Intellectual Aptitude and the General Interest in Bentham’s Democratic Thought

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1.1 Introduction

In my *Utility and Democracy*, I noted that an important difference between the pre-democratic and post-democratic Bentham consisted in his view of the relationship between property and the franchise. In the earlier phase of his career, he feared that the non-propertied, if given the vote, would in effect destroy civilized life by insisting on a redistribution of property, while in the latter phase he dismissed this threat as illusory and pointed to the United States of America as a functioning large-scale democracy where property was secure.¹ While there is no reason to question this account, there is arguably more to be said about how Bentham regarded the problem of bad government, or misrule, and the solution, in terms of the possession of intellectual aptitude – in other words, the possession of knowledge and judgement – one of the branches of appropriate aptitude. An individual possessed intellectual aptitude when he had the relevant knowledge and judgement to promote the general or universal interest, moral aptitude when he was motivated to do so, and active aptitude when he performed the relevant actions. As Bentham confessed, the branches of aptitude represented his interpretation of the attributes of wisdom, goodness, and power that William Blackstone had declared to be ‘the requisites that ought to be found in

every well constituted frame of government'. That the securing of intellectual aptitude was a prominent concern of Bentham can be seen in the various schemes he devised for securing information, the source of knowledge, for instance, in the political assembly envisaged in *Political Tactics*, in the publication of accounts in the proposed panopticon prison, in the reporting of crime in the proposed *Police Gazette* and *Calendar of Delinquency*, and in the recording of official activity in the proposed *Constitutional Code*. It is also worth noting that, in his proposals for political reform, Bentham insisted on the ability to read as a sine qua non for granting the vote. In this chapter, I attempt to present a framework for understanding the significance of intellectual aptitude – of knowledge and judgement – in Bentham’s political thought and how it not only complemented but was a necessary adjunct to moral aptitude in securing good government. Since the key to securing good government was to bring about an identification of interests between rulers and subjects, I will explain Bentham’s notion of interest and the main varieties of interest that feature in his political thought. I will then explain how Bentham hoped to bring about an identification of interests, before showing the place of intellectual aptitude in this process. First, however, I will show that Bentham’s opposition to democracy in the period following the French Revolution was based on his concern that the people in general lacked the necessary intelligence to undertake the task of electing representatives and then outline the emergence of his commitment to a democratic form of government.

### 1.2 The People’s Ignorance as a Bar to Democracy

Throughout his career, Bentham insisted that the general interest of the community – in other words, the greatest happiness of its members – was

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the only right and proper end of government. He did, however, change his mind about which form of government would best achieve this end. Up to the time of the French Revolution, when he was mainly working on a complete penal code (the work published as An Introduction to the Principles of Morals and Legislation was written as the first part of the introduction to the penal code), he did not, as he himself confessed, overly concern himself with constitutional law. He was indifferent as to the form of government, envisaging that once he had presented his penal code to an enlightened sovereign – whether that was the British Parliament or an absolute monarch such as Frederick the Great of Prussia or, more plausibly in his view, Catherine the Great of Russia – its merit would be recognized and it would be enacted accordingly. When the course of the French Revolution led him to consider political reform, except for one brief interlude, he opposed democracy, not because of any deficiency in the people’s desire to promote the general interest – by definition there could not be, since the universal interest, as we will see in Section 1.4, was constituted by an aggregation of all the individual interests in a community – but because of a deficiency in intellectual aptitude. In ‘Considérations sur la composition des États-Généraux’, written in late 1788 or early 1789, for instance, Bentham argued in favour of political equality, on the grounds that each person’s interest should be given equal consideration. He did, however, add the qualification that only those persons who were capable of correctly judging the nature of their interest should be enfranchised, and on this basis proceeded to exclude minors, the insane, females (though he pointed out that there was no valid reason for excluding them), non-proprietors, and non-readers. The problem in relation to non-proprietors was that they would demand a redistribution of property because they would only see the immediate advantage to themselves and not realize that the long-term consequences, by undermining security and hence the incentive to labour, would be disastrous for society as a whole. At the same time, Bentham rejected plural votes for those with large amounts of property. If the franchise were limited to those with the ability to make correct


8 Bentham, Introduction to the Principles of Morals and Legislation (CW), 281.
judgements about their personal interest, then each such individual had neither more nor less than one personal interest, which should be given the same consideration as that of every other individual. Moreover, each person had only one understanding, and so each eligible person should have only one vote. This seems to have been his point when he asked whether a man had ‘trois âmes pour sentir? deux, trois esprits pour juger?’9

When briefly flirting with political reform in the early period of the French Revolution, Bentham recommended a universal franchise (including females) for France and a universal male franchise for Britain but characteristically added the proviso that the vote should be limited to those with the ability to read.10 Events in France in the autumn of 1792 thereupon led Bentham, like the vast majority of his countrymen, to adopt a much more politically conservative outlook.11 He again opposed democracy on the grounds that the ignorance, or the lack of intelligence, of the people meant that they were incapable of conducting the affairs of government. Democracy obliterated the salutary distinction between legislators and members of the community generally: ‘You employ one man to make laws for you as you employ another man to make shoes.’ There were few even among the well-educated who were capable of governing well, and yet in a democracy everyone was required to take an interest in and understand public affairs. The intelligence needed to choose legislators, and hence to judge their policies, was beyond the capacity of the people, who were ‘all will – they have no reason, no understanding’.12 Moreover, the people, who had to labour for a living, lacked sufficient time to understand public affairs. A democratic government would require that each and every citizen employed themselves in the business of government: ‘Either the major part of the whole labour of the state must be thus bestowed or those who take time to understand the business must be governed and outvoted by those who do


