

Vigilance and Confidence: Jeremy Bentham, Publicity, and the Dialectic of Political Trust and Distrust

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Distrust of public authorities is a mainstay of democratic politics. In recent decades, however, concern with surging civic suspicion has led political scientists to emphasize the value of trust for good government. This article advances a novel reading of Jeremy Bentham's political theory to shed light on the promise and perils of these two dispositions. Trust and distrust go together, in Bentham's account. In making this case, I reexamine Bentham's reflections on publicity, and distinguish between two perspectives implicit in his theory—the perspective of institutional design, and the perspective of popular oversight. This distinction brings clarity to Bentham's surprising recommendation: sober distrust toward public authorities generally, together with particularized trust in those (and only those) institutions or officials who prove themselves worthy of it.

And who ever objects to such publicity . . . but those whose motives for objection afford the strongest reasons for it?

Bentham (1843, 4: 46)

Distrust of public authorities is a familiar feature of democratic politics. It is expressed in denunciations of government secrecy, in the dread of corruption, and, perhaps most vividly, in the legal and institutional devices we use to deter (or else to expose) official misconduct. If there is one attitude that a contemporary ethos of democracy seems to demand, it is distrust (Rosanvallon 2008). As many scholars have warned, however, healthy, functional politics also require a measure of trust between citizens and in the institutions of government (Dunn 1988; Hardin 2002, 151–72; Hetherington 1998; 2005; Inglehart 1999; Lenard 2012; Levi and Stoker 2000; O'Neill 2002; Rothstein 2011, 145–92). Our wont to regard representatives and other office-holders as exercising a public trust reflects this premise. By allowing officials to act as our trustees, democratic citizens already express a modicum of confidence in those actors (Parry 1976, 132). That confidence is tempered, however, by “a sustained suspicion of the vulnerability of [individuals] and institutions to the temptations of power” (Hart 1978, xi). This is what Patti Tamara Lenard calls “the paradox of trust and

democracy”: effective democratic governance requires trust, but in order to sustain it “we need to implement institutions that suggest a deep distrust of what our legislators [and other officials] will do when offered an opportunity to control the levers of power” (2012, 67–8).

The erosion in recent decades of public confidence in government has lent urgency to the question of trust (Norris 2011, 3–4, 63–9). In response, several scholars have explored the possibility of governing without trust (Cook, Hardin, and Levi 2005; Hardin 1999; Rosanvallon 2008), or of working to restore political trust (Hetherington and Rudolph 2015, 186–211; O'Neill 2002, 61–99; Warren and Gastil 2015). Others have emphasized the dangers of distrust (Lenard 2012, 58–61; Pettit 1999, 263–65). Still others have challenged the sense of crisis, portraying the rise of “critical citizens” as a decidedly ambivalent development for contemporary democracy (see Norris 1999).

In this article, I contribute to the literature on political trust and distrust by returning to a figure whose insights on the subject have suffered undue neglect: Jeremy Bentham. Even as Bentham's account can learn from contemporary research on the drivers of (dis)trust, it helpfully challenges a tendency to regard either trust or distrust as a political problem to which the other is the solution. My reconstruction of Bentham's political theory offers an attractive vision of the complementarity of these two positions. It clarifies the character and objects of each, and demonstrates how such apparently incompatible attitudes can be harmonized in the interests of good government.

In making this case, I attend especially to Bentham's reflections on publicity. Previous scholarship has rightly emphasized the connections in Bentham's thought between publicity and surveillance (Foucault 1995, 195–228; Gaonkar and McCarthy 1994), public opinion (Cutler 1999; Habermas 1991, 99–101), official responsibility (Hume 1981, 151–2, 216; Rosenblum 1978, 79–88, 153; Schofield 2006, 250–271), democracy (Rosen 1983, 111–5), and the rule of law (Halévy 1960, 399–400; Postema 2014). Little has been said, however, about how this “constant theme” (Elster 2013, 164) of his political thought can help to clarify the functions

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of trust and distrust, confidence and suspicion, in the public sphere.¹

The standard view of Bentham makes him a natural guide to distrust. His reliability as a guide to the value of political trust, however, may seem dubious. When Bentham's interpreters have attended to this question at all, they have generally classified him as a champion of the suspicion of power, having little use for confidence in elites. Fred Rosen has observed, for instance, that Bentham "does not advocate deference to governors, but rather the contrary; he advocates the maximum distrust of governors by the governed" (1983, 54; emphasis omitted). More recently, Jon Elster has argued that Bentham assumed, with Hume, that "in the design of political institutions, 'every man must be supposed a knave'" (2013, 165–66).

Such readings are only half correct. A deeper look reveals that Bentham recognized the value of political trust and even sought to promote it—provided that at least some officials or institutions could prove themselves worthy of that trust. In the end, my reading brings clarity to Bentham's surprising (and surprisingly relevant) position: that both trust and distrust have political value; that these attitudes can be brought together in complementarity; and that an excess or deficit (or the misapplication) of either could jeopardize the public interest.

The article unfolds in six parts. First, I outline the roles of political trust and distrust in contemporary social science research, and briefly articulate what this body of scholarship can learn from Bentham's political thought. Next, I introduce the study of Bentham by exploring the meaning and significance of publicity in his political vision. I distinguish between two perspectives latent in Bentham's theory—the perspective of institutional design and the perspective of popular oversight—and discuss the relation of each to political trust and distrust. This prompts a reconsideration of Bentham's claim to have embraced a "system of distrust" (1999, 37; emphasis omitted). In fact, I shall argue, his political theory pairs warranted trust with warranted distrust in a kind of dialectical relationship, effectively coupling these two attitudes in the interests of responsible, effective government. I conclude, finally, by returning to the contemporary literature and assessing the relevance of Bentham's ideas in an era of suspicious citizenship.

A word, before proceeding, about how I understand the two main concepts under discussion. Following Bentham, I conceptualize political trust as an attitude of confidence stemming from the practical judgment that the occupants of a given office or institution are likely to act in the public interest, and faithfully to execute their particular duties under the law or constitution. Equally, trust involves confidence that the officials in question will likely avoid self-dealing, inefficiency, and neglect—in a word, "misrule" (1989, 270). (As I note below, it is also possible on Bentham's account

to have confidence in, and in that sense to trust, the veracity and completeness of public records.)

What does it mean to act in the public interest, for these purposes? For the utilitarian Bentham, the public interest is defined in terms of "the greatest happiness of the greatest number" (1990, 53). But this conception of trust is flexible enough to accommodate alternative visions of the public good and, equally, alternative constitutional and legal accounts of official obligation.

I note in passing that this view of trust is distinct from several others on offer in the scholarly literature, including the notions that we trust when we have reason to believe that another's interest "encapsulates" our own (Hardin 2002, 3); or when we feel sufficiently certain, for purposes of cooperation, that another will act to benefit us (Gambetta 1988, 217); or when we make ourselves vulnerable by granting another "discretionary powers" over some object of concern, without insisting on monitoring or verification (Baier 1994, 138–40; cf. Elster 2007, 344–5; Warren 1999, 311); or, finally, when we believe that another is both capable and well-intentioned toward us, and "moved by the thought that we are counting on her" (Jones 1996, 4). Inasmuch as Bentham's conception has the trusting citizen confident that the trusted official will meet his obligations to the public, his view is nearer to Katherine Hawley's idea that trust is about relying on another "to fulfil a commitment" (2014, 1). In Bentham's case, the relevant commitment is the public official's implicit pledge to serve the public interest by avoiding misrule and by meeting any specific obligations assigned by law.²

Distrust, meanwhile, is for Bentham (and for the purposes of this article) not simply the absence of trust. Between trust and distrust is a neutral zone that Edna Ullmann-Margalit labels "trust agnosticism" (2004, 61; cf. Hawley 2014, 3). Here we lack reasons either to trust or to distrust, a possibility Bentham could surely conceive but never discussed at any length. More relevant is *bona fide* distrust, an attitude of suspicion rooted in the judgment that a given office-holder or institution is unlikely to serve the public interest, to act as duty requires, or to withstand the temptations of misrule. On this account, as we shall see, distrust need not undermine the possibility of developing trust once safeguards are established—assuming these truly promote official responsibility. Indeed, to create the conditions for warranted, particularized trust is precisely what distrust can achieve, according to Bentham, by motivating the establishment of effective "securities against misrule" (1990, 23).

TRUST AND DISTRUST IN CONTEMPORARY SOCIAL RESEARCH

I cannot hope to offer a comprehensive review of the literature on political trust and distrust here. My aim

¹ Sandrine Baume's cursory remarks (2014, 427–30) are the exception. As I observe below, however, they oversimplify Bentham's conception of the relationship between trust and distrust.

