The Validity of Bicameralism: The Views of Harrington and Bentham

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As Tsebelis and Money note, "the intellectual debate over the merits of multiple deliberative assemblies is centuries old."[i] An important interlude in this debate is the emergence of the modern European state and the role bicameralism should play. Machiavelli and Hobbes offered a new perspective on political institutions but both were either indifferent, if not hostile, to the importance of bicameralism.[ii] An early proponent of a new model of bicameralism was James Harrington (1611-1677) who recommended that parliamentary architecture be redesigned to "give the upper hand in all cases unto common right or interest."[iii] To achieve this end Harrington proposed new arrangements, the most important of which was that there be two elected houses, each with a specific but different function.

As history records, the Harringtonian model was never seriously considered in his home country. With the Glorious Revolution, the United Kingdom moved to a constitutional model of mixed government which stood basically unaltered for another hundred years. During the rise of the "democratic ferment" inaugurated by the French and American revolutions, mixed government and the validity of bicameralism came under attack.[iv] Among the proponents of having only a single legislative body was Jeremy Bentham (1748-1832).

Like Harrington, Bentham believed in a form of government "in which the interest of the whole is the only interest provided for."[v] However, the institutional device he saw as discovering this common interest was diametrically opposed to that of Harrington. Only a unicameral legislature held validity. Ironically, Bentham was no more successful than Harrington in altering the parliamentary foundations of the United Kingdom.

The Harrington- Bentham debate is important for at least two reasons. The first is explanatory. The two thinkers held much in common. They were both republicans who embraced the concept of *res public*, that government should aim for the public good and be popularly sovereign.[vi] They believed that parliamentary design was key to realizing the goals established by those principles. How then to account for their disagreement about the validity of bicameralism?

Secondly, despite the fact that these two thinkers were idealists and outside the Westminster parliamentary tradition, it is not irrelevant to ask whether the Harrington-Bentham controversy holds any meaning today, given the

continued dissatisfaction with how legislative institutions perform. Can parliamentary reformists find any value in their writings as they search for alternatives to the problems of representative institutions, party government, executive dominance, gridlock, and adversarial debate?

This paper will begin by examining Harrington's model of bicameralism, followed by a review of the unicameralism proposed by Bentham. It will conclude with assessing their contributions to improving modern parliamentary systems.

The Bicameralism of James Harrington

Sabine sees the structural principles of Harrington's equal commonwealth as comprising "an agrarian law, rotation in office, the ballot, and the separation of powers."[vii] This paper will focus on the latter principle as there is strong evidence that bicameralism was his primary concern. Blitzer claims Harrington made frequent use of anatomical images and that he compared the two chambers of the legislature to the two chambers of the heart.[viii] In *Oceana*, Harrington himself states that the question of the bicameralism is the most important question in politics: "There is not a more noble or useful question in the politics than that which is started by Machiavel: whether means were to be found whereby the enmity that was between the senate and the people of Rome might have been removed. Nor is there any other in which we, or the present occasion, are so much concerned, particularly in relation unto this author; for as much as, his judgment in the determination of the question standing, our commonwealth falleth."[ix]

Harrington's preoccupation with forms of parliamentary government relate directly to the chaos flowing from the English Civil Wars. He scorned the existing model of mixed government for contributing to this chaos. For him mixed government was "no other than a wrestling match, wherein the nobility, as they have been stronger, have thrown the king, or the king, if he had been stronger, hath thrown the nobility; or the king, where he hath had a nobility and could bring them to his party, hath thrown the people…."[x] However, it was the Commonwealth's first government – the unicameral House of Commons Rump Parliament (1649-1653) - that Harrington found most objectionable. In order for bicameralism's validity to be proven, the erroneous unicameralism of the Rump had to be exposed.

Early in *Oceana* Harrington points to the ancients "and their learned disciple Machiavel for teaching that if a government ruled through passion, it was corrupt and that the corruption of democracy was called "anarchy." The Rump, the new symbol of England's democracy, was anarchical as it was driven by passion, fortune and private interests and was without "any covenants, conditions, or orders whatsoever." The people of England were being "tossed with every wind of doctrine, lost by the glib tongues of your demagogues and grandees in our havens!" They were being swept away by "vainglorious men" whose deliberations were misleading: "You shall never find that they have assumed debate for itself, but for something else…."[xi]

Having rid themselves of the King and the House of Lords, the rumpers turned their attacks upon themselves. Their bickering stemmed from "the envious nature of man" that both Machiavelli and Hobbes had identified[xii] and their lack of a proper constitutional design. Harrington would not have disagreed with Cromwell's assessment that the rumpers were "drunkards" and "whoremasters", nor with the traditional historical view that "by 1653 they had become intolerably oligarchical, dilatory and corrupt."[xiii]

The major flaw in the Rump's constitution was that it rested only on power. It had destroyed executive power and one half of legislative power leaving it the only authority with no restraints. Its January 4, 1649 declaration – "that the people of England, are under God, the original of all just power; that the Commons of England, by and representing the people, have the supreme power in this realm" – made no mention of authority. Such a foundation could only lead to the workways of corruption.