10 Bentham, Rights, Representation, and Reform (CW), 248–9, 428–9.


12 Bentham Papers, University College London Library (hereafter UC), box xlv, fo. 2.
not and can not take time to understand it.”\textsuperscript{13} Bentham praised the electoral system in Britain for placing government in the hands of the ‘well-informed classes’, thereby providing a security against anarchy and civil war\textsuperscript{14} and criticized the ‘system of the democrats’ for subjugating ‘the well-informed to the ill-informed classes of mankind’.\textsuperscript{15} He made the same point when, in discussing pauper education in his writings on the poor laws in or around 1797, he argued that pauper children apprenticed to the proposed National Charity Company should be enjoined not only ‘to be contented with their lot’ but also ‘to mind their own business’, since the existing government was ‘better than any other to the formation of which [the pauper child] can have any chance of contributing, were he even to . . . devote his whole time and attention to the accomplishment of the supposed improvement’. In order to establish a new form of government, the pauper child would need to possess as much knowledge about the law in all its branches – civil, penal, constitutional, financial, and ecclesiastical – and the administration of the armed forces, the government of colonies, and the conduct of foreign affairs, as did the Lord Chancellor and the judges, the bishops, the Lords of the Treasury, and all the rest of the government officials put together.\textsuperscript{16}

\textbf{1.3 The Emergence of Bentham’s Commitment to Democracy}

From the outbreak of the French Revolution until 1803, Bentham’s life was dominated by the panopticon prison scheme and by other initiatives – such as his proposals relating to the poor laws, police, and finance – by which he aimed to help the British state through the various crises engendered by the French Revolutionary Wars. His bitterness at the rejection by ministers of the panopticon prison scheme, which, he claimed, amounted to the exercise of an unconstitutional dispensing power on the part of the executive,\textsuperscript{17} and his development, in the context

\textsuperscript{13} UC xlv. 5.
\textsuperscript{14} UC xlv. 4.
\textsuperscript{15} UC xlv. 5.
\textsuperscript{17} Bentham gave a detailed account of his dealings with the administration in relation to panopticon between 1798 and 1802 in ‘A Picture of the Treasury’ (see UC boxes cxx and cxxi), which in turn gave rise to the three ‘Letters to Pelham’ and ‘A Plea for the Constitution’. See J. Bentham, \textit{Panopticon versus New South Wales and Other Writings on Australia}, ed. T. Causer and P. Schofield (London: UCL Press, 2022 [CW]), Editorial Introduction, pp. xvii–xviii.
of writings on judicial procedure and evidence between 1803 and 1809, of the notion of ‘sinister interest’, eventually led to his ‘transition’ or ‘conversion’ to democracy. The eighteenth-century Bentham thought that English law in general, and the law of evidence in particular, was so confused, complex, and chaotic because lawyers, trapped by habit and tradition, had been unable to see how to reform it. From 1803, he began to recognise that reform was not undertaken, not because lawyers lacked the requisite understanding but because they had a sinister interest in seeing it remain in its chaotic state. ‘Judge & Co’, as he disparagingly referred to the legal profession, made money from fees, and the more complex the legal procedure, the greater the number and value of the fees that they might harvest. This had the effect of denying justice to all but the richest part of the population. At first, Bentham believed that the lawyers had hoodwinked the politicians into thinking that legal reform was impossible; but by the summer of 1809, he had come to the conclusion that the politicians were in league with the lawyers. The whole legal, political, and ecclesiastical establishment of the British state, in his view, shared a common sinister interest in oppressing the vast majority of the people. As he stated in the printed but unpublished ‘Preface for the Second Edition’ of A Fragment on Government, written in 1822, at the time of the work’s first publication in 1776 he had regarded the ‘imperfections’ in the law as the result of nothing worse than ‘inattention and prejudice’, but ‘the experience and observations of near fifty years’ had revealed them to be ‘the elaborately organized, and anxiously cherished and guarded products of sinister interest and artifice’.

From 1809 until his death in 1832, Bentham’s career was marked by political radicalism – at first advocating ‘democratic ascendancy’ within the British state and then from about 1818 advocating republicanism for each and every political community across the globe. He now recognized that...

18 The vast majority of the material for Rationale of Judicial Evidence, Scotch Reform (London: J. Ridgway, 1808 with a second edition in 1811) and The Elements of the Art of Packing, as applied to Special Juries, particularly in cases of libel law (London: Effingham Wilson, 1821), was written between 1803 and 1809.
19 A detailed account appears in Schofield, Utility and Democracy, 109–36.
21 Bentham, Comment/Fragment (CW), 508.
22 He addressed various publications to ‘all nations professing liberal opinions’, but his writings for Tripoli reveal his ambitions to have been universal.
utilitarian reform – the promotion of the general interest of the community – would only be implemented by a democratic government and even then only by a particular form of democratic government. Bentham rejected, for instance, a form of democracy based on the traditional doctrine of the separation of powers. To give the legislature, executive, and judiciary their own spheres of authority would tend to create interests that would run counter to the general interest.\(^{23}\) In contrast, as we will see in Section 1.5, Bentham’s scheme was founded on chains of subordination and superordination. The people would be sovereign. The legislature would be subordinate to the people in their role as electors or, in Bentham’s terminology, as possessors of the supreme constitutive power. The administrative and judicial departments (together composing the executive power) would be subordinate to the legislature – the purpose of both administration and judiciary would be to put into effect the will of the legislature and that of the legislature to put into effect the will of the people.\(^{24}\) The administrative department, headed by the prime minister and up to thirteen ministers, would constitute in effect a bureaucracy or civil service,\(^{25}\) while judges would enforce the provisions of the enacted code and not, like English common law judges, make the law themselves, while claiming only to declare it.\(^{26}\)

