<table>
<thead>
<tr>
<th>Table of Contents</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Editorial</td>
<td>1</td>
</tr>
<tr>
<td>The Bentham Project, 1978-80</td>
<td>2</td>
</tr>
<tr>
<td>J.R. Dinwiddy</td>
<td></td>
</tr>
<tr>
<td>Language and Politics:</td>
<td>4</td>
</tr>
<tr>
<td>Bentham on Religion</td>
<td></td>
</tr>
<tr>
<td>James Steintrager</td>
<td></td>
</tr>
<tr>
<td>The Correspondence of Jeremy Bentham, 1788-1787</td>
<td>21</td>
</tr>
<tr>
<td>A.T. Milne</td>
<td></td>
</tr>
<tr>
<td>Work in Progress: Bentham's Political Writings 1788-95</td>
<td>27</td>
</tr>
<tr>
<td>Michael James</td>
<td></td>
</tr>
<tr>
<td>Was Bentham a Feminist?</td>
<td>25</td>
</tr>
<tr>
<td>Terence Ball</td>
<td></td>
</tr>
<tr>
<td>In Defence of a Myth</td>
<td>33</td>
</tr>
<tr>
<td>Lea Campos Boralevi</td>
<td></td>
</tr>
<tr>
<td>Bentham No Feminist:</td>
<td>47</td>
</tr>
<tr>
<td>A Reply to Boralevi</td>
<td></td>
</tr>
<tr>
<td>Terence Ball</td>
<td></td>
</tr>
<tr>
<td>Review: Bentham on Liberty</td>
<td>49</td>
</tr>
<tr>
<td>Michael James</td>
<td></td>
</tr>
<tr>
<td>Bibliography 1901-1944</td>
<td>53</td>
</tr>
</tbody>
</table>
EDITORIAL

This issue contains a further paper delivered at the Bentham Studies Conference of July 1979, and initiates a debate on Bentham and feminism by publishing the contrasting views of two Bentham scholars. We would welcome any further contributions to this subject, as to any other; these should be sent to the editor not later than 28 February 1981.

Contributions are also welcome to the proposed bibliography of nineteenth-century writings on Bentham, which we hope to publish in the next issue.

We would remind contributors that their material should conform to the conventions that are set out on page 46 of the first Newsletter.

Claire H.G. Gobbi
THE BENTHAM PROJECT, 1978-80

Since the report on the Bentham Project which appeared in the first number of this Newsletter in May 1978, there have been several developments of which some account should be given for the benefit of readers who are not already apprised of them.

In the summer of 1978 Lord Robbins was succeeded as chairman of the Bentham Committee by Professor H.L.A. Hart. (Professor W.L. Twining remains vice-chairman, and chairman of the Executive Committee.) Professor J.H. Burns, having been General Editor 1961-77 and Joint General Editor 1977-9, retired from his editorial post in September 1979, after delivering a memorable valedictory speech in Bentham's presence at the Dinner that formed part of the Bentham Studies Conference in July. He has kindly agreed to remain a member of the Executive. J.R. Dinwiddy (Joint General Editor 1977-9) is now acting as General Editor and secretary to the Bentham Committee. In November 1979 there was a change in the constitution of the Committee, which had previously - although it was originally set up on the initiative of University College London - had a somewhat uncertain status within the College. After consultation with the college authorities and with the existing members of the Committee, it was formally reconstituted as a Committee of the Council of UCL. This change clarifies and confirms the relationship between the Project and the College, to which, of course, the Project is deeply indebted for accommodation, services and financial help. The membership of the Committee remains substantially unchanged, apart from the addition of three ex officio members from within the College. Under the new constitution the British Academy appoints two members, and has nominated Sir Alfred Ayer and Mr. J.P. Carswell. The British Academy continues to give the Project vital financial backing, and we are also receiving a generous grant from the Social Science Research Council. Unfortunately the possibility, mentioned in the Newsletter in May 1978, that a Bentham Studies Centre in association with the Project would be established at Tulane University has not materialized, as the application to the National Endowment for the Humanities for the initial funds required was unsuccessful.

