunal” of public opinion and render its work more difficult. The control of public opinion is therefore insufficient without an appropriate regulation of procedure.

In chapter 1 of *Tactics*, after defining tactics as “the art of setting in order” (Bentham 1843, p. 15), Bentham claims that the general end of an optimal procedure is the greatest happiness of the community. “But its particular object is to obviate the inconveniences to which a political assembly is exposed in the exercise of its functions” (1843, p. 17). These inconveniences can be defined as “[d]ecisions opposed to what ought to be, in order to promote the welfare of the society” (1843, p. 19). An “improper or hurtful decision” supposes therefore that this decision “incorrectly represents its wishes” (1843, p. 19), and a “system of tactics will the more nearly approach perfection, the more completely it tends to prevent [improper decisions], or to minimize or reduce them to their lowest term” (1843, p. 20).

Most of *Political Tactics* is devoted to this search for an optimal procedure. In Chapter 6, Bentham examines six fundamental rules that should be observed in parliamentary procedure. The first two rules state that acts of parliament are only those expressed by its members and that they must be written exactly *in terminis* (1843, pp. 78-82). This reveals a concern about forgery that can be found also in Bentham’s monetary writings (Bentham 1795-96, pp. 191-96). Forgery threatens confidence and consequently the political stability of representative democracy.

A more interesting case is that considered by rule 3: “Unity of the subject of debate kept inviolate” (1843, p. 92). This rule states that a new subject cannot be introduced until a former has been disposed of. This rule is necessary to prevent indecision and confusion, with or without design: “And the endeavour to produce such an effect by design, is one of the most effectual plans that individual fraud or conspiracy can pursue” (1843, p. 92). The evil of confusion is evaluated in utilitarian terms:

The more eligible in its nature, and the more likely to have been embraced by the assembly, any of these propositions may be in themselves, the greater is the mischief that may result from such an irregular introduction of it. Introduced singly, each at its proper time, each one might have been carried: introduced one upon the back of the other, each stands in the other’s way—each throws another out, and a confusion is raised to which they all of them fall a sacrifice at once (1843, p. 93).

Equally appealing is rule 4: “The process of debating distinct from, and prior to, that of voting” (1843, p. 93). Again, there were many instances in French *parlements* in which this rule was not applied. One after another, members of the clergy, of the aristocracy and of the third estate spoke and voted immediately after their speech. A rigid distinction of the processes of debating and voting was instead observed in the British Parliament (1843, p. 95). According to Bentham, two reasons contribute to recommending the British practice. The first reason is “[t]hat the decision given may not prove an improper one, on the score of having been built upon *insufficient* and partial grounds” (1843, p. 93). Debating and voting are two qualitatively distinct functions:

To *vote* for or against a motion, is to judge—to exercise the office of a judge: to *speak* for and against it, is to exercise the function of an advocate. To vote before any one else has spoken in the debate, is to judge altogether without documents—altogether without grounds: to vote while there still remains any one to speak, who has anything to say, is to judge without documents *pro tanto* (1843, p. 93-94).

Two intertwined arguments support this view: first, “no general rule can take cognizance” of the “differences in point of talent between individuals,” and second,

the quality of speeches, in probabilistic terms, is equally distributed along time: “every man’s speech presents just the same probability of affording useful lights, as that of every other” (1843, p. 94).

But there is a second, more important, reason that recommends a rigid distinction between debating and voting: leaving aside party commitment, pride, and other rigidities, preferences can be reversed as a result of discussion. The collective will of an assembly before and during discussion may be different from what it is after discussion. Bentham expresses this argument in vivid terms. The reason for separating discussion and voting is:

[t]hat the decision given may not be exposed to the danger of proving an improper one, on the score of its being expressive of a will *different from the real* will of the majority of the assembly. Conceive a list of members, speaking in a fixed order, and each man giving his vote, as his turn comes, at the end of his speech, or without making any speech, as he thinks fit. The first upon the list, after having said what he thinks proper, gives his vote; all the others, down to the last, give their votes on the same side. The last, when it comes to his turn, gives a contrary vote, grounded on arguments which had happened to escape all the preceding voters, but which when once brought to light, stamp conviction on their minds. What is the consequence? A decision is given, purporting to want but one voice of being an unanimous one: but, in fact, contrary to the unanimous will of all the members whose decision is purports to be (1843, p. 94).

We have already discussed rule 5 (“In debating, no fixed order of pre-audience”) (1843, pp. 101–106). Rule 6 states that votes must be simultaneous (1843, pp. 106–109), in order “[t]o save time” and “[t]o lessen the efficacy of undue influence” (1843, p. 106).