### 1.4 The Varieties of Interest

The promotion of the general or universal interest – in other words, the interest of the community – was, for Bentham, as we have seen above, the only right and proper end of government. What, then, did he mean by ‘the general interest’? In *An Introduction to the Principles of Morals and Legislation*, having explained that by ‘utility’ he meant the tendency of


any ‘object’ to ‘produce benefit, advantage, pleasure, good, or happiness ... or ... to prevent the happening of mischief, pain, evil, or unhappiness to the party whose interest is considered’, whether that of the community in general or that of a particular individual, Bentham continued:

The interest of the community is one of the most general expressions that can occur in the phraseology of morals: no wonder that the meaning of it is often lost. When it has a meaning, it is this. The community is a fictitious body, composed of the individual persons who are considered as constituting as it were its members. The interest of the community then is, what? – the sum of the several members who compose it.

It is in vain to talk of the interest of the community, without understanding what is the interest of the individual. A thing is said to promote the interest, or to be for the interest, of an individual, when it tends to add to the sum total of his pleasures: or, what comes to the same thing, to diminish the sum total of his pains.

In a note to the phrase ‘interest of the individual’ in the second of the quoted paragraphs, Bentham explained: ‘Interest is one of those words, which not having any superior genus, cannot in the ordinary way be defined.’

He was alluding to his division of nouns substantive into the names of real and fictitious entities and to the Aristotelian method of definition per genus et differentiam, whereby, for instance, a human being was defined as an animal that possessed the quality of reason. An entity was real insofar as it had physical existence, such as an animal, a chair, an apple, or a book, and as such was capable of being perceived through the senses. An entity was fictitious insofar as it did not have physical existence, and so was not perceptible, but yet it still made sense to speak of it – in short, the name of a fictitious entity was the name of an abstraction. Hence, an interest, like a right or a power or a duty, was not capable of being seen or touched, for instance, and neither could it be defined per genus et differentiam because it was not a sort of anything, as a human being was a sort of animal.

Hence, in order to give an ‘exposition’ (rather than ‘definition’) of the term ‘interest’, it was necessary to have recourse to the method of paraphrasis, which involved, as Bentham explained, not the translation of one word into another or other words, but rather the translation of one

whole sentence that contained the name or names of a fictitious entity or entities into another whole sentence in which the terms either represented real entities or were ‘more immediately resolvable’ into terms representing real entities. Propositions containing the names of fictitious entities only made sense if they could be translated into propositions containing ‘terms calculated to raise images either of substances perceived, or of emotions; – sources, one or other of which every idea must be drawn from, to be a clear one’. Hence, if I have a duty to perform (or refrain from performing) some action, then another person has a right to make me perform (or refrain from performing) it, and if I do not perform it (or do perform it), I am liable to be punished, in other words, to suffer a pain administered in accordance with the expressed will of the legislator.29 The notion of having a duty could only be understood by relating it to its ‘real source’ in physical reality,30 which in this case consisted of certain persons, certain expressions of will on their part, certain pains and pleasures, and so forth. It should be noted that Bentham regarded the emotions of pain and pleasure as real entities, in that they had a physiological basis and were directly perceptible by the mind.

To understand what it meant to say that a person had an interest, it was necessary to translate a sentence in which the term ‘interest’ appeared into another sentence that contained only the names of real entities. To say that a person had an interest in some event or in some state of affairs was, therefore, to say that the person in question would receive some benefit from the event taking place or the state of affairs coming into existence, with the notion of benefit referring to the expectation that the person in question would experience a balance of pleasure over pain. To speak of ‘the interest of the community’ brought together the names of two fictitious entities – the term ‘community’ was just as much the name of a non-physical entity as the term ‘interest’. A ‘community’, as a collective noun, only made sense when understood as the aggregate of the individuals who composed it. Hence, a political community consisted of the aggregate of the individuals who were subject to the same sovereign, and the interest of that community consisted in an aggregate of the pains and pleasures experienced or expected to be experienced by each of the individuals in that community. Given that the ‘partisan’ of the principle of utility approved of any action

29 Bentham, Comment/Fragment (CW), 494–5 n.
30 UC ci. 218 (23 August 1814), reproduced in Bentham, Works, viii. 246.
that augmented the happiness of the community and disapproved of any that tended to diminish it,31 the notion of promoting the utility of the community, promoting the interest of the community, and promoting the general interest, amounted to the same thing, since these phrases only made sense when related to the promotion of pleasure and the diminution of pain. It should also be noted that the notion of interest was linked in Bentham’s thought to that of motive. If one had an interest, for example, in the performance of a particular action, that was as much as to say that one had a motive to perform it. In A Table of the Springs of Action (1817), Bentham produced a list of pleasures and pains with their corresponding interests and motives: hence the pleasures and pains of curiosity were linked to the ‘Interest of the Spying-Glass’ and motives such as curiosity, inquisitiveness, and desire of information.32