Harrington believed that parliamentary design was a function of first principles and historical precedent. The principles of government were in the goods of the mind, or in the goods of fortune. Without both of them being included within parliamentary architecture, government would become untrustworthy. As he wrote: "A popular Assembly, without a Senate, cannot be wise" and "A Senate without a popular Assembly, will not be honest"[xiv] These two principles defined "ancient prudence". Leviathan, focusing solely on power and without historical precedent, was trying "to destroy" ancient prudence.

A common interpretation is that Harrington totally dismissed the Rump and advocated a return to the classical, mixed form of government. Pocock holds that Harrington "accepted the Polybian thesis that the aim in government was to maintain a balance between the one, few and many…."[xv] Fink writes that Harrington "can be described only as an advocate of an aristocratic mixed polity."[xvi] Sabine felt he "was emphatically not a democrat either in purpose or in theory…Harrington's political ideal was the ancient republic under aristocratic auspices…."[xvii]

An alternative reading of Harrington's bicameralism focuses on his recognition of more modern constitutional arrangements.[xviii] Harrington himself says he wished "To go mine own way, and yet to follow the ancients…" He harbored no romantic notions of wanting a return to the institutions of classical Rome. As Lord Archon (Cromwell) tells his constitutional advisors in *Oceana*: "You would have a popular government…you have no more to do but to fix it."[xix] Even Fakuda writes: "The failure of the Rump illustrated Harrington's point. The Rump was not a conqueror, and did not have 'the common power' to govern. But it could have survived if it had only located 'the common interest' instead."[xx]

Although Harrington always maintained that "debate, to be mature, cannot be managed by a multitude,"[xxi] it was not the Rump's size which bothered him. Rather, its disqualifying feature was its lack of "natural or acquired virtues, as wisdom, prudence and courage, etc."[xxii] While Fakuda sees the relationship between Harrington and Hobbes as a debate between mixed government and undivided sovereignty, perhaps of more importance is their divergence on the need for authority in modern government, a point recognized by Cotton.[xxiii] The power/authority dichotomy between Hobbes and Harrington is more visually demonstrated by the frontispiece of *Leviathan* which features the sovereign holding a sword in his right hand while the broadside originally published by Harrington in *Oceana* illustrates the very formal and authoritative manner and use of the ballot in the Senate of Oceana.[xxiv]

Democratic institutions needed to go beyond power relations and seek "a Union of the Interests of the whole Nation in the Government."[xxv] Without providing a precise definition, Harrington felt this union of interests differed from private reason, which "is the interest of a private man" or the reason of the state

"which is the interest …of the rulers, that is to say of the prince, the nobility, or of the people." The common interest was "the interest of mankind or of the whole."[xxvi] Such a universal interest could only be found through a bicameral system in which the legislative was of greater importance than the executive[xxvii] and where authority was a leading governmental principle.

Cicero may have been of greater influence than Polybius. Harrington seems to concur with Cicero's dictum "Let the greatest authority have the greatest weight in all decisions." However, he would have disagreed on how this authority should be achieved. For Cicero, wisdom was corelated with the aristocracy and therefore with the appointed Senate. For Harrington, an appointed upper house was antithetical to the modern democratic state.

Authority to be legitimate needed to be based on consent. "… (T)he exercise of all just Authority over a free people" Harrington wrote, "ought (under God) to arise from their own Consent…the Parlament or the supreme Authority of *England* be chosen by the free People, to represent them with as much equality as may be."[xxviii] The choice of members to legislative institutions, including the upper house, must be based on the explicit agreement of the people, using a secret ballot and a wide franchise.

How to ensure that a democratic legislative institution would be guided by "the goods of the mind" would depend on the method of selection as well as institutional devices. An electoral system if properly designed would discourage corrupt or demagogic candidates and should produce virtuous legislators. He advocated stringent qualifications for those running for office, including a minimum age limit of 30 years, complicated indirect elections, and three-year terms.