Other sources of manipulation are examined in chapter 10, which is devoted to the “Drawing up of Laws.” “Simplicity of propositions” is, according to Bentham, “the principal point” to be observed in drawing up laws: “Every article ought to be reduced to a pure and simple proposition; or at least, an article ought never to include two complete and independent propositions, of such nature that the same individual may approve one and reject the other” (1843, p. 119). The reason for this rule is that complex propositions allow manipulation: “a good law may be used as an instrument to compel the passing of a bad one” (1843, p. 120). This “Machiavellism,” Bentham explains, was typical of ancient republics, where the initiative of laws belonged only to the senate: “the people had no other alternative than that of approving or rejecting the whole together; the liberty of choice was not left to them;—their chiefs made them purchase a desired law, a necessary law, at the price of some other law unfavourable to their interests” (1843, p. 121).¹⁰

Another source of manipulation consists in the addition of eulogistic or dyslogistic qualifications to the pure expression of the will. This is a special case of complex proposition of the kind examined above: the expression of blame or approbation is added to the pure expression of will contained in the proposed law. In this case,

¹⁰More recently, the comparative effects of sequential and simultaneous agendas have been studied in the framework of a theory of negotiation. See Balakrishnan, Patton, and Lewis (1993).

the consequence might be that “the measure may be exposed to rejection, although conformable to the general wish of the assembly” (1843, p. 122). Bentham provides a vivid example: “Let us imagine the following proposition: ‘Considering that there is no God, all penal laws relative to the divinity are abolished’” (1843, p. 122). This just measure, which might be unanimously approved by all members of the assembly, would be rejected on account of that preamble, which a few members, if any, are disposed to approve.

Finally, the possibility of manipulation is often concealed in amendments.¹¹ As Bentham remarks: “One rule which ought to be absolute with respect to amendments, is—not to admit any which are insidious” (1843, p. 140). Amendments are insidious when, “instead of improving the motion, [they] represent it as ridiculous or absurd, and . . . cannot be adopted without making the motion fall by means of the amendment itself” (1843, p. 140). Bentham mentions a famous vote of the House of Commons in 1782, on a motion stating that: “It is declared, that the influence of the crown has increased, is increasing, and that it ought to be diminished” (1843, p. 140):

Let us suppose that one of the opponents of the motion had proposed that it be adopted, upon the insertion of the word *necessary* before influence.

Here would be an example of the amendment insidious; since the insertion of this word would have rendered the motion contradictory, and even criminal; and the amendment having been admitted, the motion ought to be rejected (1843, p. 141).

The rules Bentham suggests aim at avoiding these manipulations of which the “spirit of party” (1843, p. 122) and the “seductive influence” of the aristocracy and other powerful minorities are principally accused. Manipulations purposefully modify the will of an assembly and by so doing they promote the interest of the smallest number at the expense of the greatest number.

VI. CONCLUSIONS

Bentham’s *Political Tactics* is probably the first attempt to examine, from a broadly theoretical perspective, the relationship between social choice and agenda setting. Despite its title, this work does not attempt to reveal the tricks that may be used to set the agenda in favor of a party. Bentham is not interested in strategic behavior *per se*. As he explains, the word “tactics” is employed in a neutral, technical meaning. His goal is to minimize the effects of procedure on collective decisions: the majority vote of a representative assembly must reflect as much as possible a well assessed evaluation of the long-term interest of those who are represented by it, and badly arranged procedures must oblige the members of an assembly to vote against this interest.

In this context, applying the principle of the union of interest and duty implies two distinct operations. On the one hand, any opportunity for maneuvering must be reduced as far as possible: the final deliberation of a political assembly must reflect its genuine will—that is, the genuine will of the largest possible majority. However, even this genuine will may be vitiated by interests that are in opposition to the interest of

¹¹This topic is discussed in chapter 12 of *Tactics*.

society. The second element that Bentham suggests comes to the fore: publicity of debates and voting must submit the operations of a representative assembly to the control of public opinion, which tends to express the will of the greatest number.

In this analysis, the peculiar “enlarged” reformulation of political economy as a branch of the science of legislation—attempted in Bentham’s theory of reward—plays a central role. Two basic arguments employed in *Tactics* derive from this reformulation: the function of incentives and penalties as instruments of government, and the role of competition as a “self executing” mechanism which generates positive social outcomes. But a third argument occupies a crucial position in Bentham’s analysis of parliamentary procedure: the principle of the union of interest and duty. Certain arrangements of procedure may create opportunities for organized minorities to promote their private interest at the expense of the general interest of society. An optimal decisional procedure must therefore minimize these opportunities.

Bentham can be accused of being quasi-utopian and naïve for his belief in the objectivity of public opinion. However, his detailed analysis surprises for an uncommon awareness of the dangers represented by demagogic manipulation and by the fluctuations of popular sympathies. Bentham believes that in a liberal democratic framework public opinion is self-improving and self-enlightening, so that in the long run it reflects the genuine interest of society. Bentham is never dogmatic: he only believes that there is no better alternative to public control and democratic institutions, if we want to secure the virtuous behavior of those in government. For this reason, democratic deliberations and public opinion should be protected against manipulation. John Stuart Mill added that democracy should educate the people to understand their true interest. But this is a question that goes beyond the scope of this paper.

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