On the editing and publishing front, Pedro Schwartz and Claire Gobbi have made good progress in their investigation of Bentham's Iberian and Latin American writings and correspondence, and in 1979 Dr. Schwartz brought out in two volumes in Madrid The Iberian Correspondence of Jeremy Bentham: A provisional edition. Also two volumes in the Collected Works, Correspondence vols. IV and V, edited by A.T. Milne and covering the period from November 1788 to the end of 1797, are now in production and will be published by the Athlone Press later in 1980. These, however, will be the last volumes of the Collected Works to be published by Athlone. In 1978-9, owing to the uncertainties which then existed about the future of the Press (which has since been sold by the University of London to a commercial firm), the Committee explored possibilities of finding an alternative publisher; and in June 1979 it concluded an agreement with Oxford University Press whereby the latter undertook to publish the next thirteen volumes of the Collected Works. This programme will include the following volumes: Constitutional Code, vol. I, ed. J.H. Burns and F. Rosen; Deontology, A Table of the Springs of Action, and The Greatest Happiness Principle, ed. Ammon Goldworth; Christomorphica, ed. W.H. Burston; Of the Influence and Place in Matters of Legislation, and Indirect Legislation, ed. C.F. Bahmweiler and Hardy Wieting, Jr.; Correspondence, vols. VI and VII, ed. J.R. Dinwiddy; Preparatory Principles, ed. D.G. Long;
Political Writings 1788-95, ed. M.H. James; Church of Englandism and its Catechism Examined (2 vols.), ed. James Steintrager; and Writings on the Poor Law (2 vols.) ed. C.F. Bahmueller. (The last of these items was to have been edited by Warren Roberts, who has done much valuable work in sorting out the Poor Law manuscripts, but regrettably he has had to relinquish the task for reasons of health.) Further volumes that are in preparation, beyond the programme outlined above, include two more volumes of writings on religion, edited by James Steintrager; Constitutional Code, vols. II and III, which L.J. Hume has recently undertaken to edit; and the remaining volumes of the Correspondence series, the materials for which are being assembled at the Project by Martin Smith.

The agreement with Oxford University Press (for which we are particularly indebted to the efforts of our chairman) has greatly improved the prospects for rapid progress on the edition. Under the terms of the agreement a publication subsidy will be required for each volume, and considerable sums of money will have to be raised for this purpose; but the amounts involved are less daunting than those that would probably have been needed under our previous publishing arrangements. The Committee is also attempting to raise funds to reinforce the editorial staff of the Project, such reinforcement being particularly desirable in view of the increased volume of work that the new publication programme will entail.

J.R. Dinwiddy
Bentham’s war on religion constitutes one of the more embarrassing aspects of his thought for many of his followers. From John Stuart Mill to David Baumgardt, there has been a tendency to dismiss these writings as superficial, and in no way of great importance in estimating Bentham’s contributions to ethics and politics. Despite this tendency, it is clear that Bentham himself saw his writings as a significant step in the elimination of religion and, therewith, as a crucial element in his campaign to reform ethical and political life.¹

For present purposes, I want to concentrate on certain aspects of the manuscripts which are housed in the British Library. In doing so, I will be neglecting other writings by Bentham, particularly some composed during the same period as those on religion. The most important of these, the manuscript version of the Deontology, would, if considered, certainly qualify the points I wish to suggest.

The manuscripts in the British Library were used by George Grote in preparing the work known as The Analysis of the Influence of Natural Religion on the Temporal Happiness of Mankind which appeared in 1822 under the pseudonym of Philip Beauchamp. As the title indicates, The Analyste was restricted to the discussion of ‘natural religion’. However, even a careless reader might notice that, on more than one occasion, the critique extends to aspects of revealed religion. And with good reason, for the manuscripts do not end with an analysis of natural religion but go on to criticise revealed religion or, as Bentham preferred to say, ‘alleged Revealed Religion’. In fact, Bentham believed that natural religion was an abstraction from revealed religion — a paradoxical abstraction since one of the things from which natural religion was abstracted was the fear which gave birth to revealed religion, a fear to which revealed religion was indebted for the greater part, if not the whole, of its influence. Take away the fear or the horror and one takes away most, if not all, of the influence of religion. Thus natural religion is a weak and inefficient substitute for revealed religion.²