Democratic elections did not have to be driven by passion. As he says in the *Prerogative of Popular Government* "dos it therefore follow that the eminent degree of reason, wherewithal God has indu'd man, must in him deface that natural affection, and desertion in some cases of privat for common good, which is apparent even in beasts?" In *Oceana*, he uses the example of *auctoritas patrum* as the reason why the ablest would be elected. If twenty men came together, six would show the eminence of their parts "in matters of common concernement, difficulty or danger…" and the other fourteen would "hang upon their lips as

children upon their fathers." Harrington states: "The six then approved of, as in the present case, are the senate, not by hereditary right, nor in regard to the greatness of their estates only…but by election of their excellent parts, which tendeth unto the advancement of the influence of their virtue or authority that leads the people."[xxix]

The parliamentary process must be designed to encourage ancient virtue. The Senate was to hold its sittings in "Pantheon or palace of justice" and its presiding officers would be "adorned with scarlet robes." Rotation would prevent factions since members would be restricted to serving three-year terms as well as the degeneration of the Senate into oligarchy.[xxx] Parties were discouraged through a complicated legislative voting system and candidates would be constitutionally required to take an oath that they would neither offend nor strike "at the root of this commonwealth." The "common interest" would be arrived at through extensive debate in both in committee (or the appropriate Council) and in the plenary session of the Senate. There would then be multiple votes on the opinions expressed "until one proposal received a majority, or no proposal remains."[xxxi]

The solution to Machiavelli's "most noble" question of removing the enmity between the Senate and the people of Rome would be achieved by separating the procedural functions of debating and resolving. The political fable of the two silly girls having a cake where one divides and the other choses demonstrated how bicameralism could discover society's "common interest." It revealed "the whole mystery of a commonwealth, which lies only in dividing and choosing."[xxxii] The Senate would debate and the lower house would resolve.

In this new democratic modernity, the Senate would not be a sovereign body or possess a check on the assembly. Although the lead institution playing a substantive role in the legislative process, senators were only "counsellors of the people" whose job it was to give advice. Final decision-making would rest with the Prerogative Tribe, or the lower house, since "a popular assembly, rightly ordered, brings up everyone in his turn to give the result of the whole people."[xxxiii] The larger, lower house collectively represented the interest of the nation. Because its primary focus was on power and interest and due to its larger size, the

assembly would be constitutionally prevented from debating measures. However, all legislation needed its approval and hence would be biased in its favour.

Harrington believed that authority or the goods of the mind must lead the lower house whose focus was on power and fortune. The constitutional and procedural devices he proposed were, he felt, adequate to protect against the dangers of corruption. Many of the precepts of his model would be challenged by Jeremy Bentham.

The Unicameralism of Jeremy Bentham

There is no evidence that Bentham read Harrington as he is never quoted or referred to by name. He could have known his work directly since a reprint of *Oceana* was published in 1771 and through his reading of Hume and Montesquieu and possibly Burke.[xxxiv] There is some indirect evidence in *A Fragment of Government* where he states that Blackstone may have obtained his knowledge of the wisdom of the Venetian Senate from Montesquieu "and elsewhere." In a footnote, Harrison writes: "No extended discussion of the Venetian senate is to be found in such works of Montesquieu as Blackstone could have read."[xxxv] Bentham may have been referring to Harrington who begins *Oceana* by describing Venice as having had "her eye fixed upon ancient prudence and is attained to a perfection even beyond her copy." There is also evidence of his awareness of *Oceana* in his analysis of the various models and theories of bicameralism.

Scholars have seen a link between Bentham and Harrington. Shklar describes the Benthamites as "his logical successors" given that both agitated for written constitutions, shorter parliaments, the use of the secret ballot and the rotation of legislators. Blitzer feels Harrington's views in the last analysis were utilitarian since he believed it possible to discover the common interest by "recognizing all the time that when consulted each individual will predictably opt for his private advantage." However, the gulf between these two thinkers is wide since as Shlar notes the utilitarians "did not look to history and certainly not to the sad events of the Commonwealth, to support their plans for constitutional and electoral reform" and that "utopias" did not appeal to them.[xxxvi]

Bentham was slow in coming to his ultimate conclusion that the utility of a single chamber of deputies "is recognized by all sides."[xxxvii] Dinwiddy notes that during the course of events in revolutionary France, although Bentham wanted a

change in the legal system, he wanted "no change in the Constitution or in the form of parliament."[xxxviii] This is made clear in *Essay on Political Tactics* (1791) where he refers to the mixed constitution as "this beautiful political order." He lists its several advantages which include providing "the greater force in the laws when the nobility have concurred in sanctioning them" and connecting the interest of the Lords to "the general interest."[xxxix]

Crimmins writes it was only in 1822 and onward that "we see the final statement of Bentham's republican politics…only a republican and unicameral system of government with a democratically elected legislature based on 'virtual universality of suffrage', annual elections and a secret ballot, together with a responsive and accountable administration based on the principles of economy and efficiency, and a free press – collectively styled 'securities against misrule' – could ensure that the greatest happiness would consistently be the objective of government."[xl]

To demonstrate that legislative power should never be divided, Bentham surveyed all known models of two-house chambers. Whereas Harrington exposed the unicameralism of the Rump, Bentham attacked all forms of bicameralism.