² Notably, this account emphasizes the value of (well-founded) trust toward officials and institutions, while saying little about interpersonal or "social trust" among citizens, a focal point of much contemporary scholarship (Cleary and Stokes 2006, 3–20; Rothstein 2011, 145–92; Zmerli and Newton 2011).

is more modest: to summarize its view of the roles and normative significance of each stance, and to explore its conception of their interrelationship. I focus on these subjects because they intersect most directly with the insights about political trust and distrust that I find embedded in Bentham's political theory. Toward the end of the article, I shall return to the contemporary literature, summarizing the lessons it might take from Bentham, and the ways it might challenge his account.

To begin, consider the normative and functional evaluations of trust in the existing scholarship. Contemporary political science typically regards trust as a political good, particularly in democratic contexts. This goes for both social ("interpersonal") trust and political trust—that is, trust in a regime type (e.g., democracy), in existing public institutions, or in political officials (Newton 2007, 342). Such trust is valued for a variety of reasons. According to the literature, it can be a useful aid to government efficacy, promoting voluntary compliance with schemes of public cooperation, as well as a failsafe in times of crisis (Mutz 2015, 90; Norris 1999, 264; Sztompka 1999, 146–8). It can promote public legitimacy (Andeweg 2014, 193) and engender formal modes of participation such as voting (Norris 1999, 261). Finally, political trust can lend support to policies, notably social welfare programs, presumed to serve the public's long-term interests, though they do not immediately benefit the truster (Mutz 2015, 91; Theiss-Morse, Barton, and Wagner 2015, 178–9). For these and related reasons, existing research largely foregrounds the benefits of political trust.³

Meanwhile, distrust is a subject of somewhat greater ambivalence. A few scholars have defended political distrust as an important means of civic self-protection (Allard-Tremblay 2015, 382–6; Hiley 2006, 55; Krishnamurthy 2015; Thompson 2005, 245–66). Mainly, though, it appears in contemporary scholarship as a hazard jeopardizing the health of democracy. Danielle Allen argues, for example, that "[f]ossilized distrust indicates failure at [the] key democratic task of holding majorities and minorities together" (2004, xix). In a similar vein, Lenard deems stubborn distrust of political authorities "by and large inimical to democracy" (2012, 59). Such distrust risks precipitating withdrawal from politics (Van De Walle and Six 2014, 169), and generally threatens the stability of regimes and the enjoyment of political liberties (Albertson and Gadarian 2015, 12; Dahl 1971, 151; Pettit 1999, 263; Warren and Gastil 2015, 566).

As for the relationship between trust and distrust, the scholarly literature is far from consensus. Much research has proceeded as if trust and distrust were opposite sides of the same coin, or distant poles on a single spectrum (see Newton 2007, 344; Rose and Mishler 2011, 123; Van De Walle and Six 2014, 160–1). In this sense, the one has been presumed to exclude the other, so that the greater citizens' distrust of existing public institutions or officials, the less political trust a

society can be said to exhibit, and vice versa. Philip Pettit has suggested, for example, that genuine distrust rules out the possibility of trusting (or "confidently assuming reliance upon") political leaders (1999, 263).

In recent years, an important body of research has challenged this conception of the relationship, emphasizing that trust and distrust can attach to several distinct objects in political life, from the government writ large to individual institutions such as legislatures or high courts, and from particular incumbent officials to politicians as a class (Norris 1999, 10–2; 2011, 24–31). The implication is that political trust and distrust need not be mutually exclusive. As Pippa Norris has observed, "it is possible to deeply mistrust politicians and yet to continue to have confidence either in the institutional structures or in particular representatives" (1999, 12). More generally, because political trust and distrust are conceptually disjoint, "both . . . may be present at the same time" (Van De Walle and Six 2014, 158).

This insight recalls an earlier line of thinking, according to which distrust of rulers may be formalized in legal restraints, allowing citizens to entrust power to office-holders whose "pursuit of self-interest is [thereby] channelled into the promotion of public interests" (Parry 1976, 137). In effect, citizens "place their trust in the functioning of this [organized] distrust" (Luhmann 1979, 92), gaining what Piotr Sztompka calls "trust in democracy itself as the ultimate insurance of other kinds of trust [individuals] may venture" (1999, 144).

In spite of these contributions, the project of integrating trust and distrust remains hazy. Political scientists disagree about the proper scope and object of each stance, and nearly every attempt to reconcile the two has ended (arguably) in the nullification of one or the other. To cite just a few examples, Andeweg (2014, 193) proposes combining diffuse trust in political institutions with specific distrust of particular politicians, while Braithwaite (1998, 343) envisions institutionalizing diffuse distrust of officials in order to "enculturate" trust, horizontally among citizens and vertically in the institutions of government (cf. Sztompka 1999, 143–5). Meanwhile, Lenard (2012, 58–61), Pettit (1999, 263–5), and Van De Walle and Six (2014, 164) attempt, in different ways, to reconcile political trust with what they find most useful about distrust; but each effectively substitutes a weaker form of caution or skepticism in its place.

As I show in the pages that follow, Bentham's political theory bears on each of these subjects—on the roles and relations of trust and distrust. He explains that political trust can be either salutary or pathological, depending on its object and warrant. He affirms the value of generalized distrust as a cornerstone of responsible government, but seeks to avoid generating apathy or resignation, grounding distrust on an analysis of political structures and interests, rather than on a critique of human character. Finally, he charts a novel path to integrating political trust and distrust, in which vigilant citizens strengthen the instrument of publicity and support, by their attitudes, the pursuit of public interest.

³ Pippa Norris notes, however, that "[t]oo much blind trust by citizens and misplaced confidence in leaders, for good or ill, can be as problematic for democracy as too little" (1999, 27).

BENTHAM ON PUBLICITY, SUSPICION, AND GOOD GOVERNMENT

“The public compose a tribunal,” Bentham famously observed (1999, 29). If so, then publicity is its bailiff: it is Bentham’s preferred label for the institutional devices (and policies such as freedom of the press) that bring the actions of public officials before the great public tribunal for scrutiny and judgment (2002, 202). Publicity also describes the state of affairs to which those devices give rise, the state of affairs in which officials of all types are, and know themselves to be, ever subject to “public inspection” (1999, 37).

At the core of Bentham’s account of publicity is a puzzle. In *Political Tactics*, one of his earliest and most important expositions of “the régime of publicity” (1999, 29), Bentham acknowledges this instrument as “a system of *distrust*” (37). In the most fulsome terms he endorses attitudes of distrust toward public officials. Yet he also calls publicity “the fittest law for securing the public confidence,” and repeatedly emphasizes that public knowledge of the proceedings of state is to be valued because it generates not distrust, but warranted trust (29).

Consider the example of parliamentary debates. Bentham implores that the galleries should be flung open, and the newspapers filled with the speeches of members. If such steps are taken, he writes, “[t]he public will repay with usury the confidence you [legislators] repose in it” (30). The implication of this assurance is that parliaments (and states more generally) cannot meet their goals, cannot govern well, without a measure of public confidence. In this particular text Bentham hints at just one possible explanation for that dependence, noting that publicity excites not only “the confidence of the people,” but also (and thereby) “their assent to the measures of the legislature” (30). Publicity, on this view, is an engine of popular approbation.

Whether this fully captures Bentham’s view of the consequences of publicity is to be doubted, for he was well aware that public oversight cuts both ways, generating opposition as readily as approval.⁴ The precise import of public confidence remains to be explained, then. At first glance Bentham seems to celebrate a certain kind of trust *and* a certain kind of distrust in politics (Baume 2014, 430). But how did they fit together, on his account? Though Bentham does not answer this question explicitly, a closer look at his writings on publicity makes it possible to reconstruct his position.

To understand Bentham’s view it is necessary to distinguish between two perspectives internal to his account of publicity: what might be called the perspective of institutional design, and the perspective of popular scrutiny. The former asks how institutions are best arranged, the latter how citizens should regard officials acting within those institutions once they are established. (In fact, as I clarify later in the article, these

two perspectives relate not sequentially but dialectically. For present purposes, however, it is helpful to think of institutional design as a first step, followed by the exercise of public scrutiny.) Where the perspective of institutional design is concerned, Bentham takes a certain form of distrust to be essential, whereas in the perspective of popular oversight matters are somewhat more complicated. It is not, according to Bentham, that citizens should harbor inflexible attitudes of either trust or distrust toward state officials. Instead, they should evaluate the facts that publicity brings to light and on that basis determine whether confidence is warranted in any given circumstance. As we shall see, publicity creates the conditions in which first public information can be trusted, and then particular officials or institutions can be trusted—or not—depending on what that information reveals.

