# Which comes first, Bentham's chicken of utility, or his egg of truth?

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## Abstract

*This paper argues that whilst Bentham's logic, like all human activity, had pragmatic goals, so that all knowledge was subject to utilitarian evaluation, he clearly distinguished between utility and truth. § I presents the textual evidence that Bentham believed that truth was communicable in propositions relating to real entities, and discusses the limits to the information which true propositions could impart. It is argued further that the processes of phraseoplerosis and paraphrasis revealed which propositions relating to fictitious entities could be translated into propositions capable of bearing truth (i.e. relating to real entities). In § II an attempt is made to paraphrase 'truth', and the result indicates that Bentham did indeed interpret true as meaning 'corresponds to the real'. In § III, it is argued that Bentham's concept of truth combined both an objective element, according to which truth was understood as correspondence with reality, and a subjective element, according to which truth is simply an adjunct to subjective belief, while veracity relates to the accurate reporting of belief. The bridge between these elements was formed by the methods of Baconian induction, and the universal human ability to interpret the evidence arising from sensory data. Progress towards truth depended on the free exchange of the available empirical evidence, and of the inferences drawn therefrom. § IV discusses the relation between Bentham's logic and pragmatism and fictionalism respectively, and argues that whilst Bentham's thought anticipates central elements of both philosophies, it cannot consistently be characterized as either pragmatist or fictionalist, since ultimately, it is the rooting of the fictitious entity utility in the real entities of pleasure and pain which makes it the only viable moral principle. The value of true propositions is indeed to be subjected to utilitarian evaluation, but the very possibility of utilitarian evaluation itself depends on the existence of true propositions. § V investigates possible tensions between truth and utility, and asks where Bentham's ultimate loyalty lies. It is argued that whilst the possibility of justified duplicity must, on any utilitarian view, remain on the table, Bentham's recognition that the evidence of sense experience is available to all renders the probability of a successful perpetration of a utilitarian 'noble lie' vanishingly small.*

**Keywords: Bentham, Truth, Utility, Fiction, Subjectivism, Objectivism**

**Introduction[1]**

To investigate the relationship between truth and utility in Bentham's thought is to investigate the relationship between the faculty of understanding and the faculty of will, since, to abbreviate outrageously, the understanding is governed by truth, and the will by utility. So interpreted, an obvious answer emerges to the question of this paper. Sentient beings act, react, and indeed think in response to a natural desire for pleasure and aversion to pain:

> Every operation of the mind, and thence every operation of the body, is the result of an exercise of the will or volitional faculty.—The volitional faculty is a branch of the appetitive faculty: i.e. that faculty in which *desire*, in all its several modifications, has place. Desire has for its object either pleasure or pain, or what is commonly the case a mixture of both in ever-varying and unascertainable proportions.[2]

Thought is not only laborious, and thereby painful, but difficult, and is therefore only rationally explicable in terms of an anticipated pay off in pleasure experienced or pain avoided. In the absence of the motivational impetus of pleasure and pain—without, that is to say a desire for utility, not necessarily general utility, since personal or sectional utility will serve—the acquisition of accurate knowledge about the world, that is of truth, is, to multiply yet further the number of fictitious entities already deployed in this single paragraph, an effect without a cause. What is of interest to human beings is that which constitutes a source of pleasure or pain to them. For Bentham, the foundational principle of rationality is that the sensation of pleasure is to be preferred to that of pain. Is this principle true? Not perhaps analytically or logically, but Bentham is confident that, whether we engage in introspection or observation, we will quickly encounter an abundance of empirical evidence in its favour, and an

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[2] 'Logic', ci. 409–10 (*The Works of Jeremy Bentham,* ed. J. Bowring, 11 vols. Edinburgh, 1838–43 (henceforth Bowring), viii. 279).

absence of evidence to the contrary.[3]

So basic is this evaluative premise that Bentham asserts 'goodness' and 'badness', meaning respectively 'pleasure-giving' and 'pain-giving', to have been among the earliest qualities designated in human language:

> *Goodness* and *badness*, of all qualities, experienced or imaginable, these are the very first that would present themselves to notice—these are the very first that would obtain names. Desire of pleasure and of exemption from pain, in one word *interest*, being in some shape or other the source of every thought as well as the cause of every action, ... names plainly and immediately expressive of the two opposite modes of relation in which those objects would be continually bearing relation to each man's *interest* ... would be among the very earliest to which the faculty of discourse would give existence.[4]

The desire for pleasure and aversion to pain guides human agents in their exploration of the world, and thus guides thought. If we might for the moment identify truth with knowledge, conscious of the need to return to the investigation of their relation in due course, it seems further obvious that the value of truth should be assessed in terms of its contribution to satisfying this basic human desire: '[E]xcept in so far as in some shape or other it leads to and is productive of well-being—a balance on the side of happiness—what is the value of all the knowledge in the world?—Just nothing.'[5] However, what is clear, both from this quotation and from his repeated criticisms that

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[3] Whereas the principle of sympathy and antipathy fails as a moral principle because it lacks any objective standard—precisely because, that is to say, it makes no testable claims to the truth of its dictates, since it makes no appeal to evidence—the principle of asceticism does proffer an objective standard, does speak in the language of empirically testable fact. Instead, the principle of asceticism is to be rejected simply because it contradicts this foundational premise and is, therefore, in effect, simply insane. See *An Introduction to the Principles of Morals and Legislation* (henceforth *IPML*), ed. J.H. Burns and H.L.A. Hart, Oxford, 1996 (*CW*), pp. 19–21.

[4] 'Ontology', UC cii. 42 (*De l'ontologie et autres textes sur les fictions*, eds. P. Schofield, J-P. Cléro & C. Laval, Paris, 1997, p. 98 (Bowring, viii. 203)).

[5] 'Logic', UC ci. 153 (Bowring, viii. 233). See also UC ci. 153 (Bowring, viii. 232): 'In point of use, of real utility, and thence in point of real worth and true dignity, in so far as they are separate or separable, knowledge is inferior to art: so much so, that separated from art, all the knowledge which the human mind is capable of containing is of no use.'; *IPML* (*CW*), p. 201, where, in explaining the origin of the religious sanction as a supplement to the political, Bentham notes: 'it is thought necessary, or at least *useful* (without which the *truth* of the doctrine would be nothing to the purpose) to inculcate into the minds of the people the belief of the existence of a power ... not liable to the same deficiencies.'

certain methods or rules are consonant neither with truth nor utility,[6] is that Bentham avoids the move seemingly made by William James, of simply identifying truth with utility.[7] There are, for Bentham, two separate concepts in play, though he never provides us with an extended discussion of the relation between them.

Bentham's logic is indeed, as Postema notes, entirely pragmatic in origin,[8] and without doubt Bentham was committed to evaluating everything according to its consequences. For him, the confusion in language arising from the necessary use of names of fictitious entities in law has had appalling consequences, while his method for the ascription of meaning and truth is capable of preventing such consequences in future. The pragmatic necessity to impose order on the potential chaos of reality demands the invention of a host of fictitious entities which are essential to interpret reality in all areas of life. Logic provides a method for 'giving, to the best advantage, direction to the human mind, in its pursuit of any object or purpose',[9] while the end of logic, as of all rational action, is well-being. Bentham then, explicitly subjects all knowledge to utilitarian evaluation, but also clearly differentiates between truth and utility.

The first accurate assertion we can make about both truth and utility is that both are names of fictitious entities, which is to say that neither exists as an object in the physical world. Both are qualities, properties of propositions or statements on the one hand, and of physical objects, rules or actions on the other. For Bentham, the problem with language, a construction of the human mind, is that as soon as it evolves beyond the declaration of desire or aversion towards particular existing objects, it necessarily ascribes existence to things which have none. He asserts that all language which deploys the names of anything other than really existing entities is figurative, or metaphorical,[10] while 'of names that are *not* names of *things*, there are abundantly

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[6] See, for instance, *IPML* (*CW*), p. 102; *Chrestomathia*, eds. M.J. Smith and W.H. Burston, Oxford, 1983 (*CW*), p. 346; 'Political Fallacies', UC ciii. 434 (Bowring, ii. 458); 'Rationale of Reward', Bowring, ii. 263–4; 'General View of a complete code of laws', Bowring, iii. 190.

[7] See 'Pragmatism: A new name for some old ways of thinking' (first published in 1907), in *William James Pragmatism in focus*, ed, D. Olin, London & New York, 1992, pp. 13–142, at pp. 101–2; and see the discussion in § IV below.

[8] See G. Postema, 'Fact, fictions and law: Bentham on the foundations of evidence', in W.L. Twining ed., *Facts in Law*, Wiesbaden, 1983, pp. 37–64, at p. 50.

[9] 'Logic', UC ci. 92 (Bowring, viii. 219).

[10] See 'Universal Grammar', UC cii. 466, (Bowring, viii. 331).

more than of names that *are*'.[11] As such, nearly all of the propositions asserted in language are fictional, that is, they are strictly speaking falsehoods. It is true that the division between real and fictitious entities occurs entirely within language, but the linguistic division between names which have referents in the world, and names which have no such referents, nevertheless reflects, for Bentham, an ontological distinction between things which exist, and things which do not.

Jackson is quite correct in asserting that for Bentham the reality attributed to real entities 'is a *discursive* construction: a *claim to reality* made *within* discourse',[12] but that simply reflects the facts that language is only the only instrument by which humans can communicate any assertions, and that that instrument necessarily misdescribes the world. Thus, with Bentham, 'Cœval with the very first steps that can be taken in the endeavour to give a clear explanation of the true nature of language must be the intimation given of the distinction between real and fictitious entities, and the correspondent distinction between names of real and names of fictitious entities.'[13] That is to say, there are two parallel distinctions, not one, and those distinctions match up precisely in the sense that names of fictitious entities designate things which do not exist, whilst names of real entities designate things which do. For Bentham reality, like its synonym existence,[14] is a fictitious entity, a quality ascribed in language to things which exist: 'Of every other entity, real or fictitious, either *existence* or *non-existence* is at all times predicable. Whether such other entity be real or fictitious, its existence is of course a fictitious entity'.[15] The origins of language in the denomination of particular objects set a pattern which human beings in their continuing encounters with the physical world generalized in developing the spectacularly useful capacities for abstraction and generalization. Identification and organization of observed regularities facilitated prediction, but the expression of those regularities in abstract terms introduced confusion into thought about what was real and what was not.

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[11] 'Logic', UC ci. 340 (Bowring, viii. 262).

[12] B.S. Jackson, 'Bentham, Truth and the Semiotics of Law', in *Current Legal Problems* 51 (1998), 493–531, at 498.

[13] 'Universal Grammar', UC cii. 462 (Bowring, viii. 331).

[14] See UC cii. 14 (*De l'ontologie*, p. 174 (Bowring viii. 196)): 'Whatsoever claim an object belonging to the class of bodies may be considered as possessing to the attribute of reality, i.e. of existence, every object belonging to the class of *perceptions* will be found to possess a still better title'.

[15] 'Ontology', UC cii. 74 (*De l'ontologie*, p. 150 (Bowring, viii. 210)).

In every species of knowledge, disorder in language is at once the effect and the cause of ignorance and error. Nomenclature can only be perfected in proportion as truth is discovered. It is impossible to speak correctly, unless we think correctly; and it is impossible to think correctly whilst words are employed for registering our ideas, which words are so constituted that it is not possible to form them into propositions which shall not be false.[16]

Nevertheless, any demand to eliminate fictitious entities from language, so that it might simply reflect the world, is a demand that the human capacity to communicate verbally be reduced to the level of animals unable to form abstract concepts, unable, that is, to think in general or abstract terms.

## § I. Truth and the names of real and fictitious entities.

What then, distinguishes names of real entities from names of fictitious ones? The name of a real entity designates 'an entity to which, on the occasion and for the purpose of discourse, existence is really meant to be ascribed'.[17] Bentham is less than clear in his treatment of the category of real entities, but for the most part he is ready to admit to that category two sorts of things, namely real physical entities on the one hand, which are particular substances (that is, essentially, things or animals),[18] and, on the other, certain psychical entities (that is sensations,[19] of which our experience and observation suggests that all animals are capable, and impressions and ideas,[20] the capacity for which, according to our experience and observation, varies between

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[16] 'View of a complete code of laws', Bowring, iii. 171.

[17] *De l'ontologie*, p. 164 (Bowring, viii. 196).

[18] See 'Preparatory Principles Inserenda' (henceforth 'PPI'), UC lxix. 241; 'Logic', UC ci. 341 (Bowring, viii. 262).

[19] Notably, of course, pain, pleasure, which in combination with will, perform all the heavy lifting in making sense of abstract legal and moral words: see *A Comment on the Commentaries and a Fragment on Government*, ed. J. H. Burns and H.L.A. Hart, London, 1977 (*CW*), p. 495 n; *Of the Limits of the Penal Branch of Jurisprudence*, ed. P. Schofield, Oxford, 2010 (*CW*), p. 286.