He was cognizant of the developments which had taken place since the Interregnum and the constitutionally settled accommodation of the three estates. However, over time the mixed model was increasingly coming under attack as power slowly shifted away from the King and the Lords to the Commons. Party politics was on the rise with ominous consequences for all legislatures.[xli] Montesquieu published *L'esprit des lois* in 1748 and a new two-chamber federal model had appeared in America.

Regarding mixed government, Bentham expressed doubt whether any of the branches were entirely independent. As he wrote: "…is this then really the case? Those who consider the influence which the Kings and so many of the Lords have in the election of members of the House of Commons, the power which the King has, at a minute's warning, of putting an end to the existence of any House of Commons: those who consider the influence which the King has over both Houses, by offices of dignity and profit given and taken away again at pleasure; those who consider that the King, on the other hand, depends for his daily bread on both Houses…".[xlii]

By 1830, mixed government was no longer a "beautiful political order" but a trinity of "co-plunders and co-oppressors, Kings, Lords and Commons." Bentham saw this form of bicameralism as one of "corruption and waste" wherein the dignity of the upper chamber was a delusion "which makes people see things confusedly and falsely". Any influence the Lords had in the legislative process "was corruption under another name." At times, his attacks on the Lords and the King matched the hyperbole of Civil War republicans.[xliii]

Bentham observed that parties had once again made parliament a forum for in-fighting, akin to the wrestling matches Harrington witnessed. As Bentham wrote in *Plan of Parliamentary Reform*: "…antagonizing…struggling…the party out of power as well as the party in power, inculcating in theory; the party in power, by theory and practice…all of them at the expense of the people – the poor people."[xliv] He saw the rise of controlling politicians who led their parties with little restrictions. He referred to Walpole as "famous in the art and science of political corruption" Regarding Peel, Bentham wrote "We have a Minister, who under the Duke of Wellington, governs the country; and under nobody, governs the House of Commons. His name if Sir Robert Peel."[xlv] In *Essay on Political Tactics*, he warned that disciplined party formations must be discouraged: "If one portion of (a legislature's) members submit to exist in a state of nullity, and renounce the independence of their opinion…it is no longer a political body; all its deliberations will be prepared in secret by a small number of individuals, who will become so much more dangerous, because acting in the name of the assembly they will have no responsibility to fear."[xlvi]

Bentham disagreed with Montesquieu who theorized that governments would become despotic if the executive and judicial power were placed in the hands of the legislative. For Bentham such talk "had no meaning." Utility was the test of the worthiness of parliamentary institutions and he attacked Montesquieu for not referring to the greatest happiness principle or how the people can be secured against their rulers. Montesquieu only talks of "liberty" as the end of government but logically "there only is liberty perfect, where no government has place."[xlvii]

Bentham also opposed the new American federalist model of bicameralism. He described Congress as "this clog upon the proceedings of the representatives

of the people." If the Senate had been elected by the same electors as the House of Representatives, "the delay and expense would have constituted the most material, if not the only material evils." But because each state legislature, "a comparatively small body," chose the members of the Senate, "… in no hands is there any efficient control over their conduct." He felt the American system was "an organized aristocracy…over which the members of the constitutive have no direct influence: if may, indeed, be said scarcely any influence at all." As for the American Senate being a regional voice, Bentham believed this could be provided for through unicameralism by distributing seats by territory and population.[xlviii]

Without specifically naming him, Bentham also addressed Harrington's model of bicameralism. A popularly elected assembly neither needed to be led nor checked by the authority of an upper house. It was quite capable of discovering the common interest on its own.

The authority of a second chamber should not exist at all since what authority it possesses is "mere prejudice, authority begotten and blind custom begotten prejudice."[xlix] Historical example and experience, so important to Harrington (and also to David Hume), was without meaning to him. John Stuart Mill wrote of Bentham's view of ancient authority: "Other ages and other nations were a blank to him for purposes of instruction. He measured them but by one standard: their knowledge of facts, and their capability to take correct views of utility and merge all other objects on it."[l] Crimmins notes that Bentham "rejected the works of Cicero as a 'heap of nonsense' early in his career."[li] Like Tom Paine, Bentham believed that authority should never be the exclusive domain of second chambers. If it were, there was no justification for a two-house assembly. As he wrote in 1830, "if to this same Second Chamber more such appropriate attitude belongs than to the first, not *Second* ought it to be, but *First*, or rather…the *only* Chamber."[lii]