Arranging State Institutions: Distrust Required

That institutional design calls for distrust is a conviction running through Bentham’s entire corpus. In *Political Tactics*, it colors his reflections on the proper organization of a legislative assembly, in which the very first “tactic” Bentham recommends is publicity (1999, 29). As we have already seen, this instrument is said to embody distrust even as it serves to win public confidence. But just whom should we distrust, according to Bentham, and on what grounds? How sweeping, and how stable over time, should our suspicions be?

In answering these questions, it is crucial to keep in view that *Political Tactics* is a handbook for framing legislative assemblies. The text is animated by the following thought: institutional designers should adopt a posture of distrust because it is only by distrusting the hypothetical legislator—by remaining alert to the temptations she will face, by understanding her incentives to self-dealing, by foreseeing her opportunities for corruption—that adequate safeguards can be devised. In this way, the assembly-maker’s attitude of distrust motivates a prudent approach very much like the careful reckoning of any good architect (see Lieberman 2000, 120–1). To avoid collapse, the framer must know her materials and foresee the forces that will act upon them. Her building will stand only if she opposes buttresses or arches or lintels to gravity’s pull. Likewise for Bentham’s institutional designer: the careless assumption that every legislator will be like iron, impervious to pressure, could spell disaster.

The concern is not idle. Legislators frequently face pressures to neglect or even to betray their public duty. Absenteeism will be tempting simply because “the objects of their duties . . . are . . . the affairs of others, comparatively indifferent to them, very difficult, very complicated” (Bentham 1999, 37). More profitable pursuits will be a constant enticement. As for betrayal, Bentham remarks of members’ personal interests that “you will often find them in opposition to the interests confided in them,” while these members “possess all the means of serving themselves at the expense of the

⁴ For that reason, it strikes me as misleading to attribute to Bentham “belief in a straightforward positive correlation between transparency, trust, acceptance and legitimacy” (Baume and Papadopoulos 2015, 12).

public, without the possibility of being convicted of it” (37). Here are conditions ripe for corruption (and other forms of mischief). The point for Bentham is not that all legislators are vicious but that, for structural reasons, legislators will face relentless temptation and will have every opportunity to fall short in the execution of their duties. This will remain the case until adequate safeguards are established. Just as the architect must oppose the force of gravity, so Bentham’s institutional designer must neutralize the allure to legislators of neglecting or abusing their office. What is needed is “an interest of superior force,” so that such betrayals may cease to promise any net benefit (37).

According to Bentham, the interest in question is afforded by publicity. This measure alone can activate members’ “respect for public opinion—dread of its judgments—desire of glory” (37). Publicity works by “the dread of shame,” which can be expected to bridle the majority of members, and by “the fear of being removed” in a subsequent election, which ought to restrain the rest (149). Its “grand antiseptic effect” (149) is so potent against the misuse and neglect of authority that “under the auspices of publicity, no evil can continue” (37).⁵ As Bentham makes clear in later writings, of course, this assumes the active participation of citizens in an imaginary “Public Opinion Tribunal,” which keeps watch and sits in judgment upon the conduct of political officials (1983a, 35–39; Lieberman 2000, 129–34).

Bentham’s is a very peculiar sort of distrust, then. It is recommended to the institutional designer as the proper mode in which to regard all would-be officials. In this perspective, distrust should be stable, and applied in all circumstances. But it should not be so caustic as to undermine the practice of authorizing officials to exercise power in the first place, precipitating a rejection of the state or withdrawal from organized politics. Distrust is warranted not by any particular malevolence in the corps of such officials, but by a sober assessment of their vulnerability to the pressures that will inevitably be brought to bear upon them. Thus Bentham asks whom we should distrust not on account of any native treachery, but on account of their being given “great authority, with great temptations to abuse it” (1999, 37).

In the background here is Bentham’s conviction that all of the “springs” or sources of human action—even sympathy and benevolence—are properly understood in terms of interest (1983b, 99–101). Strictly speaking, “no human act ever has been or ever can be *disinterested*,” though it may manifest a regard for others (99). “In the case of a public functionary,” Bentham explains, “the *will* acts on each occasion under the pressure of two opposite and conflicting interests—his fractional share in the universal interest, and his own particular and personal interest,” where the latter is ordinarily the much greater force (1989, 276). This circumstance leaves officials ever tempted to consummate a “sinis-

ter sacrifice” of public to private or sectional interests (1989, 276; cf. Rosenblum 1978, 118–50).

What Bentham came to understand as “sinister interest” was therefore central to his vision of the design (and reform) of political institutions (Schofield 2006, 109–36). Beginning with *The Elements of the Art of Packing*, his trenchant critique of special juries in English legal procedure, Bentham would discern in entities prone to betray the public trust not mere carelessness, but a kind of interest-driven malformation and maladministration (1843, 5: 89–91; Schofield 2006, 131–6). The common interest office-holders share in thwarting constraints upon their self-enrichment generates a temptation, all but irresistible, to entrench the very arrangements that tend to sacrifice public to private interests. This makes resistance to reform an enduring feature of politics, and reinforces the grounds for distrust of authorities when political institutions are framed.

In rejecting the “uncensorial perspective” (Schwartzberg 2007, 566) that would treat public authorities as infallible in judgment or impervious to self-interest, Bentham’s concern is primarily with political structures—with the proper arrangement of public and private interests—and not with the construction (or reconstruction) of human character.⁶ The notion that Bentham assumes the worst of prospective office-holders (Elster 2013, 165–6) is therefore liable to mislead. If knaves to Hume, such officials are to Bentham but naturally inclined to respond to pleasure and pain, and to the diverse motives arising from their desire to obtain the one and avoid the other (1983b, 98–9). This is not to deny the possibility of virtue. Bentham reflected explicitly on what he called “*virtuous disposition*,” whereby some “*exertion in the way of self-denial*” secures the greater good (99). This disposition becomes “*probity*” (99) when practiced by officials duty-bound to serve the public interest. Such “*extra-regarding virtue*” (154) Bentham had no difficulty conceiving (Crimmins 2011, 77; cf. Hulliung 1994, 9). Yet, because the participation of self-interest in the general interest is “*comparatively latent*” (1983b, 195), and because “*intellectual weakness*” and “*interest-begotten prejudice*” (111–2) are so common, the probity of officials cannot be assumed, but only promoted. And this requires political framers to adopt the distrustful attitude that Bentham recommends.

Substantially the same position can be discerned in several of Bentham’s other writings. In *Panopticon, or, the Inspection House*, for example, written just a few years before *Political Tactics*, Bentham dwells again on the safeguard of publicity (1843, 4: 39–172; see Engelmann 2011, 12–5). Even as the Panopticon exposes inmates to the superintendent’s vision, so its doors should be “*thrown wide open to the body of the curious at large—the great open committee of the tribunal*

⁵ Bentham would subsequently temper this claim, acknowledging that although it is “*transcendent*,” publicity is not “*all-sufficient*” as a check against such abuses (1843, 4: 340).

⁶ Consider, in this connection, Bentham’s writings on the poor laws (2001; 2010), in which the emphasis on structures of management and control is especially pronounced, while the prospects for characterological reform receive comparatively slight attention.

of the world” (1843, 4: 46). This precaution assumes no irresponsibility on the part of Panoptical officials. Rather, as in *Political Tactics*, Bentham’s claim is that we should honestly acknowledge that such officials will have motives and opportunities to abuse or neglect their authority. Yet public oversight can protect against these unwanted outcomes. To the superintendent of Bentham’s Panopticon, public visitors are “assistants, [and] deputies, in so far as he is faithful, witnesses and judges, should he ever be unfaithful, to his trust” (4: 46). As that final word makes clear, officials such as the superintendent are properly *entrusted* with public authority, on Bentham’s understanding. This is of course a juridical concept first, but it has political and psychological dimensions, as well. While the institutional designer should not be paralyzed by distrust, she needs a stable and sober suspicion, grounded on the recognition that—absent reliable safeguards—officials will face unavoidable structural pressures to violate the trust we nevertheless reasonably place in them. This is fruitful distrust, because it motivates the development of checks and controls, rather than teaching citizens that corruption is resisted in vain.