[20] See *Chrestomathia* (*CW*), p. 271 n; 'Logic', UC ci. 347 (Bowring, viii. 267); UC ci. 417. Ideas, for Bentham, are present to memory, that is, are formed by recalling the images which constitute the impressions deposited by real entities. He also asserts simultaneously in at least one passage, however, (*Chrestomathia* (*CW*), 'Appendix IV', p. 265–6 n.) that general ideas are fictitious entities, and that they are real entities, so long as they produce 'mental images'. I think this passage has to be disregarded, since, if this were Bentham's considered position, not only would, for instance, 'obligation' arguably qualify as a real entity—since propositions containing that word call to mind archetypal images of real entities—but so would the purely imaginary combinations of images of real entities which Bentham designates as fabulous entities—since the idea of a golden mountain, for instance, definitely produces a mental image in the mind.

animals, with human beings set apart by their facility for forming and exchanging the latter) to which encounters with real physical entities give rise in the sensate subset of real physical entities.

It is the facility for forming and exchanging ideas, or, in a word, language, which gives rise to the designation of things which do not, in fact, exist. 'A fictitious entity is an entity to which, though by the grammatical form of the discourse employed in speaking of it existence is ascribed, yet in truth and reality existence is not meant to be ascribed.' [21] Bentham's assertion is that the names of fictitious entities, that is, crudely, abstract terms,[22] were originally simply borrowed from those of real entities, while the connection with the original images has been lost or forgotten. Propositions featuring fictitious entities as subjects, strictly understood, had no referents in the real world, made no assertions about the real world, and were therefore, in and of themselves, either meaningless or false. The key to making sense of such fictitious names, to asserting and exchanging truth in relation to them, lay in possibility of their connection with the names of real entities, in their explication in terms of real entities:

> A proposition having for its subject the name of a fictitious entity is not clearly understood any further than as it can be translated into a correspondent proposition having for its subject the name of some real entity. Falsehood, then, or nonsense, is the only import, of which, abstractedly from all relations to any proposition having for its subject the name of some real entity, a proposition having for its subject the name of a fictitious entity is susceptible.[23]

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[21] UC cii. 16 (*De l'ontologie*, p. 164 (Bowring, viii. 197)). See also UC cii. 24 (*De l'ontologie*, p. 86 (Bowring, viii. 198)); Bowring, viii. 325.

[22] See 'Logic', Bowring, viii. 334: 'Abstract entities can no otherwise be expressed than by fiction.'

[23] 'A Table of the Springs of Action. Introduction', in *Deontology, together with A Table of the Springs of Action and the Article on Utilitarianism*, ed. A. Goldworth, Oxford, 1983 (*CW*), p.75. See also 'Logic', UC ci. 217 (Bowring, viii. 246): 'Nothing has no properties. A fictitious entity, being as this its name imports—being, by the very supposition, a mere nothing, can not of itself have any properties: no proposition by which any property is ascribed to it can therefore be in itself and of itself a true one, nor therefore an instructive one: whatsoever of truth is capable of belonging to it can not belong to it in any other character than that of the representative of—the intended and supposed equivalent and adequate succedaneum of—some proposition having for its subject some real entity.'

Language may indeed be 'an instrument for the communication of thought from one mind to another',[24] but language, because of the unavoidable resort to the employment of names of fictitious entities as if they were real entities, necessarily deceives.[25] Because fictitious entities are not associated with images which correspond to substances, they possess no obvious shared meaning. Insofar as propositions including such entities can have any meaning, it is only a connection with real entities which can bestow it. Ogden ranks as Bentham's 'most important insistence ... that words, no matter what their other developments in use may be, must, in so far as they are names used to refer beyond themselves, be interpreted as referring ultimately to something real and observed.'[26] As Bentham himself puts it: 'The whole mass of language will, thus, be seen to be divisible into two parts, the real and the fictitious. And throughout the whole mass, it is in the real part that the fictitious will be found to have its necessary root.'[27] Bentham's techniques for connecting fictitious entities with real ones will be discussed further below, but, for the moment, let us return to the relation between real entities and truth.

Bentham assumes at the outset not only that the world which we perceive exists, but that sense experience is capable of delivering accurate information about it. The basis for accepting these assertions is twofold. In the first place, our only source of information or evidence indicates its accuracy. In the second, while that source of information may actually be deceptive, the consequences of accepting the evidence of sense are incomparably better than those of rejecting it:

> I assume, in a word, the existence of what is called the material world. ... I assume it boldly for this reason; because in point of practice, no bad consequences can, as every one is ready to acknowledge, possibly arise from supposing it to be true; and the worst consequences can not but arise from supposing it to be false.[28]

It should be noted that the criterion which very quickly determines the validity of the existence of the external world is entirely utilitarian and pragmatic. How do we know

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[24] 'Universal Grammar', UC cii. 456 (Bowring viii. 329).
[25] See 'Universal Grammar', UC cii. 463.
[26] See C.K. Ogden, *Bentham's Theory of Fictions*, London, 1931, p. xlvi.
[27] 'A Table of the Springs of Action. Introduction', in *Deontology* (*CW*), p.75.

that the evidence we perceive in the sensations we experience is reliable? In short, we do not and cannot, since that evidence is the only kind available to us. Bentham concedes to Berkeley equally speedily that since our evidence for the existence of the material world comes only through sense, it would be strictly accurate to describe sensations as the only real entities, with physical objects possessing merely an inferential reality, but immediately proceeds on the basis that physical objects *do* exist. At this level, utility, the demand that we prioritize the pursuit of welfare, wins out over seeking the truth in relation to a question which, given the informational constraints of human existence, we simply cannot answer.

A further central premise utilized by Bentham is that reality is binary: things either exist or they do not:

> Down to this present time—whatsoever be this present time—whether the time of writing it or the time of any one's reading it—whatsoever has existed has had existence; whatsoever has not existed has not had existence: at this present time, whatsoever does exist has existence; whatsoever does not exist has not existence: and so at any and every future point of time.[29]

Bentham repeatedly asserts that it is possible to exchange not only sense, but truth, in propositions which relate to the names of real entities. 'By every name of a real entity ... is held up to view an object really existing, an object in relation to which assertions, grammatical propositions having more or less in them not only of meaning but of truth, are capable of being advanced.'[30] Such propositions are capable of bearing meaning and truth simply because the assertions they contain are verifiable or falsifiable by reference to the evidence of sense experience. For Bentham, consciously following in an empiricist tradition stretching back through John Locke to Francis Bacon, all knowledge of external reality comes through the mediation of sensory

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[28] 'Key. What things exist', UC clix. 52. See also 'Ontology', UC cii. 15 (*De l'ontologie*, p. 182 (Bowring, viii. 197)).

[29] 'Ontology', UC cii. 75 (*De l'ontologie*, p. 152 (Bowring, viii. 211)). And see also ibid.: 'At any point of *time*, take any entity—any real entity—whatsoever, between its existence in that place and its non-existence in that same place, there is not any *alternative*—there is not any *medium*—whatsoever.'; *Rationale of Judicial Evidence, specially applied to English practice* (henceforth *RJE*), Bk. V, Ch. 16 (Bowring vii. 78); 'Introductory View of the Rationale of Judicial Evidence' (henceforth 'Introductory View', Ch. 12, Bowring vi. 46.

[30] 'A Table of the Springs of Action. Introduction', in *Deontology* (*CW*), p. 74.

experience and reflection on it: the twin sources of knowledge about reality were sensory experience on the one hand, and the active reasoning of the human mind on the other. 'Experience—Observation—Experiment—Reflection on the results of each and of all together: these are the means, these are the instruments, by which knowledge, such as is within the power of man, is collected.'[31]

Encounters with physical real entities deposited impressions via our sense organs—the images created by those impressions being recallable at leisure—and, very often, those encounters also produced sensations of pain or pleasure. Bentham is careful to caution that the correspondence between perception and reality will not be entire; we can err in our interpretation of sensory data, since our knowledge of the external world depends not simply on passive perception, but active judgment: 'Scarce does a perception take place, but it is accompanied ... with a corresponding *judgment* or *act* of the judicial faculty.'[32] While a fuller discussion appears in § IV below, it should be noted at this point that Bentham is well aware such judgment very often relies on a cognitive frame through which it imposes order on an otherwise chaotic world, and that large elements in that frame are purely mental constructs, fabrications of the imagination.[33]

The subjects of our most primitive communications were real physical entities, to which reference was aided by the links between the entities, the names we gave them, and their ideas, or mental images. Such designation, the beginning of both language and logic, became embedded in the structure of language and thought, so that 'a material image is the only instrument by which, the only medium through which, conceptions can be conveyed from mind to mind'.[34] To exchange sense through words is to exchange pictures, mental images, which correspond to states of real entities past, present or future.[35]

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[31] 'Logic', UC ci. 183, (Bowring, viii. 238). See also *RJE*, Bk. I, Ch. 7 (Bowring vi. 241): 'Experience is the foundation of all our knowledge, and of all our reasoning—the sole guide of our conduct, the sole basis of all our security.'; 'Logic', UC ci. 332 (Bowring, viii. 265): '*Sense* is the fountain from which all ideas take their rise'.

[32] 'Logic', UC ci. 118 (Bowring, viii. 224).

[33] See Postema, 'Facts, Fictions and Law', p. 54: 'On this view, we have sensory access to the external world to some extent, but the structure of reality *as we know it* is the artificial, "fictitious" product of the human intellect'.

[34] 'Universal Grammar', UC cii. 463.

[35] See 'View of a complete code of laws', Bowring, iii. 189.

In relation to real entities then, the possibility of speaking the truth is open, though accuracy, understood as correspondence to the actually existing nature of things, is applicable only to a limited set of assertions:

> As every thing that can happen to a corporeal subject is resolvable into this: viz. the having been, during the length of time in question, either in a state of motion or in a state of rest, so every thing that can be said, if said to have happened to that same corporeal subject, is resolvable either into this: viz. that during the length of time in question it has been, or has been capable of being, in a state of *motion*—or into this, viz. that it has been, or has been capable of being, in a state of *rest*.[36]

The range of true assertions thus extended only to the ascription of existence, and the assertion that the thing existing was either moving or stationary. What is immediately striking about this position is that, at least with reference to this limited set of propositions, Bentham seems to assert a correspondence theory of truth: truth is the assertion of the existence of things which exist, and denial of existence to things which don't exist. As Bentham wrote in relation to a statement communicating the recollection of a report, that is an assertion about facts made by another party: 'To the declaration of ... a *persuasion* of the existence of such recollection—may or may not be added, as it may happen, a persuasion concerning—a persuasion affirmative or disaffirmative of—*the truth—the actual existence—of the supposed matter of fact the existence of which was the subject of the report in question*'.[37]

## § II. A paraphrastic excursus.

As already noted, if we wish to exchange either truth or meaning in relation to the names of fictitious entities, the only route lies through their relation to names of real entities. The standard definitional method—identifying the genus or type of thing to

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[36] 'Universal Grammar' UC cii. 492 (Bowring, viii. 337). See also *Chrestomathia* (*CW*), 'Appendix IX', p. 398: 'All language is employed in announcing the existence, absolute or conditional, past, present, or future of some event or state of things, or say of some state of things quiescent or moving, real or imaginary, *i.e.* meant to be represented as real, or meant to be represented as imaginary.' Much earlier in 'PPI', UC lxix. 234, Bentham had concluded that accurate assertions were in fact possible only in relation to stationary substances: 'Upon a careful and long continued review, I cannot find that we have any direct and unfigurative way of bringing into view, by words, any objects of conception besides substances, and them only in a state of rest.'

[37] Logic, cii. 302 (Bowring, viii. 300). Emphasis added.

which an entity belonged, and then adducing a specific difference from other members of the same genus—offers no great help, since many fictitious entities have no superior genus. Since their bare names deliver neither truth nor meaning, to exchange meaning we must focus on propositions, which combine a name, a copula, and a predicate, which two latter combine to attribute to the name some quality or property.[38] Hence the first move in any analysis of fictitious entities is phraseoplerosis, or, in short, the embedding of the name to be analysed in a proposition. Having done that, we move on to paraphrasis, wherein the proposition is replaced by another which comes closer to real entities. We continue until we reach a proposition which refers to nothing but real entities.[39]

According to Bentham, these techniques for expounding fictitious entities in terms of real entities permit the exchange of both meaning and truth in relation to fictitious entities. If they prove unavailing, if no substitution of a proposition of which the subject is a real entity to a proposition of which the subject is a fictitious entity is possible, the name in question names nothing, and no proposition of which it is the subject can be true or meaningful. However, where such substitution can be made, Bentham is clear that truth can be expressed. As he notes with reference to propositions employing the fictitious entity obligation: 'it ought to be possible to decipher such language into the language of pure and simple truth—into that of fact. To understand abstract terms, is to know how to translate figurative language into language without figure'.[40]

Bentham provides us with a formal paraphrasis of neither truth nor utility, though he comes much closer with reference to the latter. Here, the real entities which supply meaning and truth are the sensations of pleasure and pain. As Bentham puts it:

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[38] Bentham subsequently appears to have decided that the copula of itself could not indicate existence, and that, therefore, a fourth element, a sign of existence (in short, a verb) was necessary to complete a proposition: see 'Universal Grammar', UC cii. 170, 494 (Bowring, viii. 337). For a helpful discussion see P. Schofield, 'Jeremy Bentham, the Principle of Utility, and Legal Positivism', in *Current Legal Problems 56 (2003)*, 1–39, at pp. 12–13.