In defending unicameralism, Bentham needed to address the image painted by such contemporaries as John Adams and James Madison that single chambers would yield to impulses and be easily misled by demagogues. In his ideal one house parliament, all legislators were to have the proper moral attitude but it was not the Harringtonian "natural or acquired virtues, as wisdom, prudence and courage" but the identification of the interests of the rulers with

those of the people. Members were to be endowed with *"elements of aptitude,* necessary to fit them for the due discharge of such their trust."* These elements included "forming a right judgment" on legislative proposals and having the proper parliamentary "talents" such as introducing a motion or amendment and delivering a speech. Rosenblum states that for Bentham "(t)he Legislator's special knowledge, then, is logic."[liii] Through the right institutional devices, the legislator will determine what will be effective in promoting the greatest happiness for the greatest number, presumably using a calculus of pleasures and pains.

There were other aspects of Harrington's model that Bentham opposed. He did not agree on dividing powers whereby one house has "the *initiative*, the other a simple *negative.*" Such an arrangement would be "a natural and fruitful source of undue opposition, of quarrels, of inaction and of perpetuity for abuse." As well, "that body which is reduced to a single negative, will be opposed to everything. It can only show its power by rejecting: it appears as nothing when it accepts."[liv] More importantly, such a division of power did not guarantee the protection against self-interest. "The susceptibility as to corruption" Bentham wrote in the *Constitutional Code*, "…(is) inherent in the constitution of a representative democracy, as well as that of every other form of government. In every state there must be an administrative authority; and in every state, the members of the legislative authority will be able and inclined to exchange favours with those of the administrative, and to join with them in a system of depredation and oppression at the expense of the people."

He also disagreed with Harrington's observation that fulsome debate cannot take place in a large assembly. Bentham did not see the number of seats impacting on the quality of debate. What was more important was the "proportion as its interest is similar to that of the community." Bentham recommended keeping the House of Commons at its same size – 658 members.[lv]

On the other hand, Bentham was in agreement with Harrington that the executive must be kept comparatively weak. The Prime Minister and the Justice Minister were to be elected and responsible to the legislature. He also concurred with Harrington's belief that parliamentary procedure should be goal-oriented to guide members towards the common interest. Good decisions were the product of good procedures and bad decisions the result of poor practices. A properly

designed procedure would serve as the institutional check on abuse of powers and the corrupt actions of its members, as well as bring order to their proceedings. This check included a) creating a secure and efficient legislative environment stimulating the members' liberty and intelligence; and b) exposing members to the interests of the public and not particular of private interests. The rules would focus on public benefit not the "rights" of members. When strictly enforced they would prevent the "inconveniences' often seen in assemblies, namely inaction, useless decision, delays, quarrels and falsehoods. Like Harrington, Bentham wanted members to take an oath. Before taking their seats, legislators were to swear that they recognize "as the all-comprehensive and only right and proper end of Government, the greatest happiness of the greatest number of the members of the community…."[lvi]

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Both Harrington and Bentham shared the belief that the purpose of government was the common interest but had different conceptions of what that interest consisted of and hence divergent institutional designs. Harrington stressed "a Union of the Interests" of the goods of the mind with those of fortune and power. Since each house of parliament should be designed to represent these opposing interests, dividing and choosing had to be separated and a more conservative process in order for the common good to be found. Bentham thought the common good could be found unicamerally because all legislators had the same interest – putting into legislative form the greatest happiness for the greatest number. Since all members possessed the correct "elements of aptitude", the functions of dividing and choosing did not have to be separated. In the final analysis, both wanted a reformed Rump, modernity's original democratic legislature, since Harrington and Bentham presumably would have agreed with Fakuda that the Rump might have survived "if it had only located 'the common interest'." Their different designs were determined by their opposing conception of the common good.

This paper's final section will address whether their proposals can hold any place in today's debate on parliamentary reform.

Improving Modern Parliamentary Systems: Assessing the Contributions of the Harrington and Bentham

As noted, Harrington and Bentham's writings were idealist and fell outside the Westminster tradition. In such systems, power is executive-centred, political parties play a dominating role, and the format of parliamentary discussion is adversarial. These systems are so contrary to those advocated by Harrington and Bentham that they seemingly render their writings impractical.