In his later works, too, such distrust remains the foundation of Bentham’s approach to institutional design. In the *Plan of Parliamentary Reform, in the Form of a Catechism*, for instance, Bentham’s chief concern is to devise some means of preventing the “constant sacrifice . . . of the interest of the people” to whatsoever private, “sinister interest” may prove most tempting to their representatives (1843, 3: 451). The point, in short, is to stop corruption. Bentham’s primary strategy is to bring the two sets of interests just mentioned—the public’s and their legislators’—into alignment. This means ensuring “the virtual and effective ascendancy of the democratic interest” in Parliament, where the democratic interest is nothing but the “universal” aggregate interest of the public (3: 446–47). Doing so would promote in members the three elements of official “aptitude” Bentham here identifies—namely, “appropriate probity” (the consistent pursuit of the public interest), “appropriate intellectual aptitude” (the exercise of sound judgment upon questions of public import), and “appropriate active talent” (the skillful undertaking of legislative activities) (3: 539–40).⁷

Yet Bentham had no illusions that even the best electoral arrangements would eliminate corruption wholesale. He saw that just by virtue of their positions legislators would frequently be tempted to profit at the public’s expense. And England’s experience taught Bentham that they ought not simply be trusted to resist those temptations, just as trust should not extend to inherited systems actively promoting such “sinister sacrifice” (see Schofield 2006, 135). Additional safeguards were in order. Alongside fundamental electoral reform, then, Bentham’s *Plan* recommends a series of institutional devices for guarding against legislative corruption. It proposes, for example, excluding “place-

men” appointed by the Crown from voting (1843, 3: 542), and requiring a “universal constancy of attendance” so that absences might not be used to evade responsibility (3: 457; emphasis omitted). Most importantly for our purposes, Bentham recommends the instrument of publicity: Parliament should provide for “the correct, complete, authentic, and constant taking down, and regular publication, of all speeches made in the House” (3: 543). This will help to secure members’ probity by ensuring that public judgment extends to “everything which [each legislator] *has* said, and not . . . [to] that which he had not said” (3: 543).

The thread running through each of these precautions is that stable, sober, generalized distrust described above, and urged again in Bentham’s unfinished magnum opus, the *Constitutional Code*. In this text the temptation to misuse public authority is analyzed in a characteristically matter-of-fact mode (see Engelmann 2003, 81). Bentham observes that in every person is found both “*self-regard*” and “*extra-regard*” or sympathy (1983a, 119). Yet it is the former which “in the general tenour of human conduct” takes precedence (119). Consequently, and though there will be exceptions, it is prudent to assume “with a view to practice”:

that whatsoever evil it is possible for man to do for the advancement of his own private and personal interest (or what comes to the same thing, what to him appears such) at the expense of the public interest,—that evil, sooner or later, he will do, unless by some means or other, intentional or otherwise, [he is] prevented from doing it (119).

Even recognizing that virtuous individuals might resist the temptation to profit from their offices, the only responsible stance for purposes of institutional design is distrust (415). And in the spirit of that distrust, “obstacles” should be placed along every pathway of official misconduct (120). In Fred Rosen’s helpful summary, “the primacy of self-regard and the tendency towards self-aggrandizement are the main assumptions which [framers] should bear in mind in devising constitutional arrangements” (1983, 181). Indeed, legislators themselves should bear these tendencies in mind, and struggle against them. The *Code* prescribes that each deputy should make an “inaugural declaration” (Bentham 1983a, 133–46) promising to guard against all of those interests “to which the inalterable nature of my position keeps me so constantly and perilously exposed,” including the desires for wealth and power, for “factitious honor and dignity,” and for “ease at the expense of duty” (137–8).

To recapitulate, the perspective of institutional design implicit in Bentham’s account of publicity (and of political and constitutional safeguards more generally) evinces a special form of distrust. It evinces generalized distrust of state officials and institutions, grounded not on a critique of human character, so much as on the conviction that without adequate prophylactics, the institutions of government will expose even the best officials to constant, all but irresistible temptations to betray the public good.

⁷ In subsequent writing, Bentham would use the terms “moral aptitude,” “intellectual aptitude,” and “active aptitude,” respectively (1993, 179–81).

Practicing Popular Oversight: Vigilance and Confidence

Designing institutions is one thing; evaluating the officials who act within well-designed institutions is another. As we have seen, for Bentham the former demands genuine distrust. The latter, on my reading, invites something more. Citizens' attitudes should account for a new context in which (*ex hypothesi*) institutional safeguards now protect against the sacrifice of public interest. Officials are constrained where before they were free to follow every blandishment of self-enrichment. This does not mean that the risk of abuse is entirely eliminated. Misconduct may still occur. But the risk is now better managed, and citizens' stance toward public officials should reflect this reality. It should recognize, in effect, that "the less deeply men are *led*, or lead themselves, into *temptation*, the more likely they will be to be *delivered*, or to deliver themselves, from *evil*" (1843, 3: 548).

Nevertheless, distrust is not simply eliminated in the perspective of popular oversight. It only ceases to be self-sufficient. In motivating citizens to engage in supervision of public officials, it actually makes space for the development of provisional, particularized trust in individual officials and institutions whose records suggest they are worthy of it. In other words, stable distrust comes to support both vigilance and (the possibility of) confidence.

We have already noted that for Bentham political trust is apparently not without value. In *Political Tactics*, for example, he argues that legislative assemblies should adopt "an inflexible law" prohibiting members from withdrawing their proposals and motions once "inscribed in the register," because that practice would tend to precipitate "the destruction of public confidence," creating the constant appearance of neglect (1999, 117). The implication is that such a loss of confidence would be undesirable not only because it would be unwarranted, but also because it would interfere with the public-interest-seeking activity of government.

It is suggestive, in this connection, that in the *Constitutional Code* Bentham seems to limit the purposes for which public trust should be discouraged. At the beginning of a section in which he sets out to develop various "securities for appropriate aptitude" in public office-holders, Bentham remarks that "[f]or this purpose, and on these several occasions, confidence (it cannot be denied) may with truth be said to be minimized: *distrust* and *suspicion* maximized" (1983a, 118). For *this* purpose—not for all purposes—should confidence be minimized. Indeed, just a few pages before this comment appears, we find Bentham portraying public confidence as a valuable political resource, the preservation of which is one aim of a proposal to subject high officials to prosecution for grave public wrongs (113).

That Bentham believed such confidence could arise from an assessment of institutional "securities against misrule" (1990, 23) is evidenced by his commentary on the Greek Constitution of 1822. In a revealing passage,

Bentham contrasts that instrument's design of legislative and executive branches:

On the several Members of the Legislative Senate, a measure of confidence more or less considerable may not without just ground attach itself. For the several Members will have each of them his constituents, his patrons and superiors to whom . . . he will feel himself responsible: for, the contrary not being said, what I take for granted, is—that to every thing that passes in this same Legislative Senate . . . whatever degree of publicity can be given, will be. On the other hand, in the situation of the so-styled Executive Council, with its number of Members no greater than 5, I see no such responsibility, consequently no such ground for confidence: on the contrary, but too strong a ground for complete distrust—a complete withholding of confidence. In them I see the Members of an everlastingly secret Conclave: a set of men engrossing in their hands the whole of that power . . . [to serve] their several particular and sinister interests, at the expence and by the sacrifice of the universal interest (1990, 240–41).

Given that the power of the legislature is substantially checked, and its members constrained by the safeguard of publicity, it is reasonable, Bentham says, to place provisional trust in them. By contrast, the members of the constitution's executive panel are completely unrestrained, and utterly at the mercy of every temptation to corruption and self-dealing. As such, it is only reasonable to regard them with what Bentham calls "complete distrust—a complete withholding of confidence" (241). Here I am not so much interested in the particularities of this judgment as in its more general implication. What it shows is that, for Bentham, the appropriate stance to take toward public officials who act within a defined institutional structure is determined (in part, anyway) by the presence or absence of meaningful safeguards within that structure.

Yet the safeguard of publicity cannot hope to enable the development of warranted trust unless it gains strength from the exercise of "popular vigilance" (Bentham 1990, 131), that first fruit of citizens' generalized political distrust. Throughout his political writings, Bentham envisions citizens who are motivated to supervise the conduct of public authorities, and who do so frequently and faithfully (De Champs 2015, 88–90). Their work proceeds through the "Public Opinion Tribunal," that imaginary "Committee of the whole" composed of all citizens who take an interest in public affairs (Bentham 1990, 28). The activity of this panel provides "the only remedy" for the constantly threatening disease of "misrule" (28), defined elsewhere as official conduct producing anything less than the greatest happiness of the greatest number (1989, 270). Only by its supervision and judgment can the responsibility of public officials be ensured. Indeed, Bentham writes, "[t]hose who desire to see any check whatsoever to the power of the government under which they live . . . must look for such check and limit to the power of the Public Opinion Tribunal," and to this body the people "must on every occasion give what contribution it is in their power to give" (1990, 125). The impetus of every such contribution is distrust. "Jealousy," writes

Bentham, “is the life and soul of government” (1843, 4: 130). Thus, the public cannot simply rest on its laurels once a system of safeguards against official misconduct is established. Citizens have a critical role to play within that system. And the propriety and efficacy of any endeavor of government depends, according to Bentham, “upon the spirit, the intelligence, the vigilance, the alertness, the intrepidity, the energy, the perseverance, of those of whose opinions Public Opinion is composed” (1990, 139).