[39] For Bentham's discussions of the exposition of fictitious entities, see 'Logic', UC ci. 217–24 (Bowring, viii. 246–8; 'PPI', UC cxix. 221; *Chrestomathia* (*CW*), p. 271–3 n.; 'A Table of the Springs of Action. Introduction', in *Deontology* (*CW*), pp. 74–5; 'Radical Reform Bill', Bowring, iii. 593–4 n. Bentham identifies a further process, archetypation, which recovers the image of real physical entities originally borrowed to inform the name of a fictitious entity. While most commentators view archetypation as very much an ancillary process, Jackson disputes its characterization as needless, 'an etymological fifth wheel on the coach': see Jackson, 'Bentham, Truth and the Semiotics of Law', 507–9. For an attempt to assess the role of archetypation in Bentham's logic, see M. Quinn, 'L'archétypation et la recherche d'images significantes: significant et signifié dans la logique de Bentham', *Essaim* 28 (2012), 171-81.

[40] 'View of a complete code of laws', Bowring, iii. 181.

'Utility is but a quality, a property: a property an act has of encreasing happiness; that is of averting pains or encreasing pleasures.'[41] In relation to truth, Bentham either helped or hindered by making no attempt at paraphrasis. We know that truth is predicable of propositions, which are themselves fictitious entities, and we know that propositions make assertions. To abbreviate the process, let us eliminate one fictitious entity by borrowing Bentham's gloss of propositions as 'collections of signs ... expressive of the perceptive faculty, considered as having for the source of the perception a corporeal objects or objects.'[42] Our first step remains phraseoplerosis. Let us add a predicate and a copula to our name, using Bentham's paraphrasis of obligation as a model. What about: '*Truth is ascribed to a collection of signs (i.e. is spoken of as belonging to such a collection of signs) expressive of the perceptive faculty, considered as having for the source of the perception a corporeal objects or objects*'. If this be allowed as our fictitious proposition, our paraphrase might be: '*Truth is ascribed to a collection of signs (i.e. is spoken of as belonging to such a collection of signs) expressive of the perceptive faculty, considered as having for the source of the perception a corporeal objects or objects, insofar as it either: a) asserts the existence of an entity or entities which do exist, or denies the existence of an entity or entities which do not exist; or b) asserts or denies a state of motion or rest of real entities, which real entities are in the state of motion or rest it asserts or denies*.'

There remain significant problems with this paraphrase, since existence, motion and rest are themselves fictitious entities, so that the process is far from complete. In relation to motion and rest, since the latter is simply the negation of the former, a single exposition will serve. However, it transpires that the attempt to explicate motion brings in train further fictitious entities: 'Necessarily included in the idea of *motion* is the idea of place and time. A body has been in motion when? in what case? when having at or in one point of time been in any one place, at another

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[41] 'PPI', UC lxix. 71. See also the longer exposition in *IPML* (*CW*), p. 12: 'By utility is meant that property in any object, whereby it tends to produce benefit, advantage, pleasure, good or happiness, (all this in the present case comes to the same thing) or (what again comes to the same thing) to prevent the happening of mischief, pain, evil or unhappiness to the party whose interest is considered; if that party be the community in general, then the happiness of the community: if a particular individual, then the happiness of that individual.' See also 'Logic', BL Add. MS 33,550, fol. 7 (Bowring, iii. 286), where Bentham describes utility as 'a word necessarily employed for conciseness sake, in lieu of a phrase more or less protracted, in which the presence of pleasures and the absence of pains would be to be brought to view'.

[42] 'Universal Grammar', UC cii. 491 (Bowring, viii. 336). Jackson argues that since truth is predicable only of propositions, while propositions are fictitious entities, no paraphrase of truth is possible, and

time it has been in any other.'[43] The good news is that place and time are directly related, in that the linguistic description of time is wholly parasitic on the idea of place: we can only conceive of time in spatial terms, as a 'modification of place', that is as a line stretching from the past, through the present to the future.[44] If we can understand place, we can develop at least an analogous understanding of time. In fact, Bentham explicates place itself with reference to the concept of space, understood as the absence of body, which he regards as possessing simultaneously elements characteristic of both a real and a fictitious entity, and which he designates finally as semi-real.[45] It seems that the completion of our investigation of motion might now be in sight, in that having reached space, whether a fictitious entity of the first order (that is one that is explicable solely with reference to real entities) or a semi-real entity (partaking to some extent in reality), we are very close to real entities. Bentham says that 'place is a relative portion of space, considered either as actually occupied or as capable of being occupied, by some real entity of the class of bodies'.[46] The final hint supplied by Bentham is that motion 'can no otherwise be defined than by diversity of distance'.[47] A body (real entity) is in motion when the distance between it and another body, or relative point in space is changing. Since distances between bodies will equally vary if either moves whilst the other does not, we have a potential problem in ascribing motion to the right body. By standing still, I move relative to the club in your hand, until my head comes into violent collision with it! Bentham recognizes that, to the best of our knowledge, all bodies are, in an absolute sense, in motion, but asserts that relative rest will serve for all earthly purposes.[48] We might then escape our confusion by using the notion of relative space, relative that is in having, just like a body, boundaries, and dimensions.[49] Further, since changes in relative distance can

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that truth is thereby rendered, in Bentham's terms, a fabulous entity: see 'Bentham, Truth and the Semiotics of Law', 521–2.

[43] 'Ontology', UC cii. 48 (*De l'ontologie*, p. 108 (Bowring, viii. 204)). See also UC cii. 31 (*De l'ontologie*, p. 188: '*In motion* a body can not have been, but it must have been in two different places, at or in two different, which is to say as much as in two successive, portions of time.'

[44] See 'Ontology', UC cii. 47 (*De l'ontologie*, p. 106 (Bowring, viii. 204)).

[45] 'Ontology', UC cii. 38–9 (*De l'ontologie*, pp. 94–6 (Bowring, viii. 202)).

[46] 'Ontology', UC cii. 45 (*De l'ontologie*, p. 104 (Bowring, viii. 204)). Just before this passage, Bentham goes so far as to describe place as a real entity: 'As to the word *place*, whether it be considered as the name of a real entity or as the name of a fictitious entity, would be a question of words, barely worth being explained, and not at all worth debate. Considered as a modification of Space, it would, like *that*, stand upon the footing of the name of a real entity.'

[47] Bowring, viii. 334. See also *Chrestomathia* (*CW*), 'Appendix V', p. 279.

[48] See *Chrestomathia* (*CW*), 'Appendix V', p. 280–1.

[49] See 'Ontology', UC cii. 39 (*De l'ontologie*, p. 94–6 (Bowring, viii. 202)).

only occur over time, we can, in a real sense, only assert motion retrospectively, by reference to variation in distance.

Before attempting to complete our paraphrasis, we need to address the remaining problematic fictitious entity, namely existence, which 'is *in* every real entity: every real entity is *in* it'.[50] Bentham notes the connection between existence and the verb substantive, that is the verb 'to be': 'There is but one simple Verb and that is the verb substantive: the word of which the function is to designate existence, to whatsoever subject attributed.'[51] Whereas all other verbs involve the assertion that some quality exists in some subject, the verb to be alone asserts the simple fact of existence, of being. In fact, says Bentham 'the import [of] every verb other than a verb substantive is resolvable into the import of the verb substantive added to the import of a noun adjective.'[52] Having got this far, we have drained the analytical well: existence is correctly predicated of real entities which do indeed exist.

It is high time to return to our paraphrasis of truth, noting only that the idea of existence, like those of motion and rest, presumes the ideas of both place and time:

> No state of things can have been in existence but in some place and some time,—in some portion of the field of space, and in some portion of the field of time.
> Place and time are, accordingly, both of them adjuncts to all existence. Existence is a field or ocean which spreads itself at once over both these subjacent fields, the field of space and the field of time.[53]

Our first attempt at paraphrasing truth read as follows: '*Truth is ascribed to a collection of signs (i.e. is spoken of as belonging to such a collection of signs) expressive of the perceptive faculty, considered as having for the source of the perception a corporeal objects or objects, insofar as it either (a) asserts the existence of an entity or entities which do exist, or denies the existence of an entity or entities which do not exist; or (b) asserts or denies a state of motion or rest of real entities, which real entities are in the state of motion or rest it asserts or denies.*' In the light of subsequent investigation, we are now, hopefully, in a position to do better. What

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[50] 'Ontology', UC cii. 74 (*De l'ontologie*, p. 152 (Bowring, viii. 210)).
[51] 'Universal Grammar', UC cii. 557 (Bowring, viii. 348).
[52] 'Universal Grammar', UC cii. 536 (Bowring viii. 343). See also UC cii. 557 (Bowring, viii. 348).

about: '*Truth is ascribed to a collection of signs (i.e. is spoken of as belonging to such a collection of signs) expressive of the perceptive faculty, considered as having for the source of the perception a corporeal objects or objects, insofar as it either a) asserts that that which is, is, or that that which is not, is not; or b) where, at two successive points of time, there is a difference in the interval of space between a real entity (a body) and a particular point in relative space, asserts that that difference is; or c) where, at two successive points of time, there is no difference in the interval of space between a real entity and a particular point in relative space, denies that there is any difference.*'

We have eliminated motion, rest and existence, but have, of necessity, imported time and space, while we have taken refuge in the ontological core of the verb 'to be', in an attempt to capture the essence of truth as correspondence with reality. This last move reveals the point at which purely logical analysis runs out of steam, so that we end up no great distance from the starting point of all correspondence theories of truth. In other words, the truth asserts that that which is, is, and that that which is not, is not.

## § III. Criteria of Truth

Since not all assertions which relate to real entities, directly or indirectly, are true, the central problem for human beings who wish to exchange meaningful and accurate information about the world is the nature of the criterion by which we differentiate between existence and non-existence, and between motion and rest. Now since sense experience is the only source of knowledge, that criterion itself reduces to consistency with such experience, with observation and experiment. For Bentham, as for the pragmatists Peirce and James, the definition of truth remains correspondence or agreement with reality,[54] but possession of such a definition moves us forward not an inch. The rather more interesting and urgent question for all these thinkers, as Ayer

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[53] *Chrestomathia* (*CW*), 'Appendix IX', p. 398.

[54] See James, 'Pragmatism', p. 99: 'Truth ... is a property of certain ideas. It means their "agreement", as falsity means their disagreement, with "reality". Pragmatists and intellectualists both accept this definition as a matter of course.'; C.S. Peirce, *Collected Papers of Charles Sanders Peirce*, ed. C. Hartshorne, P. Weiss, and A.W. Burks, 8 vols., Cambridge MA, 1931–1958, v. 384: 'There are Real things, whose characters are entirely independent of our opinions about them: these Reals affect our senses according to regular laws, and ... by taking advantage of the laws of perception, we can ascertain by reasoning how things really and truly are.'

notes, concerns the criterion by which human beings can tell truth from falsity.[55] Bentham would, I think, agree with James that true assertions are in principle verifiable,[56] and be happy to endorse Peirce's comment that 'The opinion which is fated to be ultimately agreed to by all who investigate, is what we mean by the truth, and the object represented in this opinion is the real.'[57] The point, as Perkins notes, is that this prioritization shifts the focus from the problem of truth to the problem of knowledge.[58]

On what basis do we accept a proposition as true, as an accurate reflection of reality? Bentham would have sympathised with James's plaintive protest concerning the factual content of a newly discovered truth: 'The new contents themselves are not true, they simply *come* and *are*. Truth is what we say about them'.[59] But Bentham would, I think, dissent from the implication that that which is is 'not true'. Both thinkers are entirely prepared to accept that the world exists independently of human actions or language, and for both truth is a human construct, a fictitious entity which human beings ascribe to propositions. However, the difference remains that, for Bentham, truth is correctly ascribed precisely to things which come and are, and not to things which do not come and are not. As will be noted below, James himself, for the most part, rejects the idea that subjective human will can render any old assertion true.

For Bentham, the tool both for forming true propositions about the world and for testing them is, of course, Baconian induction. Individual bodies existing in nature are perceived by sense, while knowledge advances gradually by the observance of conformities between events, and by the successive experimental elimination of circumstances observed to attend natural events in particular instances, to exclude those only contingently connected to the event. However, Bentham is careful to avoid appealing to the fictitious entities causation or law of nature in describing the results:

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[55] See, for instance, James, 'Pragmatism', pp. 39, 46, 102–3, 110–12; Peirce, *Collected Papers*, v. 407; A.J. Ayer, *The Origins of Pragmatism: Studies in the philosophy of Charles Sanders Peirce and William James*, London, 1968, pp. 198–201.