As for revealed religion, Bentham was concerned in the main with Christianity and, in these manuscripts, with that version of Christianity reported in the histories or narratives known as the four gospels and which he called the religion of Jesus. The Acts of the Apostles and the epistles (or, more precisely, the Pauline epistles) were the subject of analysis in the work known as Not Paul, But Jesus where the asceticism Bentham associated with Christianity was attributed to Paul and not to Jesus. One of the interesting minor aspects of the critique of the religion of Jesus is that it is scarcely at all concerned with asceticism, particularly in its more vulgar forms, namely — to speak Benthamically — with abstention from the pleasures of the table and the pleasures of the bed. Rather the critique of the religion of Jesus is directed at the principle of sympathy and antipathy, to use the other main category of principles opposed to utility which Bentham had set down in An Introduction to the Principles of Morals and Legislation.³

According to the manuscripts, Jesus’ real mission, as revealed by every act and every word recorded in the gospels, was not to establish a religion or even to advance a moral teaching. Rather it was to acquire and to keep the sovereign power of the nation of which he was born a subject. “No such purpose had he as that of bettering the condition of mankind in that or any
other country, in that or any other time. The sole purpose was, to raise up a temporal sovereignty for himself in that country at that time and to this end every discourse as well as every act will upon examination...[be] found to be directed.\(^5\) Only when it became clear that the movement would meet the fate that 'law and government has provided for such enter-
prises' was the ideal of a spiritual kingdom developed as a refuge – a
refuge which became the dominant idea amongst his followers when any poss-
sibility of a temporal kingdom ended with the death of Jesus on the cross.\(^6\)

Given the station in life to which Jesus was born, the only way he could accomplish his goal was by revolutionary means. To succeed he needed two things above all else, men and money. Men and money were needed both to obtain and to keep political power.\(^7\) But there was another need, and that was to keep the established authorities from sniffing out his rev-
olutionary plot before it was sufficiently advanced. To obtain this
immunity from public authority, Jesus had to resort to ambiguous or figura-
tive language. He sought to mask his real intentions. Accordingly he spoke so that, if pressed, he could claim that he was but an orator or a
moralist or, perhaps, a minor prophet in the Jewish tradition, a reformer
and not a revolutionary.\(^8\)

But ambiguous or figurative language was also necessary if Jesus was to get the followers he needed. The men constituting the armed force or
military needed for his revolutionary mission would be drawn from the poor. The money, however, would have to come from the rich. To get both men and
money, Jesus had to speak in such a way as to transcend the class differ-
ences between these two groups. Figurative language readily lent itself to
this purpose. It enabled him to present his listeners not with one idea or
determinant set of ideas, but with as many ideas as there were listeners
with each individual hearing that idea most agreeable to himself. Thus
the rich might be taught the advantages of sharing their wealth with the
poor, and the poor would be enticed to join the movement with the prospect
that they would share in the wealth of the rich. Of course, Jesus did not
really intend for the poor to share in that wealth except as it suited his
purpose. In fact, he wanted the wealth, along with political power, for
himself. To obtain that wealth and power, he had to teach his followers,
rich and poor alike, to sacrifice their own 'individual interest to the
interest of the whole community of which he was endeavoursing to become the
founder and leader..."\(^9\)

Bentham admitted that for Jesus to succeed, even as much as he did,
required 'no inconsiderable force of mind' as well as intrepidity and
vigilance.\(^10\) But in exercising this ability, Jesus did not intend to set
forth a moral teaching. Despite this, a moral teaching did emerge from
his words and deeds, a teaching which apparently was taken seriously not
only by some of his immediate followers but also by many in succeeding
generations. Bentham, of course, had no difficulty in explaining (or
explaining away) the claims made about Jesus' moral teaching by many of his
immediate followers. They sought, as much as he had, to obtain political
power, and they found his teaching useful toward this end. So too with
succeeding generations of 'religionists' who found the words of Jesus a
'most powerful and efficient' instrument for making 'men into dupes'.\(^11\)
Bentham was puzzled, however, by those who, like himself rejected all
belief in the divinity of Jesus, and any notion that the moral teaching
drawn from his words and deeds was, in any sense, revealed; men who were
neither dupes nor religionists yet who nevertheless did think that the
moral teaching of the gospels was useful and edifying. How could such a
belief be based on the study of the gospels? How could it still be given 'amongst the most enlightened of nations so universal a credence' even in his own day and even from 'the most enlightened men'? As he wrote, 'in the whole history of mind a more extraordinary and curious example of intellectual blindness propagated by contagion is surely not to be found than that which is to be afforded by the case of Jesus:...'. Bentham thought there were a number of reasons for this intellectual debility, even among enlightened men in an enlightened age, and among these were the influence of fear and hope acting on the will, and the influence of authority acting on the understanding. In addition, the 'very extravagance' and 'paradoxicality' of Jesus' words and deeds - the show and display of benevolence and beneficence, the preaching of sublime self-denial - combined to make Jesus' teaching an object of admiration.