Two pairs of contrasting interests were central to Bentham’s democratic thought: the first, the general or universal interest as opposed to particular interests; and the second, a right and proper interest as opposed to a sinister interest. The general or universal interest, as we have seen, was equivalent to that of the community as a whole, while a particular interest was that of an individual or some group of persons less than the community as a whole. A right and proper interest consisted of an interest in performing an action or bringing about a state of affairs that increased the happiness of the community overall. A sinister interest consisted of an interest in performing an action or bringing about a state of affairs that, while it increased the happiness of the persons who possessed the sinister interest, decreased the happiness of the community overall. A sinister interest was a particular interest, though not every particular interest was a sinister interest. For example, it might be the particular interest of an individual to perform an action that gave that individual a degree of pleasure but that either affected no one else (it was a purely self-regarding action) or on balance benefited the other persons affected by it. In this case, the particular interest of the individual was a right and proper interest, since it led to an increase in the happiness of the community overall. A sinister interest was a particular interest that led to actions or states of affairs that diminished the general or universal interest. To act in such a way as to promote a sinister interest to the detriment of the general interest was to bring about ‘the sinister sacrifice’

or, in other words, to act corruptly. Hence, in Bentham’s view, it was in the sinister interest of lawyers to maintain the complexities and obscurities of the law because of the monetary gain it brought them, despite the greater harm it did in denying justice to the vast majority of the community. Similarly, it was in the sinister interest of rulers, or the ruling few, as we will see in Section 1.5, to oppress subjects, or the subject many, on account of the power, wealth, and reputation it brought them.33

1.5 The Identification of Interests

The problem that the utilitarian moralist had to address was how to ensure that rulers used their power to promote the general interest, rather than their own particular and sinister interest. As Bentham noted, ‘Power in a certain quantity and in certain shapes is of the essence of the situation’. In the case of the power exercised by government, he explained that,

power is the power of disposing of certain things and certain services of certain persons with a view to a certain end: under things, money being included: the object and problem is so to order matters that in each situation having power to make application of the things and human services in question to the benefit of the whole community or a certain portion of it according to the department to which the office of the functionary belongs, he should at the same time not have power to dispose of it to his own benefit exclusively or to the benefit of particular individuals connected with him by this or that special line of interest or sympathy.34

The solution lay in the identification of interests, whereby the actual end of government was brought into coincidence with the proper end. The whole point of constitutional law was to replace the natural opposition of interests that existed between rulers and subjects with an artificial identification of interests. Rulers were to be so placed that the only way in which they could promote their own particular interest was through the promotion of their share in the universal interest.35

In ‘Identification of Interests’ (1822), Bentham expounded the notion of the identification of interests as follows:

34 Ibid., 30.
As between each individual and the whole community, identification of interests has place, in so far as when in consequence of any act on his part, or any other event or state of things, good in any shape happens to him, good in the same or any other shape happens to the whole community; or in so far as evil happens, evil: and in so far as in consequence of that same cause good happens to the community, good happens to him, or in as far as evil happens to the community, evil happens to him.

As between individual and the community, identification of interests is constituted by communion in good, or by communion in evil, or by communion in both kinds.  

The opposite state of affairs, the opposition of interests between an official, or, in Bentham’s terminology, a functionary, and the community, might arise either from the laws and institutions of the state themselves or from ‘delinquency’, that is, actions in contravention of laws and institutions. The first case was much the more serious, as it demonstrated that ‘the root of the evil is in the form of government’ and would not be remedied until ‘the texture of the government’ was changed. Yet the ‘texture of the government’ was itself dependent on the actions of those functionaries who supported it, whether they had created it or not, because it served their interests to do so. The result of this ‘sacrifice of universal to particular and sinister interest’ was that ‘depredation and oppression are carried on with impunity’ and on ‘the very largest scale’, that is, against all the members of the community, excepting only those to whom ‘the self-constituted and self-licensed depredators and oppressors are please[d] to grant exemption’.  

Where the evil-doing and delinquency lay with the people themselves or with lower-ranking functionaries, the problem lay in a lack of intellectual aptitude and the solution lay in the provision of information. Where it lay with ‘the highest functionaries themselves’, the problem lay in a lack of ‘moral aptitude’ and the only remedy was a change in the form of government. A change of the functionaries themselves was ‘useless’, since they would continue to be effectuated by the same sinister interests and would continue to pursue the same sinister course: ‘The whole Official Establishment is in that case in the state of a ship infected with the plague’.