[56] See, for instance, James, 'Pragmatism', p. 106: 'in the end and eventually, all true processes must lead to the face of directly verifying sensible experiences *somewhere*, which somebody's ideas have copied'.

[57] Peirce, *Collected Papers*, v. 407.

[58] M. Perkins, 'Notes on the Pragmatic Theory of Truth', in *William James Pragmatism in focus*, pp. 212–28, at 212.

[59] James, 'Pragmatism', p. 46. See also ibid., p. 110.

Between this and that group of facts, a certain conformity is observed: what is the cause of that conformity? becomes then the question. Cause of the conformity?—none at all: the conformity is itself nothing: it is nothing but a word expressive of the state our minds are put into by the contemplation of those facts. There are the facts: they do exist: but the conformity, as taken for a fact distinct from the facts themselves, has no existence.[60]

Further, Bentham does not seem to have followed Bacon in believing that inductive method could produce conclusive certainty. As Cohen notes, '[Bacon's] mistake here sprang from a failure to recognize that in eliminative induction every prior assumption about the variety of hypotheses that are open to elimination is itself empirically corrigible. We can never be conclusively sure that our list of forms, natures, prerogative instances, or whatever is complete. It may turn out that a hidden variable was operating in our experiments.'[61] Inductive method certainly allowed 'setting up degrees of certainty',[62] but the inductive reasoner could never be sure that the data from which he reasoned constituted all the relevant evidence. For his part, Bentham cautions against the hasty universal application of the propositions of a theory which promised to be applicable across a wide range of cases, and recommended not the rejection of the theory in its entirety, 'but only that in the particular case inquiry should be made, whether, supposing the proposition to be in the character of a general rule generally true, there may not be a case in which, to reduce it within the limits of truth, reason and utility, an exception ought to be taken out of it.'[63]

For Bentham, certainty was a fictitious quality, which was properly applied not to propositions, but to those who espoused them.

Certainty, necessity, impossibility—exhibited seriously in any other character than that of expressions of the degree of the persuasion entertained in relation to the subject in question by him whose words they

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[60] *RJE*, Bk. V. Ch. 16, Bowring, vii. 83 n.

[61] J. Cohen, 'Some historical remarks on the Baconian conception of probability', in *Knowledge and Language: Selected Essays of L. Jonathan Cohen*, ed. J. Logue, Dordrecht, 2002, pp. 245–57, at p. 248.

[62] Ibid.

[63] 'Political Fallacies', UC ciii. 434 (Bowring, ii. 458).

are, in the use of these words is virtually involved the assumption of omniscience.—All things that are possible are within my knowledge: this is not upon the list. Such being interpreted is the phrase—*this thing is impossible*.[64]

Omniscience was incompatible with human experience: 'Certainty, absolute certainty, is a satisfaction which on every ground of enquiry we are continually grasping at, but which the inexorable nature of things has placed for ever out of our reach.'[65] In other words, Bentham would insist, with the pragmatists, that all inductive truths are provisional, and fallible, asserting the best approximation to 'things as they are' currently available, but corrigible by further experience, experiment and observation. Further, whilst individual substances simply have existed, do exist, and will continue to exist, truth is the name we apply to consistent inferences from the evidentiary product of scientific enquiry. The route to knowledge about real entities lay through the Baconian injunction '*Fiat experimentum*', and through the free dissemination and criticism of the inferences drawn from experimental and experiential data. On occasion, Bentham forgets his caution on the defeasible nature of inductive inference, and insists that some things are simply true: 'there are facts in abundance, which are true without a single exception. Take for instance, that iron is heavier than water.'[66]

For Bentham, the primary referent of all discourse was the state of the speaker's mind, rather than that of the external world. If we sought to communicate information about the external world, what we actually communicated were our beliefs about it, the result of our active judgment. '[W]hen *information* is professed to be given, *judgment*, vis. the judgment existing or declared to exist concerning the matter in question in the mind of the alledged informant, is the utmost that in truth is communicated.'[67] At this point, the connections between Bentham's subjectivism and objectivism emerge clearly. Statements about the external world communicate the speaker's beliefs about the external world, which beliefs themselves are capable of being correct or erroneous, true or false. However, there is an additional way in which such statements can be correct or erroneous, true or false, which relates not to the external world at all, but simply to the accuracy of the description of the speaker's

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[64] 'Ontology', UC cii. 76 (*De l'ontologie*, p. 154 (Bowring, viii. 211).
[65] *RJE*, Bowring vii. 105.
[66] *RJE*, Bk. I Ch. 7. Bowring vi. 242.

state of mind. We can make mistakes, both consciously and unconsciously, in reporting our beliefs, which is to say we can misrecollect or make mistaken inferences, and we can lie. Just as there are two ways to utter falsehood, so there are two criteria of truth, one internal, relating to the correspondence between a statement and the actual state of the speaker's mind (which Bentham designates 'veracity'), and one external, relating to the correspondence between a statement and the actual state of the external world (which he usually calls 'truth'). If my beliefs about the external world are false, I will speak falsehood by reporting them accurately, that is by telling the truth, while, conversely, I might speak the truth by accident while lying, that is while consciously misreporting those beliefs.

The two criteria come together in the fictitious entity we call 'knowledge', which the subjectivist Bentham identifies with absolute conviction: '*Knowledge*, with its logical conjugates, composing the verb *to know* ... expresses the highest degree of persuasion possible'.[68] However, the objectivist Bentham insists that some criterion of correspondence with reality be retained, so that knowledge is synonymous not merely with maximally strong belief, but with true belief: 'A man's knowledge—every man's knowledge—is proportioned to the extent as well as number of those general propositions of the truth of which, *they being true*, he has the persuasion in his own mind.'[69] In this quotation the subjectivist and objectivist elements in Bentham's scheme are presented side by side. On the one hand, the subjectivist Bentham is led in the direction of recognizing as many different truths as there are minds, with truth for each of us consisting in the set of propositions in which we believe. On the other, the objectivist Bentham insists on the existence of an objective criterion by which these multiple subjective truths can be sifted, by which erroneous persuasion can be corrected, and by which progress can be made towards a univocal truth which corresponds to a univocal reality.

Thus the subjectivist Bentham states that the series of fictitious entities which correspond to existence, the 'several modifications' of existence, that is 'non-existence, futurity, actuality, potentiality, necessity, possibility and impossibility',[70] are doubly fictitious, in not referring, like ordinary qualities, to the attributes of existing objects, since that they cannot be properly ascribed to any really existing

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[67] 'Logic', UC cii. 203.
[68] *RJE.*, Bk. I, Ch. 6 (Bowring, vi. 230).
[69] 'Political Fallacies', UC ciii. 435, (Bowring, ii. 458).

entities. Instead, '*Necessity, Impossibility*; *Certainty, uncertainty*; *Probability, improbability*; *actuality, potentiality*;—whatsoever there is of reality correspondent to any of these names is neither more nor less than a disposition, a persuasion of the mind, on the part of him by whom these words are employed, in relation to the state of things ... to which these *qualities* are ascribed'.[71] When I assert that I am certain about something, I share more information about me than I do about that thing.

Given that 'actuality' features in both Bentham's enumerations of the fictitious qualities concerned with existence, it is striking that truth itself is excluded, particularly since the attempt to paraphrase the term took us directly to existence. Indeed, if we were to include truth as one of the modifications of existence to which Bentham's stricture applies, we would end up with an anticipation of modern deflationary theories of truth. What I communicate by asserting the truth of statement *x* is my internal persuasion that statement *x* corresponds to reality, that is, my acceptance of its content. Deflationary theories of truth take a similar tack, in rejecting the notion that truth is a property of propositions, and proposing instead that 'truth talk is *expressive* (enhances the expressive powers of our language) rather than descriptive'.[72] Ayer too argues that 'in all sentences of the form "p is true", the phrase "is true" is logically superfluous', so that 'the terms "true" and "false" connote nothing, but function in the sentence simply as marks of assertion and denial'.[73] For Bentham, the immediate subject of all propositions is indeed the state of the speakers mind, of his beliefs, but propositions concerning real entities also communicate information about the world. The ascription by speakers of truth to propositions certainly tells us about the state of the speakers mind; the question is, does it add any meaningful information to the proposition?

Bentham himself certainly asserts that truth is potentially predicable of propositions whose subject is a real entity. If this is the case, truth actually does double duty, indicating both something objectively meaningful about the correspondence between the proposition of which it is predicated and the world, and something subjectively meaningful about the belief of the speaker. Whilst Harrison is correct in pointing out that 'there is not (for [Bentham]) any difference in the object

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[70] 'Ontology', UC cii. 44 (*De l'ontologie*, p. 102 Bowring, viii. 203)).
[71] 'Ontology', UC cii. 75 (*De l'ontologie*, p. 152 (Bowring, viii. 210–11).
[72] F.F. Schmitt, 'Truth: An Introduction', in F.F. Schmitt ed., *Theories of Truth*, Oxford, 2004, p. 29.
[73] Ayer, *Language, Truth and Logic*, (first published 1936) Harmondsworth, 1971, pp. 88, 89.

between something being true and something being necessary',[74] there is a difference between true and necessary propositions, which is that true propositions present images deposited by real entities, and in so doing 'correspond' to the facts of the world, whereas necessary propositions arise out of, and are entailed by, the analytic, tautologous premises of a range of formal systems which are themselves the product of imagination, of the active human capacities for invention and for the organization of information. In short, no object is necessary, but all objects are capable of existing or not existing. Such formal systems, which include branches of mathematics and indeed language itself, deal with subject matter which is wholly fictitious, and are governed by a priori rules of their own making. Further, such systems actually say nothing directly about the external world, since the objects about which they reason do not exist in the external world. For this reason, it is arguable that the analytical 'truths' of such formal systems fail to qualify, on Bentham's view, as truths properly speaking, since the mark of truth remains precisely correspondence to that external world. [75] Such systems are undoubtedly potentially useful, but their usefulness absolutely depends upon the resemblance between the wholly fictitious concepts of the formal system (the circle, the line, the point) and actually or potentially existing real entities.[76]

Bentham is quite explicit that the only use of the fictitious qualities like necessity which does not assume omniscience is in relation to

A self-contradictory proposition, or two mutually contradictory propositions, issuing at the same time from the same mouth or the same pen. But here the objects to which these attributes are with propriety applicable are—not the objects for the designation of which the propositions are applied, but the propositions themselves. Propositions thus contradictory and incompatible can not with propriety be applied to

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[74] R. Harrison, *Bentham*, London, 1983, p. 86. See also the discussion in Jackson, 'Bentham, Truth and the Semiotics of Law', 520–3.

[75] See *Chrestomathia* (*CW*) 'Appendix VIII', p. 346: 'Otherwise than in so far as it is applicable to physics, Mathematics ... is neither useful nor so much as true.'

[76] See, for instance, *Chrestomathia* (*CW*), 'Appendix VIII', pp. 347–8: 'In point of fact, no portion, either of matter or space, such as agrees exactly with the description given by Mathematicians of the sort of figure called a sphere, ever has come into existence ... . But, by this circumstance, though in a strict sense ... the truth of all propositions concerning the sort of figure called a sphere is destroyed; yet, in no degree is the utility of any of them either destroyed or lessened with reference to any useful

the same object: that they should is impossible: i.e. inconsistent with the notions entertained by the person in question in relation to what is proper and what improper in language.[77]

The linguistic ascription of truth certainly does assert the speaker's belief in the existence of the fact asserted in the proposition, but Bentham wants to retain an objective criterion of truth, which involves correspondence with a binary reality, full of real entities, propositions about which are either true or false. It is, perhaps, this twin characterization of truth as indicative at once of both our persuasion of existence and of existence *per se*, and the difficulties of integrating the subjectivist and objectivist elements of his account, which prevented Bentham from associating truth with the other modifications of existence. If the fictitious entity truth was to be of use, it had to retain an external criterion, it had to be testable in the world, and not merely in our minds. In an aside in discussion of Hume's virtues, Bentham not only repeats the external or objective criterion of truth, but immediately delivers quite possibly his most tantalizing and frustrating aperçu:

Truth is a fictitious entity. Brissot was misled by it. He wrote a book on *Vérité ... . He meant the subject matter of knowledge, the result of evidence. It is the knowledge of what facts really did exist.* Truth is a mighty queer sort of personage in the abstract, as slippery as an eel.'[78]

The assertion of the truth of a proposition, or the assertion of possession of particular knowledge, or the assertion that a speaker is certain about a matter of fact, all invite an obvious response from their auditors, namely 'How do you know? Show me the evidence.' Bentham repeatedly insists on the necessity of freedom of enquiry and of expression, and of freedom to disagree. Precisely because the only evidence adducible for propositions is itself derived from sense experience, the liberty of

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purpose ... . Amongst other things it may ... be seen how, in point of fact, ... all mathematical ideas have their root in physical ones—in physical observations.'