Of course, the work of the Public Opinion Tribunal begins with the instrument of publicity, whereby citizens are assured access to reliable information about the goings-on of government. As early as *Political Tactics*, Bentham was drawing attention to this crucial advantage of publicity. There he explained that it would not suffice to require a legislative assembly to publish its own journal. In addition, “non-authentic” publications should be permitted in order “to prevent suspicion” of the official version’s truthfulness (1999, 40). For the same reason, members of the public should be permitted to attend the legislature’s sessions. Under a contrary rule prohibiting such attendance, the public “would always be led to suppose that the truth was not reported, or at least that part was suppressed, and that many things passed in the assembly which it did not know” (40). Such suspicions would undermine the Public Opinion Tribunal’s crucial evaluative work. Publicity is therefore requisite, and its most basic product—the reliability of public information—lays the foundation for all subsequent public judgment of government action (1843, 3: 543).

In addition, Bentham makes clear, the supply of political information depends on the freedom of the press (1983a, 86–7; 2012, 12–3; Niesen 2015, 293–5), and, relatedly, on the existence of a rich ecosystem of political newspapers (1983a, 427; 1990, 45–6, 61–3; Lieberman 2000, 127, 133). Indeed, Bentham goes so far as to declare newspaper editors more essential to the health of representative democracy than any minister of state save a prime minister (1990, 45). Thus, the publicity he champions does not only entail voluntary disclosures by officialdom, but a robust public sphere in which political information is ferreted out, disseminated widely, and discussed in the light of day.

Once the public has access to such information, the hard work of oversight begins. Importantly, the burdens of vigilance can be shared, in Bentham’s account, through a division of supervisory labor. It is enough that we can expect some subset of the public to fulfill its watchdog role in any given case, acting as a special “Committee” on behalf of the larger Public Opinion Tribunal (1990, 121). There may be as many such committees as there are issues to be judged. In practice, presumably, shifting groups of citizens will at various times oversee the particular policy questions or institutions that most concern them. In each case, the subset of individuals “by whom actual cognizance is taken of the matter in question” expresses an opinion, and the remaining members of the Public Opinion Tribunal either concur, or else decide to study the relevant issue themselves (121). Whatever the details of this

operation, the important point for Bentham is that the Tribunal as a whole remains ever vigilant.

Bentham might have taken a different tack here. He might have argued that publicity bears fruit even without genuine watchfulness. Some interpreters have read Bentham in just this way. Most influentially, Michel Foucault portrayed the Panopticon as a means of internalizing the disciplinary force of publicity, so that the warden’s oversight ultimately becomes superfluous (1995, 200–9). On this view, it is simply because a superintendent *could* be watching that the institution’s prisoners (or patients or pupils) feel an inner compulsion to behave *as if* one were watching. According to Foucault, “the major effect of the Panopticon [is] to induce in the inmate a state of conscious and permanent visibility that assures the *automatic* functioning of power” (1995, 201; emphasis added). Thus, “what matters is that [the prisoner] knows himself to be observed . . . [but] he has no need in fact of being so” (201). It must be said that Foucault’s gloss encourages a rather egregious misreading. With due respect for the intellectual horizons it opened up, the notion of automatic power distorts a point that Bentham took pains to make clear. “You will please to observe,” he begged:

that though perhaps it is the most important point, that the persons to be inspected should always feel themselves as if under inspection, at least as standing a great chance of being so, yet it is not by any means the *only* one. . . . What is also of importance is, that for the greatest proportion of time possible, each man should actually *be* under inspection. This is material in *all* cases, that the inspector may have the satisfaction of knowing, that the discipline actually has the effect which it is designed to have . . .” (1843, 4: 44).

The internal restraint cannot stand alone. It depends on regular enforcement of the relevant standards of behavior. Absent this, inmates’ internalized compunction will be no more reliable than a house of cards—for as soon as a few infractions are ventured and go unnoticed or unpunished, inward restraints are bound to fall away. Bentham understood that there could be nothing automatic about publicity’s effects: a foundation of active vigilance was always necessary. As he so memorably put it, “[e]ven transparency is of no avail without eyes to look at it” (4: 130).

If the distrust animating safeguards such as publicity can motivate vigilance, might political trust, too, be among its fruits? Although interpreters have rarely noted this point, Bentham clearly believed so. In the first place, the guarantee of publicity eliminates a common impediment to trust simply because “[s]uspicion always attaches to mystery” (1999, 30). But there is a deeper argument suggested here. If what publicity reveals is encouraging—if it consistently brings forth evidence of government officials or institutions acting with all “appropriate *probity*, appropriate *intellectual aptitude*, and appropriate *active talent*” (1843, 3: 535) to secure the public interest—then, with time, these indicators may well inspire affirmative trust in the offi-

cials or institutions in question. That is, the judgments of the Public Opinion Tribunal may well teach the public to trust those officials who prove themselves to be trustworthy (5: 323).

Bentham does not offer a highly developed account of the value of such trust. What he does offer is the suggestion, peppered throughout his writings, that when the government has citizens' trust, its efforts to advance the public interest flourish more fully. Thus in *Political Tactics* he notes that "the confidence of the people" promotes in turn "their assent to the measures of the legislature" (1999, 30). And assent means successful implementation and therefore greater happiness for the greatest number: "for the government is much more assured of the general success of a measure, and of the public approbation, after it has been discussed . . . while the whole nation has been spectators" (31). What is more, trust can provide a measure of needed stability when citizens are dissatisfied. "Even in circumstances when discontent most strikingly exhibits itself, the signs of uneasiness will not be signs of revolt," Bentham writes (31). Instead, "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" (31; cf. 2015, 97). Both of these ideas are consistent with Bentham's later remark, in the *Constitutional Code*, that while public opinion is "the only check" we have upon "the pernicious exercise of the power of government," it is also "an indispensable supplement" when that power is exercised well (1983a, 36).

There is also a more direct sense in which political trust might contribute to citizens' welfare.⁸ The sense of security is itself a component of human happiness, while the unease that Bentham calls "alarm" is a pain arising from the apprehension of possible future harm (1996, 34, 144). To the extent that warranted trust imparts such security, or mitigates that feeling of alarm, it has direct utilitarian value. Bentham invokes this very logic to explain why judges need the public's confidence in order to serve effectively: the absence of such confidence necessarily leaves citizens feeling insecure, and "insecurity perceived or supposed is a fund of actual and present uneasiness to the many" (1843, 4: 359).

Even as Bentham entertained the possibility of particularized political trust within the perspective of popular oversight, he placed severe limits on the acceptable scope and objects of such trust. To begin, his theory categorically rejects so-called "[b]lind confidence" (1843, 5: 88), approving of political trust only when it enjoys some warrant in the known prior actions of the officials or institutions in whom it is placed (1999, 31). Thus Bentham pillories the "lazy and stupid confidence" of citizens who entrust their welfare to a professional legal class utterly at odds with the public's own interest (1998, 34). And he insists that "unbounded confidence . . . is more than human nature can ever, in the instance of any individual, much more in any large class of individuals, lay claim to" (1843, 5: 167). For precisely this

⁸ I am grateful to an anonymous reviewer for suggesting this line of argument.

reason, trust earned by one set of officials, or by an institution operating under one set of conditions, must not be transferred to "an indefinite line of successors," but reassessed at regular intervals (1843, 6: 366).

Moreover, political trust must never be taken to excess, even when it is limited to those particular individuals or institutions "whom long use has taught [the public] to know" (1999, 31). Specifically, it should never lead to the conclusion that watchfulness is no longer necessary, or—yet more unthinkable—that institutional and constitutional safeguards are now superfluous. Such thoroughgoing trust would be a form of "imbecility," Bentham writes (1843, 3: 456). "[T]he danger is—lest, by gratitude, the people should be betrayed into a greater degree of confidence, than, even under the best possible form of Government, can find a sufficient warrant" (1983b, 87; cf. 2012, 285). As this makes clear, particularized trust should never simply replace or "dissolv[e]" distrust, as some readings have suggested (Baume 2014, 430; cf. Van De Walle and Six 2014, 164). Instead, the two must come together. Though particular institutions or officials prove themselves trustworthy, and confidence grows accordingly, still the people's foundation of generalized political distrust should remain stable.⁹

A System of Trust and Distrust

By now it should be clear that Bentham's slogan is something of an oversimplification. He does not only want a "system of *distrust*" (1999, 37). What this article has shown is that he recognizes the roles of distrust and trust alike in maintaining responsible, effective government. The instrument of publicity is connected to both attitudes. It reflects the distrust proper to institutional design, while promoting a measured political trust in those circumstances, and only those circumstances, in which (reliable) public information suggests it is warranted.