According to Bentham, as noted above, the only form of government in which the identification of interests could be made effective was a
representative democracy, and even then, only a particular form of representative democracy. He outlined the principles on which his ideal republic would be based in ‘Economy as applied to Office’ (1822), where he combined an analysis of the various sorts of powers that might exist in a political state with his view concerning the best form that the distribution of those powers might take. He divided power in government into operative and constitutive power: the former performed the business of government, while the latter ‘determined who the person or persons are by whom the operative power shall be exercised’. Taking the supreme power, as opposed to subordinate power, in a state, he divided supreme operative power into supreme legislative and supreme executive power. The former was the general power to impose upon ‘persons of all classes, obligations of all sorts, for purposes of all sorts, and with reference to things of all sorts’, without any other power in the state being capable of nullifying or altering the obligations in question. The purpose of the supreme executive power was to give ‘execution and effect to the ordinances issued by the supreme legislative power’, in other words, to apply the general ordinances of the supreme legislature to particular persons or particular classes of persons. The supreme executive power, though supreme with reference to all other persons, was subordinate to the legislature. The supreme executive power itself was divided into administrative and judicial power. Both powers, which were assigned to an administrative and judicial department respectively, as branches of executive power, were, therefore, concerned with applying the ordinances of the supreme legislative power, but in the latter case only where there was ‘a contest between two or more parties in respect to the point of right’, with the plaintiff complaining that, without the interposition of the judicial power, something that the defendant ought to do would not be done. The administrative power, however, could act on its own initiative, where authorized to do so by the legislative power, particularly in relation to the goods and services that had been ‘rendered exigible for the use of the state’.39

The supreme constitutive power, argued Bentham, should be placed without any defalcation in ‘the people at large’, since it would thereby be placed in the hands of those persons whose interest constituted the universal interest. Each person, Bentham explained, was ‘disposed . . . to take that course which in his judgment is most conducive to his own

39 Ibid., 6–7.
individual interest’ and hence would be ‘disposed to take that course which is most conducive to the universal interest: for the universal interest is nothing else than the aggregate of all individual interests’. This was simple and straightforward, remarked Bentham, since the description of this group of persons would remain the same, even though the individuals themselves would change by birth and death and by immigration and emigration. In relation to the supreme constitutive power, therefore, each individual was left to pursue that course of action that in his view made ‘the best provision possible for his own individual interest’. The position was far different in relation to the possessors of the supreme operative power, since they had to be prevented from pursuing their individual interests insofar as those interests were in conflict with the universal interest. The difficulty was to set ‘the strictest limits’ on such power, yet at the same time give it ‘amplitude sufficient’ for the promotion of the universal interest. This was achieved by not only giving the power of appointing the holders of supreme operative power to the people in their capacity of holders of supreme constitutive power but also the power of dismissing them. In general, while the rulers pursued the universal interest, the people would allow them to remain in office; if they failed to pursue the universal interest, the people would remove them.40

The mechanism envisaged by Bentham for such appointment and dismissal (or, in Bentham’s terminology, location and dislocation) was through election to a representative legislative assembly, which would in turn, as we have seen, control the administrative and judicial departments of government. The elections to the legislature would be conducted annually by secret ballot, within roughly equal electoral districts. The right to vote would be subject to a literacy test and the electorate would consist of males over the age of twenty-one, until such time as the males themselves were enlightened enough to admit women to the suffrage.41 Each constituent would choose that candidate who would sacrifice every one else’s interest to his own, and in order to secure his vote, were he the only voter, the candidate would promise to do so. However, each individual constituent had some overlapping, but also some competing interests, and so, in order to be successful, the candidate had to appeal to as wide a range of those interests as possible. ‘To recommend himself to all’, noted Bentham, ‘what is possible is – to promote the interest of each in those points in which it is not opposed by any other interests: this accordingly is

40 Ibid., 132–4.
41 Bentham, Constitutional Code: I (CW), 29–30; Bentham, First Principles (CW), 97–100.
what he does’. In the representative assembly, each member would vote in
favour of the interest of the inhabitants of his district, whereupon
‘arrangements which are favorable to the interests of the inhabitants of
all the Districts, or at least to the majority of them’ would ‘be adopted and
carried into effect’. To the extent that it depended upon government, the
interest of each person insofar as it was not adverse to the happiness of
any other person, would be secured, ‘while all such portions of happiness
as he could not be made to enjoy without depriving others of happiness to
greater amount will not be given to him’. ‘On this plan’, Bentham noted,
‘the identification of each man’s individual interest with the several
individual interests of all the other members of the community has place
as far as the nature of man permitts’. With the supreme constitutive
power in the hands of subjects (albeit acting as rulers when exercising
the constitutive power itself), and the supreme operative power in the
hands of persons chosen by them, the identification of interests between
rulers and subjects would be as complete as possible.42

This structure represented the bare outline of the constitutional arrange-
ments that Bentham thought necessary for the securing of good rule.
Within this democratic structure, Bentham devised a whole series of
‘securities against misrule’, with a view to promoting the moral, intellectual,
and active aptitude of government functionaries. The most important
security against misrule was the maximizing of moral responsibility, in
other words, exposing rulers to criticism through the medium of what
Bentham termed the public opinion tribunal. Throughout his career,
Bentham had recognized the importance of the capacity to criticize rulers
as a vital security for good government.43 In his later democratic writings,
he recommended detailed provisions for the publication and dissemination
of records detailing the actions of officials, from members of the legislature
down to subordinate functionaries in the various ministries,44 which would
provide the basis for an informed and critical public opinion.45