Bentham did not admire that teaching. At best it was useless, at worst it was downright pernicious. For a moral teaching to be useful, it must provide directive rules and sanctions. The directive rules must be stated in the clearest, most correct, completest, and, at the same time, most concise terminology that language in general permits. The most careful regard must be paid to 'the different situations in life in which persons of the different sexes, ages, and degrees in the scale of opulence and power' are to be found; and a 'description' in the language of the time must be given of 'the different species of transgressions' or 'the different modes of doing evil of which human nature' in general admits, as well as those peculiar to a given country at a given time. In like manner, in order to insure that the directive rules are followed and offences prevented, the sanctions or the quantity of punishment to be attached to delinquency should be spelled out in the clearest and most distinct terms.

On all of these counts Bentham found the moral teaching attributed to Jesus radically deficient. In regard to the directive rules, he commented: 'Unhappily so far as this indispensable condition from being fulfilled, that from the first to the past the precise line of conduct of which it was the wish of Jesus that it should be observed is in almost every instance if not in every instance whatsoever, absolutely undiscoverable'. Because Jesus had to resort to ambiguous or figurative language to obtain his real goal, his discourse was deficient in an unusual degree in clearness, conciseness, and completeness. It is simply insufficient for giving direction to human conduct on many occasions, and it is completely silent on many material points of morality and legislation. In fact, as a standard for directing human conduct 'any benefit which can be derived from it is next to nothing'. In this regard, the moral teaching of Jesus is inferior to the teaching of the Koran. True, in comparison to the gospels, the Koran 'is a most wretched, a most insipid' composition. But in giving 'particular and precise description', the gospels are to 'a considerable degree inferior' to the Koran. In the Koran one can find principles of detail delivered with sufficient precision, particularity, and extent to form the basis of a common life. But there is not 'so much as a particle' of such matter to be found in the gospels. And what is true of the directive rules is equally true of the sanctions or the punishments to be attached to transgressions.

Despite this rather uncompromising argument that there was nothing of utility in the moral teaching of the gospels, that they were, so to speak, utterly without redeeming social value, Bentham was aware that this line of criticism was insufficient and, indeed, in some respects simply preposterous. 'True it is', he could write, 'that among the discourses of Jesus are to be
found passages by which affections of the social class are included', passages praising benevolence or beneficence. Or 'that among the precepts, which here and there may be seen scattered in the course of history, there are many, the observance of which the tendency would be beneficial to human society wherever it is to be found is altogether manifest and undeniable'. But though Jesus preached the social class of virtues it was only for the purpose of uniting his followers so that he might succeed in his revolutionary venture. The social virtues he preached were only a means to an end, and general benevolence and beneficence were in no way the direct object of his endeavours.

Now this might strike one as a curious argument for Bentham to make. Was it not a central assumption of utilitarianism that consequences, not motives, should be considered in estimating the morality of an action? But if Jesus sought to inculcate the social class of virtues, what matter his motives? Was Bentham arguing that the salutary consequences attributable to the religion of Jesus are vitiated because of Jesus' motives? Bentham did not think that this was what he was arguing. In the first place, it was not just that the beneficial teachings were incidental to Jesus' real mission, and that they were delivered, 'from first to last', in pursuit of an endeavour that was purely 'self-regarding'. Rather it was that the mission, the seizure of temporal power, could only be achieved by 'bloody, violent and destructive means', means incompatible 'with the exercise of any considerable influence in the part of the social class of motives'. Secondly, Bentham contended that the salutary effects were only apparent. Jesus taught what was conducive and 'necessary at the moment to the formation of that particular community' he sought to establish. But, in the long run, what he taught was 'incompatible with the continuance either of every other society, or even of that very society in and to the formation of which they had served'. This was because the social virtues Jesus preached and the way in which he preached them would be destructive of all self-regarding virtue. The appeals to benevolence, the inculcation of disinterestedness, the denigration of the self-regarding affections, the praise of meekness, all were enjoined without any limitation and, as unlimited, the practice of them would destroy society.