Suppose we asked Bentham whether state officials are basically trustworthy, whether we have reason to trust that they will act in the public interest, and avoid self-dealing. I have been arguing that his political theory advances a subtle answer to this question. In the first place, Bentham answers in the negative. Just as public officials are fallible in their judgments (1843, 7: 388), so they are subject to all manner of temptation to act for their own private benefit, at the public expense (1983a, 137–8). This does not mean that office-holders will always abuse their positions. But some will, at least some of the time. Whatever their virtues and excellences, no officials are so trustworthy that it would be rational to place the public business in their hands and assume reliance. No—safeguards are always in order.

⁹ Here Judith Shklar's observation is particularly apt: "the governments of this world with their overwhelming power to kill, maim, indoctrinate, and make war are not to be trusted unconditionally . . . [but] any confidence that we might develop in their agents must rest firmly on deep suspicion" (1998, 12). In quoting this proposition, however, I do not mean to assimilate Bentham to Shklar's "liberalism of fear" (3–20).

Yet there is more to the story. Ask whether public officials are trustworthy and Bentham answers no, but with qualifications. We have reason to distrust them, and such distrust motivates institutional safeguards of the kind Bentham proposes throughout his political writings—not least the safeguard of publicity. Once those safeguards are in place, however, the appropriateness of trust looks somewhat different. Now we are dealing with self-interested officials operating within a system of “securities against misrule” (1990, 23). When they function effectively, these securities significantly reduce the likelihood of the “sinister sacrifice,” and simultaneously increase the likelihood of detection in cases where it does occur (1989, 17). Outside this system, officials are highly vulnerable to the temptations of self-dealing; inside it they are much less vulnerable. Vigilance remains necessary, because misconduct remains possible; but under a framework of effective checks, it is reasonable to place measured trust in institutions or officials who have built up records of responsible conduct.

How might such trust develop? First, Bentham’s system of (institutional) safeguards generates confidence in the accuracy and integrity of the records of public proceedings. This is very close to what Mark Warren calls “second-order trust” (2006, 161). As he puts it, “citizens should not (necessarily) trust representatives with their interests, but citizens should be able to trust their representative’s veracity so they can judge where their interests lie, and thus determine whether their first-order trust is warranted” (161). As I have tried to show, Bentham envisions a system of publicity in which officials’ testimony about their activities in office can be regarded as factual and complete, because citizen witnesses (and newspaper accounts) of the relevant proceedings would detect any adulterations or omissions.

Next, reliable public records can ground particularized trust in those institutions or officials who demonstrate their probity by acting in service of “the only right and proper end of social action—the greatest happiness of the greatest number” (Bentham 1990, 53). Admittedly, the available evidence will sometimes prove inconclusive, failing to provide a basis for political trust.¹⁰ Suppose, for example, that Legislator X and Legislator Y both appear to have acted responsibly in the previous parliamentary session. What cannot be seen, however, is that a variety of institutional checks effectively constrained X to vote in the public interest, whereas Y’s own probity ensured his support of those measures most conducive to the general welfare. Y is trustworthy, X is not; but this truth eludes even the most vigilant citizen.

To my knowledge, Bentham does not address this concern. Nevertheless, two possible responses suggest themselves. First, Bentham’s account does not give trustworthy officials or institutions any *entitlement* to public confidence. In the scenario described, Y is not wronged when the people decline (reasonably)

to venture trust in him. As we have already seen, Bentham categorically opposed both unbounded and unfounded confidence in politics, and although citizens would be better off if they knew the truth of Y’s trustworthiness—after all, the moderate trust they could then place in him would contribute to a sense of security, and allow the redirection of their (limited) supervisory energies toward more threatening objects—still they ought to remain agnostic in this circumstance.

Second, there is no reason to assume that the scenario described is prototypical. It may happen that in other cases, evidence of trustworthiness abounds. Suppose, for example, that while some officials rely on pretexts to adopt apparently publicly-interested policies that are in fact self-serving, this or that incumbent consistently avoids such tricks. In such cases, citizens have evidence sufficient to ground the limited sort of trust I have described. Moreover, that trust does real political “work”—not only by contributing to citizens’ security and enabling the redirection of vigilance, but also by underwriting the public’s cooperation with these trusted institutions or officials, in future circumstances in which new regulations are proposed, or new initiatives undertaken, though their tendency to promote the general interest is not yet demonstrable.

This account helps to resolve the “paradox of trust and democracy” considered at the outset (Lenard 2012, 67–8). The distinction implicit in Bentham’s theory between the perspective of institutional design and the perspective of public scrutiny (of officials acting within well-designed institutions) sheds light on how distrust and trust can be combined without contradiction. Briefly, Bentham’s system achieves two things: it supports stable, generalized political distrust, which motivates the creation of institutional safeguards and the practice of vigilance; and in so doing, it enables citizens to develop particularized trust toward those institutions and officials who prove themselves worthy of it. Neither attitude can suffice on its own to ensure good government.

Earlier, I portrayed the shift between Bentham’s two perspectives as occurring in time. First the institutional designer distrusts, then watchful citizens trust (or decline to), on the basis of officials’ particular track records. In fact, Bentham recognizes that these two perspectives are dialectically related, so that citizens must frequently shift between them. Institutional “securities against misrule” (1990, 23) are not established definitively at one founding moment, but are always subject to revision. Their recalibration and reform is a perpetual labor (see Ben-Dor 2000, 31, 146–52, 246). In Bentham’s vision, then, citizens must constantly judge both the strength and reliability of existing safeguards, and the (un)trustworthiness of individuals who exercise power within the limits of those safeguards.¹¹ This dual judgment is precisely what occupies Bentham in his review of the Greek Constitution (1990, 207–56), or in his assessment of the existing checks and influences upon members of Parliament at Westminster

¹⁰ My thanks to an anonymous reviewer for pressing this issue.

¹¹ I am grateful to Tae-Yeoun Keum for pushing me to develop this point.

(1843, 3: 428–552). The twofold character of this responsibility—to assess officialdom from both perspectives—explains why distrust is never simply “dissolved” on Bentham’s account (Baume 2014, 430). It endures in the minds of the people, motivating every effort to renew institutional checks against abusive government, even as particularized trust becomes possible beyond some minimum of precaution-taking.

In this connection, Bentham was especially well-attuned to the danger of “sham securit[ies],” institutional arrangements that *appear* to prevent the sacrifice of public to private interest, but in reality fail to do so (1843, 5: 58). He is adamant that such devices are “worse than useless,” because they traffic in “delusion, producing confidence where confidence has no ground to stand upon” (5: 427; cf. 5: 94). They end by facilitating the very corruption they purport to oppose. Citizens assessing the robustness of existing institutional safeguards must therefore seek out evidence that they are more than window-dressing.

Crucially, in this task (as in the more general Benthamian mission of promoting responsible government) the burdens of evaluation may be shared. One can imagine, for example, a model in which experienced institutional designers devise and evaluate “securities against misrule” (1990, 23) in the first instance, while other citizens attend to the particular power-wielders on whom their own interests most immediately depend. Each contributor is situated in the most epistemically advantageous way. The resulting assessments of official (un)trustworthiness could then be deliberately exchanged in the public sphere, producing a dynamic system of trust and distrust in which threats to the public good are detected and neutralized, while government actions conducive to it are supported by citizens’ warranted confidence.¹² Such a model extrapolates from Bentham’s own writing, but fits comfortably with his account of the operation of the Public Opinion Tribunal, discussed above.

CONCLUSIONS FOR AN ERA OF SUSPICIOUS CITIZENSHIP

In reconstructing this account, I have sought to recover a neglected aspect of Bentham’s political theory, and also to shed light on contemporary appraisals of political trust and distrust. Bentham’s insights for the scholarly literature are briefly summarized. First, trust is not an unalloyed political good. It is valuable when well-founded, limited in scope, and attached to particular public institutions or officials; but it can be disastrous if ventured carelessly, diffused, or allowed to undermine checks upon the abuse of power. Bentham would be disturbed by the finding that citizens’ willingness to trust is influenced by sociodemographic identity (Houston and Harding 2013), or by the sheer possession of authority (Smith and Overbeck 2014). Likewise, he would be concerned by the apparent tendency of trust to spill over from one institution into

others, and into general judgments of politics writ large (Houston and Harding 2013, 58). In each case, trust is extended injudiciously, without the evidence of trustworthiness Bentham thought prerequisite. Such “lazy and stupid confidence” earned his derision, and augurs not political health but vulnerability to misrule (1998, 34).