42 First Principles (CW), 135–6.
43 See, for instance, Bentham, Comment/Fragment (CW), 485; and J. Bentham, On the
Liberty of the Press, and Public Discussion and Other Legal and Political Writings for
[CW]), 1–52.
44 See Bentham, Political Tactics (CW), 29–44; Bentham, First Principles (CW), 292–8; and
in X. Zhai and M. Quinn, eds., Bentham’s Theory of Law and Public Opinion (Cambridge:
1.6 The People as the Possessors of Intellectual Aptitude

When Bentham turned to democracy, his assessment of the intelligence of the people was very different from that he had advanced in the 1790s. The change of mind is obvious enough, though the process that produced it requires further examination. Bentham himself, as we will see, pointed to the United States, as a large-scale functioning democracy where political debate thrived, and to Ireland under the Volunteer Movement, as positive examples of popular participation in government. Be that as it may, in ‘Identification of Interests’, Bentham answered the objection – an objection that he had himself urged in the wake of the French Revolution – that the people neither did possess, nor could be made to possess, sufficient knowledge and judgement to qualify them to vote for members of the supreme legislative assembly. He responded that there was no other person or set of persons who possessed a greater degree of intellectual aptitude, combined with an equal degree of moral aptitude, or at least who were so far superior in the former, and so little inferior in the latter, as to possess an overall superiority in aptitude. Whether the supreme power was lodged in a single hand, in the hands of a few, or shared between the one and the few, or between ‘a tricomound body, composed of the one, the few and the delegates of the people – or rather of a small portion of the people’ (Bentham, of course, had the British form of government in mind), it was the interest of these rulers that all the ‘external instruments, or say means, of felicity’ – wealth, power, reputation, factitious dignity, vengeance, and ease – be concentrated in their hands, whereas it was the interest of the greatest number that they be distributed ‘in a manner as near to equality as is consistent with general subsistence, general abundance in the character of a security against accident, and general security in all its shapes’. In the case of the tri-compound system, ‘the whole of the stock of knowledge, judgment, and active talent’ would be used by rulers to augment their own share of the instruments of felicity, which was as much as to say to reduce that of the people in general. ‘On the part of the people, appropriate aptitude in the shape of moral aptitude is at all times at a maximum: on the part of the one, at all times ... at a minimum’, while on the part of the people, intellectual aptitude was ‘at all times naturally on the encrease’, and, were

47 Bentham, First Principles (CW), 152.
rulers actively to promote its development, was ‘susceptible of great and continual encrease’. On the contrary, rulers had directed their efforts towards diminishing ‘the stock of true, active knowledge: in the room of true conceptions to substitute false, fallacious and mischievous ones’, especially the view that the maximum of moral aptitude was to be found in the ruling one and that it existed in ‘the sub-ruling or jointly ruling few . . . in proportion to their respective altitudes in the conjoint scales of power, opulence and factitious dignity’.

A point reiterated by Bentham was that, if the people were ignorant or incapable of perceiving their true interest (which, perhaps, in effect amounted to the same thing), it was a result of a deliberate policy on the part of the ruling classes not only in keeping them ignorant but in giving them false ideas – in other words, in deluding them. When, in the ‘Postscript to the Second Edition’ of *A Fragment on Government*, he reflected on the significance of the work in terms of its offering, when it appeared in 1776, the first critique of English law, he noted that one of the strategies used by lawyers was to argue that legal fictions – in short, lies – were necessary to the provision of justice. Outside the law, falsehood was ‘painted in its proper colours’ as a vice, but in lawyers it was regarded as a virtue, with a view to showing that rulers possessed ‘the power of making *wrong* and *right* change natures, and determining what shall be *morality* as well as what shall be *law*’, and to determine what should be truth. ‘To produce ductility’, Bentham stated, ‘produce debility . . . But for this [debility in the people], how could judges have been suffered to make law, or priests gospel, as they have been and still are?’

In *The Book of Fallacies*, Bentham pointed out that the lawyers tried to ensure that the law could not be known by those whose fate was determined by it, while the clergy obstructed the means of teaching the art of reading by their opposition to the Lancasterian schools. It was a prominent theme of *Church-of-Englandism and its Catechism Examined* that the point of forcing children to recite the catechism in the Church’s own National Society schools was to produce moral and intellectual depravity. The poor children whose parents would not send them to a Church-of-England school would be abandoned to ‘ignorance, vice, and wretchedness’, while those who were sent would come under the

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48 Ibid., 142–4.

49 Bentham, *Comment/Fragment (CW)*, 511.

dominion of the Church, with the catechism employed for corrupting both the intellectual and the moral part of their minds:

the intellectual . . . that by weakness they might be rendered unable, because by terror they had been rendered unwilling, to discern the mischievousness of the dominion exercised at their expense: the moral part, that by their being themselves habituated to the practice of mendacity and insincerity in their own sphere, the spectacle of those vices, when practised at their expense in higher spheres, might in their eyes be rendered an object of indifference.51

In ‘Constitutional Code Rationale’, Bentham emphasized the importance of delusion, that is, the engendering of ‘erroneous conception or opinion’, to misrule. The purpose of delusion was to engender the opinion that those who held the highest offices in government were possessed of appropriate aptitude for exercising the powers of government and that the higher the office, the greater the aptitude. In truth, remarked Bentham, the opposite was usually the case.52