[77] 'Ontology', cii. 76 (*De l'ontologie*, p. 154–6 (Bowring, viii. 211). See also 'Introductory View', Ch. 12, Bowring, vi. 47. In *Language, Truth and Logic*, p. 80, Ayer makes the similar assertion that analytic propositions 'simply record our determination to use words in a certain fashion. We cannot deny them without infringing the conventions which are presupposed by our very denial, and so falling into contradiction.'

[78] *Deontology* (*CW*), 'Appendix C', p. 354 (emphasis added).

thought and expression is a necessary condition for the correction of error. Bentham's defence of such liberty occurs most frequently in his critique of the misbegotten policy of rewarding the propagation of particular religious beliefs and prohibiting or discouraging others, but the point stands more broadly. 'Soutenir que la liberté de la dis[s]ension puisse être au bout de compte défavorable à la vérité, c'est, de toutes les erreurs, la plus impudente et la plus monstreuse'.[79] What is central is that the means for combating falsity in religion is exactly the same as the means of combating falsity anywhere else:

> De quel remède se servir? il n'y en a qu'un seul: c'est la vérité. Et qui autre que la liberté qui puisse administrer ce remède? La qualité pernicieuse de ces dogmes déprendra de l'opinion qu'on a de leur vérité. Otez cette opinion: le dogme au lieu de pestilentiel n'est plus que ridicule. *Or comment l'ôter cette opinion? comme on ôtait toute autre*. Ce n'est pas avec le galive que les opinions se détruissent, c'est avec la plume.[80]

In other words, progress towards knowledge and truth is made by testing, and contesting, assertions about reality, by displaying errors and correcting them.[81] All assertions are primarily statements of our own persuasion, but that emphatically does not imply that all assertions are equally valid. We cannot simply choose to believe whatever we like, since the faculty of understanding is governed by evidence.

> Now, what is in man's power to do, in order to believe a proposition, and *all* that is so, is to keep back and stifle the evidences that are opposed to it. *For, when all the evidences are equally present to his observation, and*

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[79] 'Délits religieux', UC xcviii. 110, published in *Revue d'études Benthamienne*, 6 (2010). Only very recently has the editorial effort of the Centre Bentham and the Bentham project revealed the extent to which Dumont's abbreviated recension of Bentham's discussion of 'offences against religion' ('View of a complete code of laws', Bowring, iii. 170–1) is a sanitized and emasculated version of the original polemic against religious faith in general, and the Christian modification of it in particular. See also 'Rationale of Reward', Bowring ii. 211.

[80] 'Délits religieux', UC xcviii. 114 (emphasis added) (Bowring iii. 171).

[81] Bentham provides striking anticipations of Mill's arguments that our understanding of truths is mightily enhanced by their collision with error. See 'Logic', UC ci. 153: 'Truth is never capable of being so clearly or strongly impressed when considered by itself as it is capable of being when illustrated by a view of any opposite error or errors, which have been wont to occupy the place of it.'; 'Memoir and Correspondence', Bowring x. 85; and compare Mill *On Liberty*, in *The Collected Works of John Stuart Mill*, general editor J.M. Robson , 33 vols., Toronto and London, 1963–91, xviii. 213– 310, at 243–52.

*equally attended to, to believe or disbelieve is no longer in his power. It is the necessary result of the preponderance of the evidence on one side over that on the other.*[82]

The faculty of will, however, is governed by pain and pleasure, and there are resources available to the will to be deployed in clouding the understanding, which boil down to the decision to look the other way, that is, ignore or disregard inconvenient evidence. Bentham's discussion of the range of methods for looking the other way is strikingly similar to Peirce's analysis of flawed methods for attaining the fixation of belief, that is, of rendering belief unassailable by doubt.[83] Tenacity (simple refusal to consider evidence to the contrary), authority (refusal to think on the ground that someone else has done it for us), and the *a priori* method (that is, begging the question by assuming the truth of the contested premise in the construction of the enquiry) would all look very familiar to Bentham, with the latter two especially receiving extended discussion in his discussion of political fallacies.[84]

Postema notes that the condition for universal agreement in relation to the assessment of a body of evidence depends on the existence of 'universal cognitive competence'.[85] At times, Bentham assumes just such a capacity, though at others he analyses the internal factors which prevent its achievement. In presenting what he calls 'pragmatic epistemological realism', Habermas provides an echo of Peirce's definition of truth as that which would be believed after exhaustive enquiry. Habermas draws attention to external, rather than internal, obstacles to consensus, central to which are inequalities of power. Truth then emerges as the quality of propositions which would be adopted as a result of fully inclusive, uncoerced participation in dialogue aimed at mutual understanding: 'Accordingly, a proposition is true if it withstands all attempts to invalidate it under the rigorous conditions of rational discourse.'[86] Whilst presenting a rather more reductionist account of the

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[82] 'Memoir and Correspondence', Bowring, x. 146 (emphasis added). See also 'Introductory View', Bowring vi. 18 n.: '[T]o say that such a degree of probative force is *properly belonging* to the mass of evidence in question, is to say that, upon receipt of that same mass of evidence, the same degree of intensity of persuasion is the degree which is *fit and proper* to have place in the bosom of the judge.'; 'Rationale of Reward', Bowring ii. 225–6.

[83] See Peirce, *Collected Papers*, v. 376–83.

[84] See 'The Book of Fallacies', Bowring, ii. 387–95, and 436–8 respectively.

[85] G. Postema, 'Fact, fictions and law', p. 60. Postema notes that he has borrowed the concept from L. Jonathan Cohen's 'Freedom of Proof', in *Facts in Law*, pp. 1–21.

[86] J. Habermas, *Truth and Justification*, Cambridge, 2004, p. 251.

conditions of rational discourse, Bentham has the same sort of image in mind when he argues that publicity is a necessary condition for worthwhile political debate: 'It is the characteristic of error to possess only an accidental existence, which may terminate in a moment, whilst truth is indestructible'.[87] Error is accidental in the sense that it remains open to correction by access to fuller evidence, while the indestructibility of truth refers at once to both the binary nature of existence (things either did exist or they did not), and ability of true propositions to withstand criticism.

As noted above, for Bentham it possible to speak the truth in propositions concerning fictitious entities, insofar as they can be interpreted as 'the intended and supposed equivalent ... of—some proposition having for its subject some real entity', insofar, that is, as they can be translated from necessarily figurative language into language without figure, into the language of 'fact'. Indeed, the language of truth is simply the language of fact, where fact is defined as 'The existence of any expressible state of *things*, or of persons, or of both, whether it be *quiescent* or *motional* or both, at any given point or portion of time'.[88]

The paraphrasis of obligation in terms of the real entities pain and pleasure achieves precisely this connection to the language of truth or of fact. Similarly, the explication of the obscure fictitious entity 'title' in terms of 'dispositive events', eliminates the figurative in favour of the factual: 'To say that an event has happened, is to speak the language of simple truth—is to announce a fact which presents an image to the mind—it is to present a picture which could be painted'.[89] The reason facts are facts is that they are in principle testable, that observation, experiment and experience can provide evidence of their falsity or truth, and that the best available evidence indicates the latter rather than the former. If I wanted to make assertions capable of truth as well as falsehood, I needed to refer to facts, and this was as true of moral reasoning as it was of ordinary reasoning: 'Truth can operate only by supporting evidence'.[90] As Bentham noted with enthusiasm with reference to the refounding of moral discourse on the basis of pleasures and pains: 'Of moral science, the only true and useful foundations are propositions enunciative ... of facts; viz. of the existence of human feelings, pains or pleasures, as the effects of this or that

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[87] *Political Tactics*, ed. M. James, C. Blamires and C. Pease-Watkin, Oxford, 1999 (*CW*), p. 36.
[88] 'Language', UC cii. 301 (Bowring, viii. 300).
[89] 'View of a complete code of laws', Bowring, iii. 189.
[90] 'Memoir and Correspondence', Bowring, x. 146.

disposition of law'.[91] The great thing about facts was precisely their capacity to be confirmed or disconfirmed by evidence: 'This thing, I say, causes such and such sorts of pains, and such and such sorts of dangers—here they are. I have averred a fact. Is it true? Is it not true? Any one is my judge.'[92]

For Bentham, normative statements are thus a particular sort of factual statements, making him allegedly guilty of the naturalistic fallacy.[93] As Schofield argues, Bentham would have rejected the idea that deriving prescription from description was an error, since there was simply no where else whence to derive it.[94] However, to endorse utilitarianism as against asceticism and the principle of sympathy and antipathy requires two further moves which do not themselves depend on facts, but upon specifically moral premises. The first move, which consists in accepting what Bentham thinks is the foundational principle of rationality, namely that pleasure is preferable to pain, serves to see off asceticism. The second, which consists in accepting the egalitarian moral premise that the legislator has no reason for preferring the happiness of one individual to that of another, debars the sympathist/antipathist from prioritizing the welfare of those to whom he is well-disposed as against that of those to whom he is ill-disposed. Bentham makes both moves, though the second is never expounded at length.[95] He would assert, I think, that the sympathist/antipathist will simply not be able to adduce any facts from which to derive his substantive moral premises, whilst any attempt so to do will perforce oblige him to engage in what is, in effect, utilitarian reasoning.

## § IV. Bentham, pragmatism and fictionalism.

Lee contrasts Bentham's inductivist position ('although utility informs the direction and search for truth, truth is not defined in terms of utility') with that of William James ('truth is simply reduced to utility').[96] Lee recognizes that, for Bentham, the

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[91] *RJE*, Bk. V, Ch. 16, Bowring, vii. 81 n.

[92] 'Memoir and Correspondence', Bowring, x. 145–6.

[93] G.E. Moore, *Principia Ethica*, revised edn., ed. T. Baldwin, Cambridge, 1993 (first published 1903), pp. 91–3.

[94] Schofield, 'Jeremy Bentham, the Principle of Utility, and Legal Positivism', pp. 4, 11–28.

[95] Bentham did assert (*RJE*, Bk. VIII, Ch. 19, Bowring, vii. 475) that his 'system of arithmetic ... on all political occasions' was 'every individual in the country tells for one; no individual for more than one'. For an insightful discussion, see M.E.L. Guidi, '"Everybody to count for one, nobody for more than one: The Principle of Equal Consideration of Interests from Bentham to Pigou"', *Revue d'études Benthamienne*, 4 (2008).

[96] K. Lee, *The Legal Rational State: A comparison of Hobbes, Bentham and Kelsen*, Aldershot, 1990, p. 108.

universal desire to pursue pleasure and avoid pain informs our search for truth, in that our exploration of the external world is guided by interest: 'Knowledge is established through an interplay of truth and utility, of the nature of the agent with its particular type of sense organs and interests on the one hand, and the world at large within which such agent is operating on the other.'[97] For his part, James would not dissent from this statement, and it appears that the alleged difference between the two men consists in the status of the knowledge thus acquired, which for Bentham 'is real, not arbitrary and dependent on the subjective will of the agent. That fire burns is true not simply because it is useful; it is true, and it is useful in so far as it is true.'[98] However, the implication that James thinks that fire burns simply because it is useful constitutes, to say the least, a considerable misrepresentation of James's position.

> The importance to human life of having true beliefs about matters of fact is a thing too notorious. Ideas that tell us which of them to expect count as the true ideas ..., and the pursuit of such ideas is a primary human duty. The possession of truth, so far from being here an end in itself, is only a preliminary means towards other vital satisfactions. … since almost any object may some day become temporarily important, the advantage of having a stock of general *extra* truths, of ideas that shall be true of merely possible situations, is obvious. … Whenever such an extra truth becomes practically relevant to one of our emergencies, it passes from cold-storage to do work in the world, and our belief in it grows active. You can say of it then either that 'it is useful because it is true' or that 'it is true because it is useful.' Both these phrases mean exactly the same thing, namely that here is an idea that gets fulfilled and can be verified. True is the name for whatever idea starts the verification process, useful is the name for its completed function in experience.[99]

James, like Bentham, accepts the independent reality of matters of fact, and, like Bentham and Peirce, refers to the observed regularities of experience, and the way in which predictions based on those regularities are verifiable by further experience.

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[97] Ibid., pp. 108–9.
[98] Ibid., p. 109.
[99] 'Pragmatism', p. 102.

'Truth, in these cases, meaning nothing but eventual verification, is manifestly incompatible with waywardness on our part. Woe to him whose beliefs play fast and loose with the order which realities follow in his experience; they will lead him nowhere or else make false connections.'[100] In other words, rhetorical flourishes aside, just as with Bentham, empirical knowledge, and true beliefs about the world—for instance the belief we hold when lost and hungry in the forest that man-made paths are likely to lead us to assistance—are useful because they are true, and disregarding empirical truth, because it would be useful if the false were actually true, leads to disaster.