By the utmost prevalence of the self-regarding and dissocial [affections] they could not be made to suffer for so much as they would by the pursuit of the dictates of the social to the degree here recommended, coupled with the debilitation or extinction of the self-regarding and dissocial: the self-regarding suffice for preventing the dissocial from presenting any such fatal effects.

Bentham even contended that the prevalence of the principles of Machiavellianism, that is the utmost prevalence of the self-regarding and dissocial passions, pursued 'with the utmost zeal as well as with the utmost ability by every ruling power upon earth', would not cause as much harm as would result from the prevalence of the apparently beneficial principles of Jesus. On the basis of the principles of Machiavellianism, all rulers would soon realize that every other ruler was also engaged 'in this odious system', and so everyone would be on guard against everyone else. The selfishness of each would be limited and checked by the same principle of selfishness in all, and from mutual jealousy some security would result.

No similar security could be found in the teachings of Jesus. Jesus preached: 'Therefore all things whatsoever ye would that men should do to
you, do ye even so to them: for this is the Law and the Prophets (Matthew vii.12)'. In doing so, he, in effect, was calling for the destruction of society. For if each man sought to do as much good to others as was within his power, he inevitably would destroy himself. The vast majority of men were but labourers whose whole time and attention must be devoted to their own (individual) preservation. To ask them to concern themselves with others in the manner stated was to ask them to commit suicide by neglecting to provide themselves with the necessities of life.\footnote{27}

Or again, the principle of 'do not evil that good would come by it' would also destroy society if acted on consistently. To adhere to this principle would prevent government from employing the punishment necessary to keep society together. Nor would Bentham allow such a passage to be explained by claiming that it was not physical but moral evil that was meant to be avoided. The text speaks of evil with qualification. Therefore it means that it is forbidden to do any evil even if a greater good would result.\footnote{28}

And even the 'precepts' of 'the much celebrated Sermon on the Mount', if 'carried to the degree prescribed by it - a supposition which happily the nature of man could not now nor ever can admit the realization - would be not the improvement of human society, but the compleat destruction of it'.\footnote{29}

Now Bentham's strategy throughout is to argue that all of the precepts attributed to Jesus 'understood according to their literal meaning, they would be destructive to society'.\footnote{30} This is because in every instance the literal meaning is set forth without any restrictions or limitations which might otherwise prevent the disastrous effects. And to have recourse to anything other than the plain and literal sense of the words presents insurmountable difficulties: First, what clear and determinant concept could provide for direction and guidance in moving from the literal interpretation of figurative language to an interpretation expressed in plain language and with the necessary qualifications? If the words are not to be taken literally what other words are to be used to convey the proper understanding? 'But to this question', Bentham writes, 'no answer has ever been attempted: no answer with so much as the shadow of a ground for it ever will be, can be attempted'.\footnote{31} Secondly, granting, as on occasion Bentham was willing to grant, that the language of the time was imperfect, and the people who were addressed were simple individuals who could only be reached through rude and imperfect and, hence, ambiguous language, was is the consequence of such an admission? It is only insofar as the ambiguous and figurative language might be translated into 'plain language' that it 'can be productive of any moral, or any useful effect. The effect of it, if it has any, is to serve as a rule of action, a guide to human actions: and before an act can in obedience to any rule be performed or abstained from, an idea, a precise idea of it, must have been formed in the mind'.\footnote{32} Hence, without the translation into plain and precise language, the ambiguous language is of no use whatsoever as a guide to action. Thirdly, in fact those rules could have been stated in plain and precise language, even given the state of the language of the day and the rude condition of the people.\footnote{33} Fourthly, to suggest that this was not possible is to suggest that the alleged source of these rules, namely God, despite his omniscience, was unable to present these rules in the necessary plain language; that he was incapable of expressing himself clearly.\footnote{34} Fifthly, it would not do to claim that 'God's ways are not man's ways: his wisdom is not our wisdom'. If wisdom is ascribed to the acts of God, the term must mean 'exactly' (due regard paid to 'difference of education')! what it