In ‘Identification of Interests’, Bentham went on to deal with a second objection to the involvement of the people in the political process – again one that he had himself advanced in the 1790s – namely, that the people, given that most of their ‘disposable waking time’ was ‘unavoidably preoccupied by labour for subsistence, and a small quantity for recreation’, did not have enough time to form a correct judgement concerning the aptitude of candidates for election, especially in light of the fact that the business of legislation might comprise ‘little less than the whole field of thought and action’. Bentham gave the same answer as he had to the first objection, namely, that any such deficiency in intellectual aptitude was no objection unless it could shown that some other persons had greater intellectual aptitude, together with an equal degree of moral aptitude, ‘without which superiority in intellectual aptitude is detrimental, and not contributory, to superiority in the aggregate of appropriate aptitude’. Bentham distinguished between self-seated and derivative or borrowed aptitude, that is, between one’s own knowledge and that which the ‘least instructed’ person could obtain from the person ‘of whom general estimation points out as the best qualified for giving such advice of all who are within his reach’. He suggested that ‘an all-comprehensive and rationalized Code’, of the sort

52 Bentham, First Principles (CW), 261–3.
that he himself was producing, would give ‘all possessors of the art of reading’ a greater stock of intellectual aptitude than had hitherto existed in ‘the best instructed minds’. The code would form ‘the standing table’ of the people’s knowledge, with daily transactions reported in the newspapers furnishing their ‘daily bread’.

In *The Book of Fallacies*, he discussed the question of authority, and in particular whose authority might be most reliable, that is, whose authority might possess the greatest ‘legitimately persuasive force’. He pointed out that sinister interest affected not only the declaration of an opinion, in that it provided a motive for insincerity, but affected the opinion itself, by keeping ‘the relevant means and materials of information . . . out of the mind’, or, if this did not prove possible, not giving them the weight they deserved. He noted that the correctness and completeness of the information possessed by a man depended on the means he enjoyed for collecting it and the motives he possessed for making use of those means and coming to an accurate opinion based upon them. On these grounds, the most trustworthy opinion was that ‘constituted by what may be termed scientific or professional opinion’, since the professional would be likely, for instance, to profit financially if his opinion were seen to be correct and suffer financially if it were seen to be erroneous. In descending order beneath professional authority, Bentham listed authority derived from power, from opulence, and from reputation. A powerful man had greater facility in terms of ‘obtaining the means conducive to rectitude of decisions’ than the man of opulence, and the man of opulence than the man of reputation. However, none of these classes had ‘any motive sufficient to the production of that desire and that energy by which alone he can be, to an adequate degree, put in possession of the means’. In fact, the more power that a man possessed, and the more his desires were thus satiated, the less incentive he had to exert himself. An oriental despot, for instance, had more of the means of information at his command than any other individual, but having no motives to make use of those means, ‘the general result is a state next to infantine imbecillity and ignorance’. ‘In England’, noted Bentham, ‘the King – the Peer – the opulent Borough-holding or County-holding Country Gentleman – would . . . present an instance of the sort of double scale in question, in which, while means decrease, motives rise’. All this was on the supposition of an absence of sinister interest. Where

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53 Ibid., 144–5.
a man’s understanding was ‘under the dominion of sinister interest’, then the more complete the information at his disposal, the less the confidence that should be placed on his expressed opinion, whether pretended or real. Hence, in the case of an opinion expressed by a minister of state, ‘the probative weight of the authority’ was ‘so far from being greater than that in the case of an average man’ but rather ‘so much below’ to the extent that there was reason for supposing that the opposite opinion was ‘the right and true one’.54

In ‘Identification of Interests’, Bentham again noted that the acquisition of intellectual aptitude depended on mental labour, while ‘the quantity of labour is proportioned to the force of inducement’. The class of monarchs was the class of persons with the least inducement to mental labour, since there was no need for it: the whole time of a monarch was ‘spent in the enjoyment of the pleasures of power, none in acquiring aptitude for the exercise of it’. Monarchs were a thousand times more likely than all other classes taken together to suffer from ‘mental incapacity’, and yet, until his condition rendered it necessary to confine or to banish him, he ‘remains in the eyes of all his subjects the same perfect and inimitable seat and model of appropriate moral, intellectual and active, and, in full, all-exalting aptitude’.55 In practical terms, in the United States, the supreme operative power had been in the hands of the delegates of the people for over forty years, and no where had appropriate aptitude ever approached so nearly to perfection, and no where had the people ever enjoyed such felicity or had there existed on their part ‘so great a measure of good morals’. He continued:

In all places at all times, not in the inverse but in the direct ratio of the quantity of power left in the hands of the many has been the aggregate of appropriate official aptitude, the moderateness of official expence, the stock of actual felicity and intelligible virtues.

Bentham also pointed to the state of Ireland under the Volunteer Movement between 1778 and 1783 and more particularly to the National Convention that met at Dublin in November 1783, where representatives, albeit ‘self-appointed’, came in from ‘all classes promiscuously’ but ‘all of them actuated by . . . the universal interest’, when the result was not a ‘scene of universal disorder and universal mischief’ but one of ‘universal innocence, universal tranquillity, universal felicity and

54 Bentham, Book of Fallacies (CW), 124–9.
55 Bentham, First Principles (CW), 145.
universal moral virtue’.\(^{56}\) Bentham turned the view he had expressed in the 1790s on its head. The problem of a lack of intelligence now lay not with the subject classes but with the ruling classes.