However, there is still room for disagreement, and it centres on the question of what constitutes verification, and what exactly does verification verify? In discussing the status of the terms used in forming hypotheses, and in making predictions, James argues that the fictitious, or the plain false, can be rendered 'true' by the fact that 'it works':

> Scientific logicians are saying on every hand that these entities and their determinations, however definitively conceived, should not be held literally for real. It is *as if* they existed; but in reality they are ... only artificial short-cuts for taking us from one part to another of experience's flux. We can cipher fruitfully with them; they serve us wonderfully; but we must not be their dupes.[101]

Atoms, electrons, and all the other hypothetical constructs developed to explain observed regularities are 'true' for James, just in so far as they allow for a 'process of conduction from a present idea to a future terminus, provided only it run prosperously',[102] where run prosperously means results in a pay-off in terms of verification by observational data which match the observations predicted by the theoretical model. Truth starts and ends with sensory data, with observable facts, and, for James, the verification of the intermediate theoretical model building, of the invention of new fictitious entities with attributes which promise to explain and predict the world more effectively, comes precisely in their success in so explaining

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[100] Ibid., p. 102.
[101] Ibid., p. 96.
[102] Ibid., p. 106.

and predicting. James has attracted enormous philosophical criticism simply for allegedly identifying truth with utility,[103] and he does seem to imply, even while denying the literal truth of theoretical constructs, that such constructs, once invented by the model builders, are rendered retrospectively true by the utility of their predictive power. We end up in the paradoxical position of asserting that a theory which is self-consciously fictional can be verified to the extent that its predictions are borne out by the most exacting empirical experiments. As we shall see, there are passages in which Bentham sounds positively Jamesian in his approbation of the rich harvest drawn from fictitious entities in science. However, I do not know of any passage in which Bentham asserted that the retrospective utility discovered in the deployment of fictitious entities rendered them true.

If pragmatism is criticised for confounding truth with utility, fictionalism abandons the pursuit of truth altogether.[104] As expressed by Hans Vaihinger, it is the fundamental contradiction between the physical world—the chaotic flux of reality as detected by sensation—and the conceptual world—the product of the active thought processes by which human intellect seeks grasp, understand and manipulate that world—which renders the effort to understand the world in terms of a correspondence theory of truth a forlorn quest. Whilst Vaihinger would agree with Bentham that sensations are the only real data, the only foundation available to human beings for making sense of the world, the 'psyche works over the material presented to it by the sensations, i.e. elaborates the only available foundation with the help of logical forms'.[105] These logical forms are emphatically fictitious: 'The differentiation of the chaos of sensations into "thing and attributes", into "whole and parts" etc, is a purely subjective achievement',[106] with no basis in reality. Indeed, fictions, in imposing order on chaos, not only contradict reality but are self-contradictory. However, since the role of thought is not to reflect reality but to manipulate it, the legitimacy of a fiction depends not to its truth but, as for the pragmatists, on its usefulness, 'on the

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[103] See, for instance, G.E. Moore, 'Professor James's Pragmatism', in *William James Pragmatism in focus*, pp. 161–95; Bertrand Russell, 'William James's conception of truth', in ibid., pp. 197–211; Ayer, *Origins of Pragmatism*, pp. 198–9.

[104] See H. Vaihinger, *The Philosophy of 'As if': A system of the Theoretical, Practical and Religious Fictions of Mankind*, trans. C.K. Ogden, (first published in German 1911) London, 1925, p. viii., where pragmatism ('the fruitful is thus always true'), is contrasted with fictionalism ('An idea whose … falsity, is admitted, is not for that reason practically valueless and useless; for such an idea, in spite of its theoretical nullity may have great practical importance.').

[105] Ibid., p. 157.

[106] Ibid., p. 164.

*practical* corroboration, on the experimental test of the utility of the logical structures that are the product of the organic function of thought.'[107]

For Vaihinger, as for Bentham, we find ourselves surrounded by a world that is real, and to which our access is mediated by the sensory, empirical data which provide both the starting point and terminus for all logical activity. Whilst Vaihinger would dispute the validity of sense experience as a description of reality, since the psyche alters reality even as it perceives it, he would endorse the reality of empirically verifiable experimental and observational data. For him, there is such a thing as knowledge, and it consists in 'the establishment of an unchangeable sequence and co-existence (or at any rate one that has not changed within our field of observation)'.[108]

Bentham too is acutely aware that in their efforts to describe the physical world, human thought, and its instrument language, actively construct a purely mental model of the world. He recognizes that basic categories of human thought (matter, form, quality, quantity) are indeed fictitious entities. If we want to exchange meaning about fictitious entities, the easiest way is to speak as if they were physical objects, even though this is a misdescription. It is this metaphorical substantification of the immaterial which gives rise to confusion, since it is seen everywhere in language, whether in the constructions 'in motion', 'at rest', or in the naming of properties or qualities: apples exist, many apples are ripe, but ripeness is a fictitious entity which we locate *in* ripe apples.[109] The logical analysis by which 'ripeness' is first abstracted from a real apple, then designated as a noun substantive in its own right, and then attributed to other similarly coloured objects itself abounds in fictions, false propositions about the world, since ripeness relies on the existence of real objects in which it might inhere, and has no independent existence. Bentham certainly anticipates Vaihinger in regarding many of the basic categories with which thought seeks to understand the world as fictitious entities.[110] However, while they both regard qualities as fictitious, for Bentham, the particular bodies to which qualities are

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[107] Ibid., p. 3.
[108] Ibid., p. 68.
[109] 'Logic', UC cii. 461–5 (Bowring, viii. 330–1).
[110] See 'Ontology', UC cii. 35–56 (*De l'ontologie*, pp. 88–120 (Bowring, viii. 199–206)), and compare Vaihinger, *Philosophy of 'As if'*, pp. 157–66. See also Bentham's extended parable of the way in which thought deconstructs (analyses) external reality in creating logical, but fictitious qualities, and then reconstructs (synthesises) it, in accordance with concepts and the organization thereof, which are its own, fictitious, invention (*Chrestomathia* (*CW*), 'Appendix IV', pp. 261–73), which recognizes that, even in the description of real entities, thought alters reality by imposing classificatory schemes and concepts which are the product of human artifice.

attributed are impeccably real.[111] For Vaihinger, conversely, there is no thing apart from its qualities, while both are equally fictions.[112] The question is, are these constructivist elements in Bentham's thought sufficient to render him a fictionalist?

For Vaihinger, as for James, good theoretical models produce accurate predictions of observational and experimental data, so that the criterion of a good model is entirely pragmatic: good models are good guides to action.[113] However, the theoretician and the model-builder know very well that the abstract concepts which feature in the theory have no basis in reality, while 'the fiction is the acceptance of a statement or a fact although we are certain of the contrary'.[114] C.K. Ogden, who edited Bentham's writings on logic, also translated Vaihinger's major work, and not only appears to endorse fictionalism, but asserts that Bentham had anticipated the central elements of that philosophy.[115] However, Vaihinger himself makes no reference to Bentham's logic, and his discussion of Bentham is limited to a brief consideration of whether the latter viewed the assumption that all human motivation was self-interested as a fiction—a self-consciously false but useful idea—or as an hypothesis—an empirically testable assertion—while he concludes that Bentham failed to appreciate the difference between the two.[116] Conversely, for Lee, Bentham's inductivist epistemological commitment to correspondence between sensation and reality ensured that he was no more an anticipator of Vaihinger than he was of James. On this account, Bentham simply refuses to abandon the search for facts: 'What is true has its basis in reality or may be said in some way to be a reflection of it.'[117] Vaihinger then, is thought to err in jettisoning the idea of truth understood as correspondence to external reality.

Among modern commentators, Stolzenberg explicitly concludes that Bentham was, in effect, a fictionalist, and argues that he introduced the distinction between real and fictitious entities only to subvert it immediately: 'the category of the fictitious effectively swallows up the domain of the real by the time Bentham finishes his

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[111] See, for instance, 'Logic', UC cii. 461 (Bowring, viii. 330); *Chrestomathia* (*CW*), 'Appendix IV' p. 262; Bowring, viii. 335.
[112] Vaihinger, *Philosophy of 'As if'*, p. 167.
[113] Ibid., p. viii.
[114] Ibid., p. 147.
[115] See Ogden, *Bentham's Theory of Fictions*, p. xxxii.
[116] Vaihinger, *Philosophy of 'As if'*, pp. 187–8.
[117] Lee, *The Legal Rational State*, p. 108.

analysis'.[118] She dismisses Bentham's statements that real entities exist, and that we can exchange truth in relation to them, on the basis that such passages are 'more than offset' by the combination of his assertion that the reality of substances is, strictly speaking, inferential, and her own assertion (which Bentham explicitly contradicts) that he regarded perceptions and ideas as 'the paradigmatic fictions'.[119] In their subtle and sympathetic discussion, Cléro and Laval also read Bentham as a fictionalist. Their references to the fluid boundary between truth and fiction in Bentham, and to the possibility that real and fictitious entities can exchange their status in the move between different contexts and different purposes, are reminiscent of Vaihinger: 'Par la fiction, il s'agit toujours d'affirmer le faux que l'on sait être faux, comme s'il se fût agi de vérité.'[120]

It should be recognized that there is some textual support for the fictionalist reading, since there are occasions on which Bentham does seem directly to anticipate key elements of Vaihinger's account of fictions. Thus, in discussion of the method of Newtonian fluxions—which employs a conscious fiction in that: 'a point, or a line, or a surface, is said to have kept flowing where in truth there has been no flowing in the case'[121]—he recognizes that the use of fictions can lead to the acquisition of new knowledge. His insistence in such cases is 'not that no such fictions ought to be employed, but that to the purpose and on the occasion of instruction, whenever they are employed, the necessity or use of them should be made known.'[122] Further, in his Universal Grammar, Bentham defines non-figurative language not as language without figure, since almost all language is figurative, but as language 'in which, for the conveyance of the immaterial part of the stock of ideas conveyed, no other fictions—no other figures—are employed than what are absolutely necessary to, and which consequently are universally employed in, the conveyance of the import intended to be conveyed.'[123] These examples do appear to open methods other than paraphrasis for the rehabilitation of fictitious entities: they can be justified by

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[118] N. Stolzenberg, 'Bentham's Theory of Fictions—"A Curious Double Language"', *Cardoza Studies in Law & Literature* 11 (1999), 223–61, at 239.
[119] Stolzenberg, 'Bentham's Theory of Fictions', 241–2.
[120] See J-P Cléro & C. Laval, 'Introduction: La théorie des fictions et l'utilitarisme', in *De l'ontologie*, pp. 9–65, at p. 36. See also ibid., p. 16: 'Bentham ne facilitera guère le dépassement du scepticisme, car sa distinction des entitiés réelles et des entitiés fictives ne peut prétendre être vraie et légitime sans recourir elle-même aux deux entités fictives que sont ... la "légitimité" et la "vérité".'
[121] *Chrestomathia* (*CW*), 'Appendix VIII', p. 371; and compare Vaihinger, *Philosophy of 'As if'*, pp. 60–1.
[122] *Chrestomathia* (*CW*), 'Appendix VIII', p. 371.

necessity (we simply cannot speak without them), and by utility (they allow us to calculate right answers to problems which were previously insoluble).

A final example of the proto-fictionalist Bentham might be advanced in his statement that 'A body (real entity) is an aggregate of fictitious entities. Bodies (Real entities) are distinguishable by the fictitious entities (properties) they are known to be made up of'.[124] Postema interprets this passage as recognition that we change the world in perceiving it. 'In short, the sensory manifold is "decomposed" into a large number of notable fictitious entities. Hence, the real concrete object (or its sensory impact on the mind) is, from the point of view of the active mind, an aggregate of fictitious entities.'[125] There is, however, a more minimalist interpretation which, while recognizing that the active mind's deconstruction and reconstruction of the real concrete object is indeed motivated by the pragmatic desire for well-being, insists that nothing in that mind's operation prejudices the reality of real entities. On this view, Bentham's statement is better interpreted as one more repetition of the distinction between bodies, which are real, and their qualities, which are the fictitious creations of that active mind, where fictitious means simply non-existent in the absence of any real entities in which to inhere.