8
means when ascribed to man or 'the act has been erroneously ascribed to God or God is not a wise being or wisdom is not manifestly among the attributes of God or wisdom is a word void of meaning'. Even granting the supposition that 'God's ways are not man's ways', Bentham asks 'how can you fulfill his wish but in so far as you know what it is? How can you understand what his will is but in so far as you understand what his designs and what his ways are?' Indeed, granting the supposition leads to the suggestion that the omniscient God of Truth must have intended, in fact, to deceive mankind. Finally, and more generally, Bentham contends that, entertainment aside, there are only two causes of such inappropriate figurative language, mental weakness or fraud. Ambiguity is always avoidable by the discoursor if he knows what he means and what he says. Since Jesus' real mission, according to Bentham, was that of seizing temporal power, and since, as has already been suggested, that mission required considerable skill, the inevitable conclusion is that fraud, not mental weakness, was the cause of Jesus' ambiguous discourse.

We have thus come full circle, beginning and ending with the imputation of revolutionary motives to Jesus, and the consequent necessity for him to use ambiguous or figurative language. Since Bentham's reasoning, particularly given the incomplete and often chaotic state of the manuscripts, is not perfectly consistent, one might be tempted to dismiss his analysis as but the fevered product of a gloomy old man, still tortured by the unfortunate religious and quasi-religious experiences of his youth; and anxious to saddle religion with the blame for an upbringing which left this saint of rationalism fearful of the dark even in his old age, and long after he became convinced that not only were there no imps and ghosts but that there was no God. Perhaps there is something to such an interpretation, although I believe it overlooks certain important aspects of Bentham's thought particularly as it developed in the last two to three decades of his life. For what these manuscripts demonstrate is the length to which Bentham was willing to go in pursuit of what L.J. Hume has called 'the strategy of individualisation'. Following up on a suggestion made by Mary Mack concerning the shift from descriptive to prescriptive individualism in Bentham's thought, Hume has noted that this shift may be particularly well exemplified in Bentham's concept of 'influence'. Thus Hume writes:

This [concept] seems to have first appeared in his thought in the early 1780s (when it was a familiar element in Whig rhetoric), to have reappeared in the radical writings of the early 1790s, and then after 1802 and especially from 1809 onwards to have become the target of all his measures of reform, or the common factor in all his particular targets.

Hume goes on to note that:

[Bentham] attacked the sources of influence in Parliament, in the Courts, in the Church, in social and economic relations, in spoken and written communications. In doing so, he was attempting to extirpate all the instruments by which will might act on will, or in more positive terms to provide for the emancipation of all individual wills and for their free exercise throughout the political system. By this time he had seen that a radical reform of the parliamentary and electoral system was not
sufficient to achieve such an emancipation; political reform in the narrow sense would have to be supplemented by reforms extending to every aspect of society which might create 'a state of habitual dependence' by one will on another. At that point, as Mack saw, his individualism became prescriptive; he was aiming at the thoroughgoing individualisation of society, the destruction of its distinctively social forces and characteristics. 41

Nowhere is this destructive intent more clearly exemplified that in the writings on religion in general, and, most especially, in those manuscripts prepared for the work Bentham hoped would be known as 'The Usefulness of Religion in the present life examined'. 42 Or, to put the same point somewhat differently, nowhere is Bentham more emphatic in asserting that individuals, and therewith society, would be happier if they adopted a certain way of life, namely one devoid of all religion. For the implication of the manuscript seems quite clear: whether an individual knows it or not, he would be happier without religion than he is with religion.