Second, distrust is no simple political evil. It can be damaging if so caustic as to precipitate withdrawal from politics, or if it is groundlessly trained upon particular officials or institutions, or otherwise becomes unmoored from rationality. But a sober, generalized distrust of (necessarily self-interested) rulers is the ground of political well-being. Because of his emphasis on the rational foundations of distrust, Bentham would be troubled by the finding that anxiety is among its drivers (Albertson and Gadarian 2015, 16), and an excessively jaundiced view of politics among its consequences (Wroe, Allen, and Birch 2013, 192). As I have tried to show, the moderate distrust Bentham advises should not fluctuate with fear or threaten the loss of objectivity. Rather, its value is rooted in a capacity to motivate level-headed vigilance on the part of citizens.

Lastly, political trust and distrust are not alternative but complementary attitudes. In Bentham’s vision, generalized political distrust promotes vigilant citizenship, even as institutional safeguards and the evidence furnished by publicity form a basis for particularized political trust. Bentham would reject the suggestion that distrust dissipates wherever trust takes shape (Van De Walle and Six 2014, 164). And he would likely be unmoved by the warning that distrust can generate a “vicious circle” (Sztompka 1999, 146; cf. O’Neill 2002, 61–80) tending toward political alienation or resignation (Bauhr and Grimes 2014), and preventing political trust from ever gaining a foothold. Such distrust is at least not the sort he counsels.

Nevertheless, the worry about such cycles underscores the continuing relevance of Bentham’s account in an age of suspicious citizenship. Scholars seeking to make sense of today’s spiraling political distrust would do well to consider Bentham’s conception of the partnership between the two stances explored in this article. His account lends credence to Norris’s (1999, 2011) even-keeled assessments, and suggests that the remedy for political cynicism lies not in the rejection of distrust (Lenard 2012, 58–61; Warren and Gastil 2015, 566), but in a rediscovery of rationality, sobriety, and honesty in our attempts to size up the powers that be.

REFERENCES

- Albertson, Bethany, and Shana Kushner Gadarian. 2015. *Anxious Politics: Democratic Citizenship in a Threatening World*. Cambridge, UK: Cambridge University Press.
- Allard-Tremblay, Yann. 2015. “Trust and Distrust in the Achievement of Popular Control.” *The Monist* 98 (4): 375–90.
- Allen, Danielle S. 2004. *Talking to Strangers: Anxieties of Citizenship Since Brown v. Board of Education*. Chicago: University of Chicago Press.
- Andeweg, Rudy B. 2014. “A Growing Confidence Gap in Politics? Data Versus Discourse.” In *Power, Politics, and Paranoia: Why*

¹² My thanks to an anonymous reviewer for suggesting the possibility of such a deliberative model.

- People Are Suspicious of their Leaders*, eds. Jan-Willem van Prooijen and Paul A. M. van Lange. Cambridge, UK: Cambridge University Press, 176–96.
- Baier, Annette C. 1994. *Moral Prejudices: Essays on Ethics*. Cambridge, MA: Harvard University Press.
- Bauhr, Monika, and Marcia Grimes. 2014. “Indignation or Resignation: The Implications of Transparency for Societal Accountability.” *Governance: An International Journal of Policy, Administration, and Institutions* 27 (2): 291–320.
- Baume, Sandrine. 2014. “Does Transparency Engender the Confidence of the Governed? A Contribution to Political Thought.” In *Economics and Other Branches – In the Shade of the Oak Tree: Essays in Honour of Pascal Bridel*, eds. Roberto Baranzini and François Allisson. London: Pickering and Chatto, 425–33.
- Baume, Sandrine, and Yannis Papadopoulos. “Transparency: From Bentham’s Inventory of Virtuous Effects to Contemporary Evidence-Based Scepticism.” *Critical Review of International Social and Political Philosophy* 19. Published electronically November 10, 2015. doi: [10.1080/13698230.2015.1092656](https://doi.org/10.1080/13698230.2015.1092656).
- Ben-Dor, Oren. 2000. *Constitutional Limits and the Public Sphere: A Critical Study of Bentham’s Constitutionalism*. Oxford: Hart Publishing.
- Bentham, Jeremy. 1843. *The Works of Jeremy Bentham*, ed. John Bowring. 11 vols. Edinburgh: William Tait.
- Bentham, Jeremy. 1983a. *Constitutional Code, Volume I*, eds. F. Rosen and J. H. Burns. Oxford: Clarendon Press.
- Bentham, Jeremy. 1983b. *Deontology together with A Table of the Springs of Action and the Article on Utilitarianism*, ed. Amnon Goldworth. Oxford: Clarendon Press.
- Bentham, Jeremy. 1989. *First Principles Preparatory to Constitutional Code*, ed. Philip Schofield. Oxford: Clarendon Press.
- Bentham, Jeremy. 1990. *Securities Against Misrule and Other Constitutional Writings for Tripoli and Greece*, ed. Philip Schofield. Oxford: Clarendon Press.
- Bentham, Jeremy. 1996. *An Introduction to the Principles of Morals and Legislation*, eds. J. H. Burns and H. L. A. Hart. Oxford: Clarendon Press.
- Bentham, Jeremy. 1998. ‘Legislator of the World’: *Writings on Codification, Law and Education*, eds. Philip Schofield and Jonathan Harris. Oxford: Clarendon Press.
- Bentham, Jeremy. 1999. *Political Tactics*, eds. Michael James, Cyprian Blamires, and Catherine Pease-Watkin. Oxford: Clarendon Press.
- Bentham, Jeremy. 2001. *Writings on the Poor Laws, Volume I*, ed. Michael Quinn. Oxford: Clarendon Press.
- Bentham, Jeremy. 2002. *Rights, Representation, and Reform: Non-sense upon Stilts and Other Writings on the French Revolution*, eds. Philip Schofield, Catherine Pease-Watkin, and Cyprian Blamires. Oxford: Clarendon Press.
- Bentham, Jeremy. 2010. *Writings on the Poor Laws, Volume II*, ed. Michael Quinn. Oxford: Clarendon Press.
- Bentham, Jeremy. 2012. *On the Liberty of the Press, and Public Discussion: And Other Legal and Political Writings for Spain and Portugal*, eds. Catherine Pease-Watkin and Philip Schofield. Oxford: Clarendon Press.
- Bentham, Jeremy. 2015. *The Book of Fallacies*, ed. Philip Schofield. Oxford: Clarendon Press.
- Braithwaite, John. 1998. “Institutionalizing Distrust, Enculturating Trust.” In *Trust and Governance*, eds. Valerie Braithwaite and Margaret Levi. New York: Russell Sage Foundation, 343–75.
- Clarey, Matthew R., and Susan C. Stokes. 2006. *Democracy and the Culture of Skepticism: Political Trust in Argentina and Mexico*. New York: Russell Sage Foundation.
- Cook, Karen S., Russell Hardin, and Margaret Levi. 2005. *Cooperation without Trust?* New York: Russell Sage Foundation.
- Crimmins, James E. 2011. *Utilitarian Philosophy and Politics: Bentham’s Later Years*. New York: Continuum.
- Cutler, Fred. 1999. “Jeremy Bentham and the Public Opinion Tribunal.” *Public Opinion Quarterly* 63 (3): 321–46.
- Dahl, Robert A. 1971. *Polyarchy: Participation and Opposition*. New Haven: Yale University Press.
- De Champs, Emanuelle. 2015. *Enlightenment and Utility: Bentham in French, Bentham in France*. Cambridge, UK: Cambridge University Press.
- Dunn, John. 1988. “Trust and Political Agency.” In *Trust: Making and Breaking Cooperative Relations*, ed. Diego Gambetta. Oxford: Basil Blackwell, 73–93.
- Elster, Jon. 2007. *Explaining Social Behavior: More Nuts and Bolts for the Social Sciences*. Cambridge, UK: Cambridge University Press.
- Elster, Jon. 2013. *Securities Against Misrule: Juries, Assemblies, Elections*. Cambridge, UK: Cambridge University Press.
- Engelmann, Stephen G. 2003. *Imagining Interest in Political Thought*. Durham, NC: Duke University Press.
- Engelmann, Stephen G. 2011. “Introduction.” In *Selected Writings: Jeremy Bentham*, ed. Stephen G. Engelmann. New Haven: Yale University Press, 1–27.
- Foucault, Michel. 1995. *Discipline and Punish: The Birth of the Prison*. Trans. Alan Sheridan. New York: Vintage Books.
- Gambetta, Diego. 1988. “Can We Trust Trust?” In *Trust: Making and Breaking Cooperative Relations*, ed. Diego Gambetta. Oxford: Basil Blackwell, 213–37.
- Gaonkar, Dilip Parameshwar, and Robert J. McCarthy, Jr. 1994. “Panopticism and Publicity: Bentham’s Quest for Transparency.” *Public Culture* 6 (3): 547–75.
- Habermas, Jürgen. 1991. *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*. Trans. Thomas Burger. Cambridge, MA: MIT Press.
- Halévy, Elie. 1960. *The Growth of Philosophical Radicalism*. Trans. Mary Morris. Boston: Beacon Press.
- Hardin, Russell. 1999. “Do We Want Trust in Government?” In *Democracy and Trust*, ed. Mark E. Warren. Cambridge, UK: Cambridge University Press, 22–41.
- Hardin, Russell. 2002. *Trust and Trustworthiness*. New York: Russell Sage Foundation.
- Hart, Vivien. 1978. *Distrust and Democracy: Political Distrust in Britain and America*. Cambridge, UK: Cambridge University Press.
- Hawley, Katherine. 2014. “Trust, Distrust and Commitment.” *Noûs* 48 (1): 1–20.
- Hetherington, Marc J. 1998. “The Political Relevance of Political Trust.” *American Political Science Review* 92 (4): 791–808.
- Hetherington, Marc J. 2005. *Why Trust Matters: Declining Political Trust and the Demise of American Liberalism*. Princeton: Princeton University Press.
- Hetherington, Marc J., and Thomas J. Rudolph. 2015. *Why Washington Won’t Work: Polarization, Political Trust, and the Governing Crisis*. Chicago: University of Chicago Press.
- Hiley, David R. 2006. *Doubt and the Demands of Democratic Citizenship*. Cambridge, UK: Cambridge University Press.
- Houston, David J., and Lauren Howard Harding. 2013. “Public Trust in Government Administrators.” *Public Integrity* 16 (1): 53–76.
- Hullington, Mark L. 1994. *The Autocritique of Enlightenment: Rousseau and the Philosophes*. Cambridge, MA: Harvard University Press.
- Hume, L. J. 1981. *Bentham and Bureaucracy*. Cambridge, UK: Cambridge University Press.
- Inglehart, Ronald. 1999. “Trust, Well-Being and Democracy.” In *Democracy and Trust*, ed. Mark E. Warren. Cambridge, UK: Cambridge University Press, 88–120.
- Jones, Karen. 1996. “Trust as an Affective Attitude.” *Ethics* 107 (1): 4–25.
- Krishnamurthy, Meena. 2015. “(White) Tyranny and the Democratic Value of Distrust.” *The Monist* 98 (4): 391–406.
- Lenard, Patti Tamara. 2012. *Trust, Democracy, and Multicultural Challenges*. University Park, PA: Penn State University Press.
- Levi, Margaret, and Laura Stoker. 2000. “Political Trust and Trustworthiness.” *Annual Review of Political Science* 3: 475–507.
- Lieberman, David. 2000. “Economy and Polity in Bentham’s Science of Legislation.” In *Economy, Polity, and Society: British Intellectual History 1750–1950*, ed. Stefan Collini, Richard Whatmore, and Brian Young. Cambridge, UK: Cambridge University Press, 107–34.
- Luhmann, Niklas. 1979. *Trust and Power*. Trans. Howard Davis, John Raffan, and Kathryn Rooney. Chichester, UK: John Wiley & Sons.
- Mutz, Diana C. 2015. *In-Your-Face Politics: The Consequences of Uncivil Media*. Princeton: Princeton University Press.