According to Rosen, Bentham is 'clearly some sort of fictionalist about his theoretical invocations of fictitious entities. These claims (though theoretically convenient and possibly "indispensable") are not strictly true'.[126] However, Bentham may not qualify as a fictionalist proper, because he does not appear to subscribe to the proposition which forms the 'distinctive commitment' of fictionalism, namely that 'the ultimate aim of discourse in the area is not (or need not be) to produce a true account of the domain, but rather to produce theories with certain "virtues"—virtues a theory may possess without being true'.[127] The central virtues of theory are explanatory power, capacity to unify and organise observational data, and, crucially, predictive accuracy. Rosen recognizes the tensions in Bentham's views, and declines to endorse either a fictionalist or a realist reading, noting however, that insofar as he

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[123] UC cii. 466 (Bowring, viii. 331).
[124] UC xxxv. 69.
[125] Postema, 'Facts in Law', p. 51.
[126] G. Rosen, 'Problems in the History of Fictionalism', in *Fictionalism in Metaphysics*, ed. M.E. Kalderon, Oxford, Clarendon Press, 2005, pp. 14–64, at p. 56.
[127] Rosen, 'Problems in the History of Fictionalism', p. 14.

believes paraphrasis uniquely capable of delivering truth in relation to fictitious entities, Bentham sounds very like a reductionist realist.[128]

In essence, it all depends on what Bentham means by translating 'figurative language into language without figure', or by the fictitious having its 'necessary root' in the real.[129] If it means simply that the employment of fictitious entities in a theoretical model gives rise to predictions about the condition of real entities (or sensory data) which can be corroborated by observation of those entities (or by experimental and observational data), Bentham might plausibly be read as a proto-fictionalist. However, if Bentham's repeated claims for paraphrasis are taken seriously, and fictitious entities incapable of successful paraphrasis are thereby illegitimate, he is no fictionalist, but cleaves to truth understood as the accurate description of reality. Paraphrasis rehabilitates fictitious entities precisely by eliminating the falsehood—the assertion that the fictitious entity has real, independent existence—involved in propositions which contain them.

There are two major problems with the fictionalist interpretation of Bentham. First, even allowing for his inconsistencies of expression on this topic, it would surely be quite remarkable for a writer as pre-occupied with clarity as he, to state his position in such an esoteric fashion, that is by insisting on the importance of 'the comprehensive and instructive distinction—between *real* entities and *fictitious* entities: or rather between their respective *names*',[130] which he actually regards as no distinction at all. Stolzenberg entirely overlooks paraphrasis (overlooks that is, Bentham's apparatus for speaking truly or comprehensibly about fictitious entities), and this omission surely undermines her interpretation, since Bentham's statements that real entities do exist, that truth can be spoken about them, and that the key to the legitimate use of fictitious entities lies in their explication in terms of real entities, are not contained in one or two isolated passages, but constitute the bulk of the textual evidence. If Bentham thinks that there is no possibility of exchanging truth, why does he insist repeatedly that there is, straightforwardly in relation to real entities, and, in

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[128] Rosen, 'Problems in the History of Fictionalism', p. 55.

[129] 'View of a compelete code of laws', Bowring, iii. 181; 'A Table of the Springs of Action. Introduction', in *Deontology* (*CW*), pp. 75.

[130] 'Logic', UC ci. 341 (Bowring, viii. 262). And note Bentham's insistence that the distinction between real and fictitious entities underlies and determines that between their respective names at UC cii. 462 (Bowring, viii. 331): see pp. 4–5 above.

relation to fictitious entities, via their analysis in terms of real ones?[131] What is it that he thinks is gained by the process?

Second, if Bentham were to accept that there were no ontological distinction between real and fictitious entities, he would be denying to utilitarianism its most effective weapon in the struggle with competing moral theories. Since Vaihinger allows that sensations, at least, are real, Bentham might be saved by the insistence that the entities which do the bulk of his work are sensations rather than objects, but such a defence comes perilously close to forfeiting the anchor in reality which he asserts to be the essential virtue of his utilitarianism. Thus the superiority of the principle of utility over the principle of sympathy and antipathy, or ipse-dixitism, consists precisely in the reliance of its conclusions on matters of fact, that is, on the real entities constituted by pleasure and pain. To abolish the distinction between real and fictitious entities is to reduce Bentham, in his own terms, to just one more ipse-dixitist.

There is no obvious reconciliation between the reductionist-realist and fictionalist readings of Bentham. It is perhaps conceivable that he believed different attitudes to fictions to be appropriate in different contexts. Thus, paradoxically, but on impeccable utilitarian grounds, he might well endorse Vaihinger's fictionalism in natural, but not in legal science. If fictional theoretical constructs like gravity, atoms, and the rest generate good models, and thereby good predictions, which are testable by the observational data, and which are flexible enough to be revised when the observational data contradict them, what does it matter that the concepts which make up the model do not actually exist as real entities? However, in the area of Bentham's primary interest, morality and law, he believes that the investigation-stymieing consequences of deference to unparaphrasable fictions has been a disaster, and that, therefore, a thorough revision of language is urgently necessary. That revision takes the form of interpreting the fictitious entities in which legal discourse abounds in terms of real entities, and specifically the entities of pleasure and pain. Such a revision would at once produce significant progress toward truth (understood as accurate

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[131] For the assertion that truth is communicable in relation to propositions containing real entities, see 'A Table of the Springs of Action. Introduction', in *Deontology* (*CW*), pp. 74; 'Logic', UC ci. 217 (Bowring, viii. 246); cii. 302 (Bowring, viii. 300); 'View of a complete code of laws', Bowring, iii. 189; *RJE*, Bk. V, Ch. 16, Bowring, vii. 81; 'PPI', UC lxix. 241. For the assertion that truth is communicable in relation to fictitious entities by means of paraphrasis, see 'PPI', UC cxix. 221; 'Logic', UC ci. 217 (Bowring, viii. 246); *Chrestomathia* (*CW*), 'Appendix IV', p. 271–2 n.; 'A Table of the Springs of Action. Introduction', in *Deontology* (*CW*), pp. 74–5.

reference to that which exists), and an equally significant gain in utility, since, in this sphere at least, truth and utility stand or fall together.

Ultimately, it is the rooting of utility in the real entities of pleasure and pain—that is to say the exposition of the fictitious entity utility in terms of alleged facts which are themselves capable of empirical verification or falsification—which makes utility useful: it is the only acceptable moral principle because (discounting asceticism) it is the only moral principle whose alleged dictates are capable of truth or falsehood. In morals at least, then, Bentham would endorse Lee's reading that there can be no conflict between truth and utility because only the true can in fact be useful: 'Any construct, which itself does not refer to a real entity and is not reducible to others which do, is bound to lead to disutility.'[132] For Bentham, whilst the value of true propositions is indeed to be subjected to utilitarian evaluation, the very possibility of utilitarian evaluation itself depends on the existence of such things as true propositions. The chicken of utility and the egg of truth are very likely, therefore, to remain forever locked in a mutually supporting embrace.

## § V. The useful versus the true

As Russell points out, in order to tell whether truth and utility go together we need to be able to tell them apart, that is, we need an independent criterion of truth.[133] Whatever might be said of William James, Bentham does distinguish between the two, and can therefore meet this challenge. The question is, to which fictitious entity does Bentham cleave when they conflict? On the one hand, as noted above, there is no doubt that for Bentham, the foundational principle of rationality is that the sensation of pleasure is to be preferred to that of pain. On the other, for the most part, accurate knowledge about the world is precisely what underpins our predictions of the pleasant or painful consequences of particular actions. However, if experience were to indicate that being guided by truth, that is, by the best available approximation to an accurate description of reality, issued in increased pain, in comparison with being guided by error, that is by a description of reality which we know to be mistaken, it might be rational to embrace error in preference to truth.

Although this strategy might be utility-maximizing, it is, as has been noted, impossible for us simultaneously to attend fully to the relevant evidence and to

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[132] Lee, *The Legal-Rational State*, p. 204.

believe in assertions plainly contrary to that evidence. However, it has also been noted that human beings are capable of wilful failure to attend to evidence. In addition, the question arises most urgently when we are in possession of truths and make decisions not to share them with others. Generally, utilitarian lies arise from the desire to refrain from inflicting avoidable pain. In a scenario where serious harm would clearly be avoided by lying—for instance in answer to the enquiry from the vicious criminal about the whereabouts of his intended victim—a utility calculation would almost certainly indicate that deliberate falsehood was at least justifiable, if not obligatory.

For Bentham, the value of veracity as a virtue depends, like the value of all virtues, solely upon its consequences: 'no act can with propriety … be termed virtuous except in so far as in its tendency it is conducive to the sum of happiness'.[134] According to this criterion, there can be no doubt that, in general, veracity has overwhelmingly good consequences in terms of utility. Indeed, 'The habit of veracity is one of the great supports of human society—a virtue which in point of utility ought to be, and in point of fact is, enforced in the highest degree by the moral sanction.'[135] While it may be the case that particular falsehoods might be useful, every particular falsehood contributes to undermine the habit of truth-telling. The reason that veracity is so crucial to society is summed up by Bentham as follows:

> Happiness, in almost all its points, is, in every individual ... more or less dependent on knowledge; the word *knowledge* not being on this occasion confined in its application to the knowledge of those recondite facts which belong to the domain of *science*. But in all cases, except that of a life carried on from beginning to end in a state of perfect solitude, knowledge depends in the largest proportion upon testimony: and ... it is only in so far as it is expressive of truth, that testimony is productive of knowledge.[136]

In other words, we take an awful lot of knowledge on trust: 'At every moment of our lives, we are obliged to build our judgments, and to direct our conduct, upon the knowledge of facts, of which there are only a few that can pass under our own

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[133] Russell, 'William James's conception of truth', p. 210.
[134] *Deontology* (*CW*), p. 122.
[135] 'Rationale of Reward', Bowring ii. 263. See also ibid. 210; 'Letters on Scotch Reform', Bowring, v. 6.
[136] *RJE*, Bk. I, Ch. 11, Bowring vi. p. 264.

observation.'[137] The important question for the utilitarian legislator, given that very few of us, if any, possess the leisure and the skill necessary to evaluate the evidence supporting all the assertions which we take for granted, is whether it is justifiable for the legislator to mislead us for our own good, whether, that is, 'Government house utilitarianism' is a rational methodology of government.[138]

Whilst recognizing the value of transparency on impeccably Benthamic grounds, Lazari-Radek and Singer argue that utilitarians are in principle obliged to follow Sidgwick in endorsing esoteric morality, that is to say, in recommending duplicity in relation to cases where lying has the best utilitarian consequences, and we can be confident that the truth will not emerge.[139] In so far as Hooker's rule-utilitarianism rejects such an esoteric morality, it is held to have abandoned consequentialism altogether.[140] Bentham would, I think, accept the logic of Sidgwick's position, but would believe that the condition of maintaining secrecy reduces to a minimum the number of cases in which such a morality might be called into action. Remember, 'no act can with propriety … be termed virtuous except in so far as in its tendency it is conducive to the sum of happiness'. To rule out duplicity always and everywhere simply *is* to reject the calculation of the probable consequences of an action. However, Bentham's empirical answer to the question of 'Government house' utilitarianism is both tolerably clear, and defensible. In general, the strategy will not work, because the lie will be discovered. The evidence of sense perception is available to all, and the factual evidence is available to all. Of course, all human beings, being subject to sinister interest, interest-begotten prejudice and adoptive prejudice, are liable to engage in fallacious reasoning in order to carry a point, but fallacious reasoning is detectable.

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[137] 'Principles of Morals and Legislation', Ch. 13, Bowring, i. 78. This text is, of course, Dumont's, rather than Bentham's, but Bentham makes a similar statement in *RJE*, Bowring, vii. 108.

[138] The duplicities of 'Government house utilitarianism', are discussed by Bernard Williams: see J.J.C Smart & B. Williams, *Utilitarianism: For and Against*, Cambridge, 1973, pp. 138–40, and B. Williams, *Ethics and the Limits of Philosophy*, London, 1985, pp. 108–10.

[139] See K. de Lazari-Radek and P. Singer, 'Secrecy in Consequentialism: A Defence of Esoteric Morality', *Ratio* xxiii (2010), 34–58. For Henry Sidgwick's defence of esoteric morality, see *The Methods of Ethics*, 7th edn, London, 1907 (first published 1874), pp. 489–90.

[140] See de Lazari-Radek and Singer, 'Secrecy in Consequentialism', 47: 'If our firmest conviction is that we should do whatever will have the best consequences, and after due reflection this conviction remains firmer than the idea that we should always avoid paternalism and duplicity; and if in particular cases where duplicity has better consequences than honesty, we still think we should do what has the best consequences, then Hooker's appeal to reflective equilibrium gives us no reason to to ... to reject esoteric morality. ... Hooker may, of course, have different convictions. To the extent that he does, he is not a consequentialist'. For Hooker's rejection of esoteric morality see B. Hooker, *Ideal Code, Real World: A Rule-Consequentialist Theory of Morality*, Oxford, 2000, pp. 85-8.