There have been other criticisms. The universities in Harrington's time mocked *Oceana* for portraying "Machiavel in pufpaste, a commonwealth com out of a bakehouse where smocks were the boulters."[lvii] He was much faulted for failing to see that politics was more complicated than two silly girls dividing a cake. Christopher Wren observed "the concernments of the severall parts of this Nation are very different in Reference to Property and Riches." Wren felt the central purpose of politics was limited to balancing competing interests.[lviii]

Hume felt that civil liberties were not protected by Harrington's institutional arrangements.[lix] Blitzer criticizes Harrington for "his tendency to go too far with his rationalistic system-building."[lx] Halevy described Bentham as a convert to "democratic authoritarianism"[lxi] while Rosenblum said that Bentham was "an advocate of absolutism. He rejected any limits to the matters or measures that might come within the rulers' exercise of power…."[lxii]

Despite such assessments, the writings of Harrington and Bentham cannot be totally dismissed when discussing options for the reform of today's parliaments. Perhaps as a starting point, it may be appropriate to regard their writings as "Mirrors of Legislatures", similar to the medieval "Mirror of Princes" genre which offered models of good and bad political behaviour to incoming rulers. In Harrington's and Bentham's case their "Mirror of Legislatures" can be thought of as teaching aides to new legislators with the aim of providing alternative visions of how legislatures should function in a still evolving democratic state. Although each could compose their individual lessons, some of shared Harrington-Bentham "political aphorisms" would be as follows.

- Parliaments must move beyond competitive power relations. If they do not, they will remain "wrestling matches" where either each branch of

government or each political party will try to throw the other. While wrestling matches may be good entertainment, carrying them into parliament may only be to the advantage of the players involved and most likely to the disadvantage of the people. Parliaments focused on adversarial power underplay issues and lessen respect.

- Secondly, parliaments must be constantly vigilant about the dangers of corruption. Harrington felt that modern government had become an "art whereby some man, or some few men, subject a city or a nation, and rule it according unto his or their private interest."[lxiii] Bentham felt the immediate cause of parliament's problems were "men acting as representatives of the people, coupled with adequate power a sinister interest."[lxiv] Sinister interests included a member's desire for power or money, or to help a friend, the party or themselves. There must strong regimes to combat broadly defined corrupting influences.

- Thirdly, parliamentary debate needs to become more meaningful. Harrington felt the people were being swept away by "vainglorious men" whose words were misleading. Bentham felt the animosities and personalities in political assemblies "produce dispositions most opposite to the search for the truth…the animosities of political assemblies substitute objects altogether foreign from those which ought to occupy them. A thousand incidents which daily arise, lead them to neglect what ought to be attended to."[lxv]

- Finally, the decisions and laws of parliament should always conform to the interests of people, not to the interests of the legislators or the executive. Harrington's system was described by Russell Smith as a "representative referendum"[lxvi] whereby all legislative proposals to be enacted must be approved by the people - in Harrington's case, the Prerogative Tribe, which today could be revised to mean direct popular approval through plebiscites. Bentham wrote that "recognizing the fallibility of the public, it is proper to act as though it were infallible; and that we ought never, under pretence of this infallibility, to establish a system which would withdraw the representatives of the public from its influence."[lxvii]

As to their individual contributions, Harrington's emphasis on the need for Ciceronian authority in upper houses continues to resonate. Political scientists have noted that even with the decline of the power of upper houses in Westminster systems, the distinction between authority and power is still appropriate. Money and Tsebelis attribute this still relevant dichotomy to Cicero's Puzzle: "why does the upper house have authority even when the lower house is granted the power of decision?" The House of Lords retains its authority despite its lack of power through dedication, expertise and moderation as well as the institutional features of the British parliamentary system which permits it.[lxviii] What would make the Lords authority more legitimate in Harrington's mind would be their selection through institutional devices by which they would be popularly elected yet still retain their normative bases of influence such as expertise and independence.

Most recently, Maxwell Cameron has observed that "political institutions…are failing to respond to many of the biggest collectivist challenges of our times…(T)o exert a positive influence, institutions require people with the will and skill to serve the common good…."[lxix] For those who stress that the authoritarian character of institutions should become more important and that there be a greater integration of ethics, *Oceana* may be instructive on how ethics and power can be combined within a bicameral system.

Bentham's lasting contribution was his insistence that the focus of parliamentary reform be on improving the role of members themselves, not that of their party, the Government or the Opposition. His concept of how a legislature should function emphasized a return to what is helpful to the individual member allowing them to make the best contribution possible in the enactment of legislation. Redlich has observed that while Bentham seemed to have found new principles of parliamentary procedure "to tell the truth, they are nothing but the results of a discriminating study of the characteristics of the British Parliament at the end of the eighteenth century…."[lxx] As described in *Essay on Political Tactics*, Bentham proposals were the historic procedure of the House of Commons. It consisted of the necessity of publicity before measures could be placed on the Order Paper, the impartiality of the Speaker in enforcing the rules, the logical order of parliamentary debate, the importance of freedom of speech, and the

principle of the majority. Returning to such principles may be essential in making parliament a more effective institution.