1.7 The People’s Enemy and the People’s Friend

On 6 February 1831, Bentham drafted a letter under the title of ‘The People’s Enemy Unmasked’ intended for anonymous publication in the *Examiner* newspaper. The people’s enemy, he noted, claimed that only the owners of substantial property should be represented in Parliament. What this claim amounted to, explained Bentham, was that the ‘relatively opulent, relation had to the rest of the people . . . the relatively unopulent’, were ‘the only persons to whose welfare any regard ought to be paid: the only persons whose happiness ought to be the end in view: aimed at as such by the legislative authority in the exercise of its functions’. In other words, both in the form of government and in the exercise of its powers, the greatest happiness of the whole community ought to be sacrificed to that of the smaller number.\(^{57}\) The people’s enemy, continued Bentham, would deny that he aimed to promote the greatest happiness of the smaller number, but rather claim that he aimed to promote the greatest happiness of the greater number, on the grounds that ‘appropriate intellectual aptitude’ was necessary in order to do so, that the opulent were the class who possessed intellectual aptitude in ‘the largest proportion’, and that the government should, therefore, be placed in their hands.

In Bentham’s imaginary debate, the people’s friend responded by pointing out that intellectual aptitude was merely one of the three branches of appropriate aptitude relevant to the situations of legislator and elector, the others being moral and active aptitude. The possession of relative opulence might be taken as ‘presumptive evidence’ of intellectual aptitude, but it was ‘very far from being conclusive’ evidence. Moreover, it was only when intellectual and active aptitude were combined with moral aptitude that they were ‘contributive to the maximization of all-comprehensive appropriate aptitude’. If the aim of the legislator or the elector was the greatest happiness, not of the subject many but of the ruling few, then the greater his knowledge and the more profound his judgement, ‘the greater will be the contribution made by him to the

\(^{56}\) Ibid., 145–6.

\(^{57}\) UC cxlix. 278 (6 February 1831).
increase of the happiness of the ruling few, at the expence of . . . that of the subject many; and thereby of the whole number taken together’.\textsuperscript{58}

In order to maximize the happiness of the whole community, the people’s friend argued that it was necessary to maximize intellectual aptitude on the part not merely of the greater number but of the whole number of the members of the community, while at the same time not reducing moral aptitude. The possession of riches in itself did not secure intellectual and active aptitude, but what did give likely evidence of it was the possession of ‘the art of reading’. Hence, it was not property but the capacity to read that should form the basis of representation. The capacity to read was ‘moreover conducive to the possession of moral aptitude’, since it exposed the reader to ‘such discourse’ that showed the ‘inducements’ encouraging him to pursue ‘a course of good moral conduct’. The only qualification for the franchise that the people’s friend would require ‘on the part of an individual of a competent age’ would be the ability to read. This was what Jeremy Bentham (as the letter was intended to be anonymous, Bentham referred to himself in the third person) had recommended in his Parliamentary Reform Bill.\textsuperscript{59} The people’s friend urged that the legislature make provision for teaching the art of reading (whether to the whole population or just to males is not made explicit), and, presumably to illustrate the feasibility of the proposal, pointed to Bavaria and Denmark as countries in which everyone was able to read and write. Having admonished the admirers of the British Constitution for straining ‘every nerve to keep your fellow men of this Your Country in the state and condition of beasts of the field’, the people’s friend concluded:

In the possession of every man an equal share in the means of having his welfare attended to – this is one good thing; in the hand of every man a key to useful knowledge in every shape – this is another good thing: and of these two good things, on the plan of M’ Bentham, the one is effected by the instrumentality of the other: thus are two birds killed (as the phrase is) with one stone.\textsuperscript{60}

This short letter presents a summary of Bentham’s case for democracy, and it puts intellectual aptitude at the centre of it.

\textsuperscript{58} UC cxlix. 279 (6 February 1831).
\textsuperscript{59} UC cxlix. 280 (6 February 1831). For Bentham’s recommendation, see ‘Radical Reform Bill, with Extracts from the Reasons’, in Bentham, Works, viii. 558–97 at 560, 565.
\textsuperscript{60} UC cxlix. 281 (6 February 1831).
1.8 Conclusion

In this chapter, I have attempted to present a framework for understanding the place of knowledge and judgement, or intellectual aptitude, within Bentham’s political thought and in particular its importance in terms of Bentham’s commitment to democracy. In the earlier part of his career, while acknowledging that government should be conducted in the interest of the whole community, he did not think that it could be entrusted to the people because of their lack of intelligence and the means to acquire it. In the later part of his career, he thought that it was the rich and powerful who lacked any incentive to undertake the necessary labour to acquire knowledge and to exercise judgement, or if they did so, that it would be directed towards their own sinister ends. They did, however, have every incentive to maintain the people in ignorance. The sinister interest of rulers would be overcome by the identification of interests, made possible by the introduction of a democratic form of government, where the diffusion of the art of reading would promote the intellectual aptitude of the people. While the identification of interests between rulers and subjects was made possible by a democratic structure, it did not necessarily achieve it without further securities against misrule. One of the most important securities was that provided by the people in their role as members of the public opinion tribunal, which required them to be informed – with newspapers playing a critical role – to debate, to express their views, and then to give effect to their views. Bentham always supported the promotion of the general interest, but it was only when he reconciled himself to the fact that the people themselves best understood their own interest that he was able, consistently and coherently, to advocate democracy.