- Newton, Kenneth. 2007. "Social and Political Trust." In *The Oxford Handbook of Political Behavior*, eds. Russell J. Dalton and Hans-Dieter Klingemann. Oxford: Oxford University Press.
- Niesen, Peter. 2015. "Parole, Vérité et Liberté de Jeremy Bentham à John Stuart Mill." *Archives de Philosophie* 78 (2): 291–308.
- Norris, Pippa, ed. 1999. *Critical Citizens: Global Support for Democratic Government*. Oxford: Oxford University Press.
- Norris, Pippa, ed. 2011. *Democratic Deficit: Critical Citizens Revisited*. Cambridge, UK: Cambridge University Press.
- O'Neill, Onora. 2002. *A Question of Trust: The BBC Reith Lectures 2002*. Cambridge, UK: Cambridge University Press.
- Parry, Geraint. 1976. "Trust, Distrust and Consensus." *British Journal of Political Science* 6 (2): 129–42.
- Pettit, Philip. 1999. *Republicanism: A Theory of Freedom and Government*. Oxford: Oxford University Press.
- Postema, Gerald J. 2014. "The Soul of Justice: Bentham on Publicity, Law, and the Rule of Law." In *Bentham's Theory of Law and Public Opinion*, eds. Xiaobo Zhai and Michael Quinn, 40–62. Cambridge, UK: Cambridge University Press.
- Rosanvallon, Pierre. 2008. *Counter-Democracy: Politics in an Age of Distrust*. Trans. Arthur Goldhammer. Cambridge, UK: Cambridge University Press.
- Rose, Richard, and William Mishler. 2011. "Political Trust and Distrust in Post-Authoritarian Contexts." In *Political Trust: Why Context Matters*, eds. Sonja Zmerli and Marc Hooghe. Colchester, UK: ECPR Press, 117–40.
- Rosen, Frederick. 1983. *Jeremy Bentham and Representative Democracy: A Study of the Constitutional Code*. Oxford: Clarendon Press.
- Rosenblum, Nancy L. 1978. *Bentham's Theory of the Modern State*. Cambridge, MA: Harvard University Press.
- Rothstein, Bo. 2011. *The Quality of Government: Corruption, Social Trust, and Inequality in International Perspective*. Chicago: University of Chicago Press.
- Schofield, Philip. 2006. *Utility and Democracy: The Political Thought of Jeremy Bentham*. Oxford: Oxford University Press.
- Schwartzberg, Melissa. 2007. "Jeremy Bentham on Fallibility and Infallibility." *Journal of the History of Ideas* 68 (4): 563–85.
- Shklar, Judith N. 1998. *Political Thought and Political Thinkers*. Chicago: University of Chicago Press.
- Smith, Pamela K., and Jennifer R. Overbeck. 2014. "The Leaders' Rosy Halo: Why Do We Give Power Holders the Benefit of the Doubt?" In *Power, Politics, and Paranoia: Why People Are Suspicious of their Leaders*, eds. Jan-Willem van Prooijen and Paul A. M. van Lange. Cambridge, UK: Cambridge University Press, 53–72.
- Sztompka, Piotr. 1999. *Trust: A Sociological Theory*. Cambridge, UK: Cambridge University Press.
- Theiss-Morse, Elizabeth, Dona-Gene Barton, and Michael W Wagner. 2015. "Political Trust in Polarized Times." In *Motivating Cooperation and Compliance with Authority: The Role of Institutional Trust*, eds. Brian H. Bornstein and Alan J. Tomkins. New York: Springer, 167–90.
- Thompson, Dennis F. 2005. *Restoring Responsibility: Ethics in Government, Business, and Healthcare*. Cambridge, UK: Cambridge University Press.
- Ullmann-Margalit, Edna. 2004. "Trust, Distrust, and In Between." In *Distrust*, ed. Russell Hardin. New York: Russell Sage Foundation, 60–82.
- Van De Walle, Steven, and Frédérique Six. 2014. "Trust and Distrust as Distinct Concepts: Why Studying Distrust in Institutions is Important." *Journal of Comparative Policy Analysis: Research and Practice* 16 (2): 158–74.
- Warren, Mark E. 1999. "Democratic Theory and Trust." In *Democracy and Trust*, ed. Mark E. Warren. Cambridge, UK: Cambridge University Press, 310–45.
- Warren, Mark E. 2006. "Democracy and Deceit: Regulating Appearances of Corruption." *American Journal of Political Science* 50 (1): 160–74.
- Warren, Mark E., and John Gastil. 2015. "Can Deliberative Minipublics Address the Cognitive Challenges of Democratic Citizenship?" *The Journal of Politics* 77 (2): 562–74.
- Wroe, Andrew, Nicholas Allen, and Sarah Birch. 2013. "The Role of Political Trust in Conditioning Perceptions of Corruption." *European Political Science Review* 5 (2): 175–95.
- Zmerli, Sonja, and Ken Newton. 2011. "Three Forms of Trust and Their Association." *European Political Science Review* 3 (2): 169–200.