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[i] Tsebelis, George and Jeanette Money, *Bicameralism* (Cambrige: Cambridge University Press, 1997), 15.

[ii] For Machiavelli's view on bicameralism, see *The Discourses on Livy,* translated by Ninian Hill Thomson (Digireads, 2011) chapter 6: "…we must, consequently, put up with those dissensions which arise between the commons and the Senate, looking on them as evils which cannot be escaped if we would arrive at the greatness of Rome." Hobbes defended unicameralism. As he wrote in *Leviathan*, (Baltimore: Penguin Books, 1968, edited by C.B. Macpherson), 227: "The only way to erect such a Common Power, as may be able to defend them from the invasion of Forraigners, and the injuries of one another…is to conferre all their power and strength upon one Man, or upon one Assembly of men, that may reduce all their Wills, by plurality of voices, unto one Will….".

[iii] James Harrington, *The Commonwealth of Oceana and A System of Politics*, edited by J.G.A. Pocock (Cambridge: Cambridge University Press, 1992), 22

[iv] See Lewis Rockow, "Bentham and the Theory of Second Chambers", *American Political Science Review*, Vol. 22, No. 3 (August) 1928, 576-590.

[v] Jeremy Bentham, *Plan of Parliamentary Reform in the Form of a Catechism*, Section IV (20), in *The Works of Jeremy Bentham, published under the supervision of his executor, John Bowering Volume 3* (Edinburgh: William Tait, 1838-43).

[vi] Harrington and Bentham were not the only republicans to dispute the need for a second chamber. As John Adams wrote in *Thoughts on Government* (Ann Arbor: Text Creation Partnership, first published 1776): "Of republics there is an inexhaustible variety, because the possible combinations of the powers of society are capable of innumerable variations." Adams argued the merits of second chambers against Tom Paine, saying that a single chamber is liable to all the vices and frailties of an individual, which included making hasty and absurd judgments and acting in his own interest. An upper house would correct these defects by supplying a controlling power. Paine argued that a freely elected single chamber like France's National Assembly represented "enlightened mankind" and showed the "proper character of man." See *The Rights of Man* (Cambridge: Cambridge University Press, 2012).

[vii] George H. Sabine and Thomas L. Thorson*, A History of Political Theory* (Hinsdale, Illinois: HRW International Editions, 1973, fourth edition), 467.

[viii] Blitzer, op.cit., 100.

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ix *Oceana,* 155.

x Ibid., 53.

xi Ibid., 10, 65, 145, 150.

xii Cotton notes "Harrington's extravagant praise of Hobbes' doctrine of human nature." See James Cotton, "James Harrington and Thomas Hobbes", *Journal of the History of Ideas*, Vol. 42, No. 3 (July-Sept.), 1981*,* 415.

xiii Blair Worden, *The Rump Parliament 1648-1653* (Cambridge: Cambridge University Press, 1974), 336, 384.

xiv James Harrington, *Political Aphorisms*, LXXVI and LXXVII, in *Oceana and other works*. With an account of his life by John Toland (London: 1700).

xv Pocock, op.cit, xv.

xvi Zera S. Fink, *The Classical Republicans: An Essay on the Recovery of a Pattern of Thought in Seventeenth-Century England* (Eugene, Oregon: Resource Publications, 2011, second edition), 60.

xvii Sabine, op.cit., 469.

xviii Leo Strauss writes that Harrington "rejected the view of the classical thinkers, who defined the constitution not only in terms of institutions, but primarily in terms of the aims pursued by the community or its authoritative parts, and accepted the view advanced by Hobbes that man, as the "maker" of commonwealths can solve once and for all the problems inherent in man as the "matter of them." *What is Political Philosophy? And Other Studies* (Westport, Conn.: Greenwood Press, 1973), 291-2.

xix *Oceana*, 10, 135.

xx Arihiro Fakuda, *Sovereignty and The Sword: Harrington, Hobbes, and Mixed Government in the English Civil Wars* (Oxford: Oxford Historical Monographs, 1997), 96-97.

xxi *A System of Politics*, 280.

xxii *Oceana*, 10.

xxiii Cotton notes that what separates Harrington and Hobbes is the distinction between power and authority. See op.cit., 410.

xxiv See Blitzer, op.cit., 236

xxv *The Humble Petition of Divers Well Affected Persons,* July 6, 1659.

xxvi *Oceana*, 21.

xxvii Blitzer writes: "…the parliament of Oceana possesses the authority to choose the members of the executive branch of government (and) to supervise their activities…." op.cit., 235.