Bentham allows himself to flirt briefly with misinformation in his analysis of punishment, where he draws a distinction between the real and the apparent value of a punishment. The real value is the pain which the offender actually suffers, whilst the apparent value is that which the watching public believe him to suffer. Bentham asserts that by exploiting the property of exemplarity, which increases the apparent punishment, the value of the real punishment may be reduced:

> It is the idea only of the punishment (or, in other words, the *apparent* punishment) that really acts upon the mind; the punishment itself (the *real* punishment) acts not any farther than as giving rise to that idea. It is the apparent punishment, therefore, that does all the service, I mean in the way of example, which is the principal object. It is the real punishment that does all the mischief.[141]

Whilst the obvious way of increasing the apparent punishment is by increasing the real, there are, says Bentham, less expensive—meaning less pain inflicting—means, one of which consists in 'a particular set of *solemnities* distinct from the punishment itself, and accompanying the execution of it'.[142] It is tempting to indulge in a happy— meaning less pain inflicting —fantasy, wherein, to impress the public, the judge dons his black cap, and performs a ritual condemnation of the offender, perhaps to suitably grave musical accompaniment, before the offender is led behind a screen to begin his minimally painful actual punishment, part of which involves the obligation to scream at the top of his voice in simulation of acute pain.[143] Of course, such a fantasy breaches Bentham's first rule of proportion, which is that the punishment must outweigh the expected profit from the offence, but it does so only in relation to the tiny minority of the population who are actually convicted of offences. With respect

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[141] *IPML* (*CW*), p. 178–9.

[142] Ibid., p. 179.

[143] A similar readiness to delude public perception is evident in 'Rationale of Punishment', Bowring, i. 429–31, where Bentham considers means of enhancing the exemplarity of the punishment of imprisonment. He proposes three grades of prison, the third reserved for delinquents 'never to mix with society again'. 'Here let the apparent condition of the delinquent be as miserable, and the real as comfortable, as may be.' The prison reserved for the worst offenders should be painted black, whilst skeletons should be displayed on either side of the door, in a way calculated to excite in the imagination of inmates, but more especially in that of visitors, 'the most salutary terrors'. 'I am fully aware, that to the man of wit these emblematic figures may serve for matter of ridicule: he admires them in poetry; he despises them when embodied in reality. Fortunately, however, they are more assailable by wit than by reason.'

to them, the legislator seems to have forfeited the ability to influence their future behaviour in a good way, although a credible threat that any repeat offence would be followed by a severe dose of real pain might do the trick. However, Bentham explicitly notes that deterrence of potential offenders through example is far and away the most important end of punishment 'in proportion as the *number* of persons under temptation to offend is to *one*',[144] whilst that deterrent effect depends not on the real punishment, but precisely on the apparent punishment.

A more serious objection to the policy is that public knowledge of the disjunction between the real and the apparent punishment would eliminate the disjunction, thereby destroying the desired exemplary effect, and bringing the entire justice system into disrepute, while the relevant point is that the public would be very likely to find out. We might prolong the fantasy by imagining 'Offender protection programmes', under which, in order to maintain the secret, our compliant offender and his family are secretly relocated and equipped with a new identity, but setting aside any issues of cost, the overwhelming likelihood is that the secret would leak, and our brilliant scheme to economise on suffering would fail.

In his writing on Indirect Legislation, Bentham responds to an objection that rewarding informers is wrong, because it constitutes public incitement to breach of trust (in effect, lying), and breach of trust is always wrong:

> The proposition then that to violate promises is immoral, if given as an universal one is not true.
>
> There are cases in which the violation of a promise    is not immoral: and this is one of them. But it may be said, admitting this distinction to be just in itself, is it such an one as the people will enter into? The case, let it be admitted, is one that ought to be regarded as an exception to the rule. But will the people actually regard it in that light? In the case in    question the violating of a promise is not immoral: ... granted: but will not the people in general think it so? ... [it] is one of the cases in which, the people being liable to go wrong, it should be the care of government to instruct them and set them right. In this view the following are the tasks which the legislator should perform. Recognizing the truth of the rule in general, he

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[144] *IPML* (*CW*), p. 159 n.

should give a list of the exceptions. *He should, moreover, shew the reason which there is for the exceptions as well as for the rule. It would then appear, that they both depended on the same principle*; *that of utility*; *that there was as much reason for the one as for the other*: *and the reasons in favour of the exceptions did but confirm the sacredness of the rule in all other cases that did not fall within them.*[145]

Here, the legislator makes a public declaration of the utilitarian rationale of the rule which rewards information leading to the prevention or detection of crimes, and engages with the public concerning the utilitarian justification for lying to people who trust us. Now the rule that informers will be rewarded is a public rule, and, like all public rules, it requires a rationale, and that rationale, for Bentham, can come only from the indication of the consequences of the rule on the future experience of pleasures and pains by all the sentient beings affected by it. As Hooker notes, 'What defining ethics in terms of public rules must oppose is (not permissible secrecy in general but) secrecy about moral rules.' [146] Bentham makes no secret of his commitment to the overarching moral imperative of utility, and insists on the cognoscibility and promulgation of the rules intended to guide conduct. I may still be justified in calculating that the utility-maximizing option in a particular case is to lie, on the basis that my duplicity will remain undetected. If my lie is discovered, my only prospect of avoiding moral or legal sanctions is to come clean about the reasoning which led to it. If my utility calculation stands scrutiny, I have some grounds to hope that those sanctions will not be applied, that is, I will be spared punishment. Of course, whether coming clean will have the best consequences overall, as well as offering me a possible escape from sanctions, will itself depend on the probable consequences of so doing.

Errors in popular perception, false beliefs on the part of the ruled, do present the legislator with the problem of how far he ought to attempt to correct them. For instance, the general psychological tendency to optimism had already been noticed by

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[145] 'Indirect Legislation', UC lxxxvii. 54 (Emphasis added).
[146] B. Hooker, 'Publicity in Morality: A reply to Katarzyna de Lazari-Radek and Peter Singer', *Ratio* XXIII (2010), 111–16, at 115.

many writers, was noticed by Bentham,[147] and, according to the latest researches of neuroscientists, remains alive and well.[148] Since this Micawberish fantasy is a delusion, ought the legislator to attempt to combat it, even at the cost of eliminating thereby a large quantity of pleasure, since pleasure derived from the contemplation of erroneous beliefs is no less real than pleasure derived from the contemplation of true beliefs? The answer depends on two judgments, the first concerning the consequences of the prejudice in terms of pleasure and pain, and the second concerning the consequences of any attempt to correct it. In relation to the first, it might be argued that irrational optimism has good consequences in both the short and the very long term, but might have bad consequences in the medium term. Thus my current expectation that things will turn out well supplies pleasure as long as it lasts, while its prevalence might provide evidence of its being an evolutionary advantage. Conversely, Bentham was alarmed by the widespread pains consequent upon the tendency, particularly prevalent among the poor, of failing, during the youthful years of relatively high wages and low outgoings, to make any provision for old age. He certainly thought it conceivable that the benefit of avoiding these pains could justify the legislator in levying compulsory pension contributions to make provision for old age.[149]

In relation to the second, Bentham considers the means available to the legislator in combating popular prejudices, and concludes that they reduce to patient instruction.[150] Given that existing prejudices are data relevant to the utilitarian calculation, it is hardly surprising that Bentham subjects any measure which opposes them but which would, in itself, be useful, to utilitarian calculation: 'the measure is still to be put into execution, if the good of it to them promises to be greater than the evil of their dissatisfaction at the thought of it.'[151]

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[147] *Writings on the Poor Laws: I*, ed. M. Quinn, Oxford, 2001 (*CW*), p. 196. For a similar observation by Adam Smith see *An Inquiry into the Nature and Causes of the Wealth of Nations* (first published 1776), ed. R.H. Campbell, A.S. Skinner, and W.B. Todd, 2 vols., Oxford, 1976, i. 124–5.

[148] See, for instance, Tali Sharot, *The Optimism Bias: A Tour of the irrationally Positive Brain*, London, 2012. An interview with the author appeared in *The Observer*, 1 January 2012.

[149] See *Writings on the Poor Laws: I* (*CW*), pp. 195–6.

[150] See, for instance, Bibliothèque de Genève, Ms Dumont 51, fol. 226: 'Il y a des remèdes sûrs contre les préjugés, mais ils sont lents: ce sont l'instruction, la douceur et la patience. Par malheur, ils sont encore pénibles: non pas pour celui envers qui on les employe, mais, qui pis est, pour celui qui les employe. On ne connoit d'autre moyen que la force. Craint-on de l'employer? On abandonne la partie.'

[151] 'Memoir and Correspondence', Bowring x. 146-7. See also 'Place and Time', in J. Bentham, *Selected Writings, edited with an introduction by Stephen G Engelmann*, New Haven & London, 2011, pp. 173–4 (Bowring, i. 181–2).

In general, Bentham appears confident that the dissemination of knowledge will lead to a gradual reduction in the gap between both public perception and reality (or rather the best currently available approximation thereto), and between public opinion and the dictates of utility. He is not opposed to public funding of enquiry in the pursuit of knowledge, or indeed of the public funding of the dissemination of factual information, but is profoundly hostile to the publicly funded dissemination of particular conclusions. Once again, the particular target he has in mind is the established church, which he believes to be the disseminator of falsehoods. In so far as Bentham believes the religious sanction to play a positive role in supporting acceptable moral standards, there is a tension here between the utility of religious belief, and the lack of evidentiary basis for that belief. The tribute to religion as possessing important utility in supplying the deficiency in the legislator's power 'by inculcating upon the minds of men the belief that there is a power engaged in supporting the same ends, which is not subject to the same imperfections',[152] is revealed as the statement of Dumont rather than Bentham, but Bentham himself made an equivalent statement in *IPML*.[153] Despite this, the vast bulk of Bentham's discussion in 'Délits religieux' consists in the denunciation of the offences *of* religion, in fostering belief in an afterlife where most of us are damned to eternal suffering, and shifting our focus away from the real world of experience, which is the only proper context for the sanctions of reward and punishment.[154] The other surviving discussion which does place religious belief in a positive light, in 'Rationale of Reward', also appears in a work edited by Dumont, and so comes attached with a considerable caveat. That said, the discussion puts the question as to whether the utilitarian legislator ought to make an exception to the prohibition on providing rewards for the avowal of the truth of particular opinions:

> It may be said, that an exception ought to be made from the rule, in cases wherein, on whichever side the truth may be, the utility is clearly on the side thus favoured. Thus there is use, for instance, in the people's believing in the being and attributes of a God: and *that* even in a political view, since upon that depends all the assistance which the political can

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[152] 'View of a complete code of laws', Bowring iii. 170.

[153] *IPML* (*CW*), pp. 201–2.

[154] 'Délits religieux', in *Revue d'études Benthamienne*, 6 (2010).

derive from the religious sanction: and that there can be no use in their disbelieving it.[155]

The discussion goes on to admit that insofar as such a belief is indeed useful, it certainly requires to be taken into account. However, given the disutility arising from the state's embrace of hypocrisy, in publicly asserting the truth of assertions without factual basis, and thereby fostering mendacity and devaluing veracity, the strong likelihood is that the costs of such a policy will outweigh the benefits, at least that seems to be the most plausible interpretation of the hesitant and ambiguous conclusion: 'If, then, the interests of religion be at variance with those of virtue, and it be necessary to endanger the one in order to promote the efficacy of the other,—so then must it be.'[156]

For Bentham, the possibility of the religious noble lie appears ruled out by what Crimmins describes as his moral atheism, that is, the view that 'actions are right or wrong, good or evil, without reference to God'.[157] Whether or not God existed in some sense undetectable by sense, he was quite irrelevant to morality. The religious sanction could not be a reliable support to morality because the operation of the sanction took place outside the realm of sense experience. Any effective morality had to work, and be seen to work, within that realm. Any legislator who publicly asserted the truth of religion spoke nonsense, whilst Bentham expected the removal of state support of religion to result in a significant erosion of religious belief and religious practice. However, the legislator should refrain from applying punitive sanctions to such belief or practice, unless such belief and practice led directly to the infliction of harm on others, thereby leaving it up to individuals to believe or withhold belief according to their taste.

For Bentham did recognize that some people found in their faith a source of comfort and happiness, though the admission extended only to those according to whose faith the religious sanction worked only through reward, that is, by the promise of heaven, and not through punishment, that is, by the threat of hell: 'He who is

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[155] Rationale of Reward, Bowring, ii. 263–4.
[156] Ibid., Bowring, ii. 264.
[157] J.E. Crimmins, 'Introduction: Utility, Truth, and Atheism', in *Revue d'études Benthamienne*, 6 (2010).

inbred with so delightful a persuasion, let him not divest himself, let not any one seek to divest him, of it: no service can compensate for such disservice.'[158]

More generally, asserting the truth of potentially useful lies comes close to being ruled out by the availability of the evidence of sense experience to everyone. After all, morality would require no legal enforcement at all if only everyone believed that immoral behaviour led ineluctably to misery, but the all too visible apparent happiness and material success enjoyed by some apparently immoral people provides overwhelming evidence to the contrary.
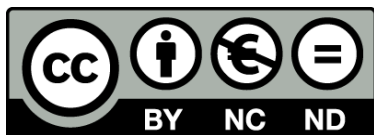
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[158] British Library Add. MS 29,809, fol. 196.