xxviii *The Humble Petition of Divers Well Affected Persons*.

xxix *Oceana*, 23.

xxx James Madison would later challenge Harrington's views of rotation in upper houses. Longer terms for senators were required to provide continued attention to complex issues. See *The Federalist Papers*, No. 63 (New York: New American Library, 1961), 383-4.

xxxi Blitzer, op.cit., 239.

xxxii *Oceana*, 22.

xxxiii *A System of Politics*, 280.

xxxiv For references to Harrington in Hume and Montesquieu, see H.F. Russell Smith, *Harrington and His Oceana*: *A Study of a 17th Century Utopia and Its Influence in America* (New York: Octagon Books, 1971), 146-7, 202. For Burke's reference, see Judith Shklar, "Ideology Hunting: The Case of James Harrington", *American Political Science Review*, 53 (September 1959), 665

xxxv Jeremy Bentham, *A Fragment of Government* (Cambridge: Cambridge University Press, 1988, introduction by Ross Harrison), 77.

xxxvi Shklar, op.cit., 663-4; Blitzer, op.cit., 145-6.

xxxvii *Jeremy Bentham to his Fellow-Citizens of France on Houses of Peers and Senates*, 6, in Bowering, op.cit., Volume 4.

xxxviii John Dinwiddy, *Bentham* (Oxford: Oxford University Press, 1989), 12.

xxxix Jeremy Bentham, *Essay on Political Tactics*, chapter 5, in Bowering, op.cit., Volume 2.

xl James E. Crimmins, *Utilitarian Philosophy and Politics: Bentham's Later Years* (London: Bloomsbury Academic, 2011), 131.

xli Regarding parties and bicameralism, Vernon Bogdanor writes "the dominance of party politics in modern democracies" has meant that "the practice of bicameralism bears very little relation to the theory." *Politics and the Constitution: Essays on British Government* (Dartmouth Publishing, 1996), 258.

xlii *A Fragment of Government*, op.cit. 75-76.

xliii *On Houses of Peers and Senates*, 40, 26, 28, 17, 19. Bentham compares the House of Lords with packs of wolves, saying that "each of them would do more mischief than many wolves." When killed, wolves' skins can be used, but "if they (the Lords) were killed, their skins could not be put to any use." See *Constitutional Code*, chapter 16, Section 1, Bowering edition, Volume 9.

xliv Jeremy Bentham, *Plan of Parliamentary Reform,* 3-4.

xlv *On Houses of Peers and Senates,* 10, 20*.*

[xlvi] *Essay on Political Tactics*, chapter 2.

[xlvii] *Constitutional Code*, section VI.

[xlviii] See ibid. Regarding members' seats, Bentham proposed that two-thirds be distributed based on territory and one-third for population. See *Plan for Parliamentary Reform*, Sec II.

[xlix] *Constitutional Code*, section VI.

[l] John Stuart Mill, *Utilitarianism, On Liberty, Essay on Bentham* (London: A Meridian Book, 1974), 97.

[li] Crimmins, *Utilitarian Philosophy and Politics*, op.cit., 193.

[lii] *On Houses of Peers and Senates*, 6.

[liii] Nancy L. Rosenblum, *Bentham's Theory of the Modern State* (Cambridge: Harvard University Press, 1978), 23.

[liv] *Essay on Political Tactics*, chapter 5.

[lv] *Plan of Parliamentary Reform*, Article II.

[lvi] *Constitutional Code*, 136-138.

[lvii] James Harrington, *Prerogative of Government* in Toland edition, op.cit.

[lviii] See Russell Smith, op.cit., 117-8.

[lix] Shklar, op.cit, 664.

[lx] Blitzer, op.cit., 289.

[lxi] Quoted in James E. Crimmins, "Bentham's Philosophical Politics", *The Harvard Review of Philosophy*, Spring, 1993, 21.

[lxii] Rosenblum, op.cit., 100.

[lxiii] *Oceana*, 9.

[lxiv] *Plan of Parliamentary Reform*, section V.

[lxv] *Essay on Political Tactics*, chapter 1-2.

[lxvi] Russell Smith, op.cit., 212.

[lxvii] *Essay on Political Tactics*, chapter 14-2.

[lxviii] Jeanette Money and George Tsebelis, "Cicero's Puzzle: Upper House Power in Comparative Perspective", *International Political Science Review*, 1992, Vol. 13, No. 1., 25-26.

[lxix] Maxwell A. Cameron, *Political Institutions and Political Wisdom: Between Rules and Practices* (Oxford: Oxford University Press, 2018), Introduction.

[lxx] Josef Redlich, *The Procedure of the House of Commons* (New York: AMS Press, 1969, volume 3), 188.