Bentham's reasons for making this claim are relatively clear, although whether he is entitled to make such a claim on his own premises is another matter. To be sure, in one way, his argument makes perfectly good sense. As Dr. Parekh has noted, Bentham generally classified the 'religious motives as semi-social'. 44 But Bentham also felt that 'religion since it encourages antipathy to the adherents of other religions and attitude of indifference to man's worldly well-being, is the worst culprit' among those 'institutions that advocate violence and hatred'. 45 Rather obviously, if religion did foster such antipathy, at least in a religiously heterogeneous society, that antipathy would detract from the happiness of those who experienced the antipathy even if it was restricted to the realm of society or public opinion as distinct from legal persecution. Even then, however, there would be the difficulty for Bentham - though not, I think, an insuperable one - of explaining why the happiness of a majority, derived both from their religious pleasures and the pleasure of antipathy, might not outweigh any pain caused any religious minorities, particularly if it could be argued that the majority would suffer considerable pain from practising tolerance. I, for one, am not interested in making a case for intolerance, though it is worth being reminded of the fact that minority rights have a rather uncertain status in Bentham's political thought. I do wish to point out that it is extremely doubtful that Bentham did or could have demonstrated that the antipathy due to intolerance is an intrinsic part of religion in itself as if it could be considered somehow apart from human nature. In any case, though Bentham was willing to admit that religious tolerance was practised in America 46 (and here he may well have been uninformed or naive or both!), it seems evident from the manuscripts, taken as a whole, that to bring about the greatest happiness of the greatest number what was needed was not merely religious tolerance but the extirpation of religion altogether, and, again, that is the case no matter what those who believe in religion might think or feel to the contrary.

The implications of this suggestion are even clearer in Bentham's writings on the ascetic aspects of religion. There Bentham contends that the religious person, apparently inevitably, foregoes certain pleasures which in Bentham's eyes are harmless, particularly the pleasures of the table and the pleasures of the bed. But, according to Bentham, 'pleasure
is that sort of thing of which according to the principle of utility it is always right that it be produced, although from the production of it no other sensible consequence should follow'. By denying himself harmless pleasures, the religious person diminishes the greatest happiness of the community. And the religious ascetic does this, whether he knows it or not, and even if he does no direct harm to others, because the greatest happiness of the greatest number is but an aggregate of individual pleasures. Nor does Bentham seem to think much, at least so far as the present manuscripts (and those completing Not Paul, But Jesus) are concerned, of any response from the religious person who might suggest that, for him as an individual, greater pleasures are obtained from being religious than from the pleasures of the table or of the bed; or that he would experience pain, for example, from indulging in the kind of sexuality which Bentham recommends. In part, this is because Bentham believed that the religious ascetic, apparently inevitably, would be interested in saddling others with his asceticism. But it is also the case that Bentham comes very close to arguing that the pleasures of sex ought to be preferred to the pleasures of religion both because the pleasures of sex are less likely to cause harm to others and because they are greater in intensity and, hence, contribute quantitatively more to the greatest happiness of the greatest number than religious pleasures ever could.

If this summary is at all accurate, it might well seem that Bentham had come precariously close to abandoning, if he had not actually abandoned, the axiom that 'each man is the best judge of his own interest'. If this were so it would be particularly ironic since the purpose of criticising religion was to contribute to the emancipation of individual wills, to free them from dependence on such societal institutions as religion (and not just established religion), and, therewith, to establish prescriptive individualism.

Certainly Bentham did not believe that he had abandoned that axiom. He had never interpreted it to mean that each man was the only judge of his own interest. The individual may be a better judge than anyone else. But to suggest that he is the only judge would be to preclude that form of influence which Bentham thought was useful and efficacious, namely the influence of the understanding on the understanding. In criticising the religion of Jesus, Bentham believed he was exercising that form of influence. The appropriate vehicle for exercising the influence of the understanding on the understanding is the proper use of terms. 'Terms so far as they are proper are plain terms: all terms and phrases and discourses that are figurative are of the number of improper one'. Ideally all terms should have but one fixed and determinate meaning. They should be perfectly unequivocal and convey the same meaning to everyone. Plain terms are necessary because the clearness of our conception is dependent on them and 'on the clearness of our conception concerning good and evil depends in no small degree the sum of our felicity or infelicity'. The clearer the conception of what is good, the greater the probability of attaining that good and the felicity that goes with it. The clearer the conception of what is evil, the greater the chances of keeping free of that evil and the infelicity that goes with it. The religion of Jesus is presented in improper terms, his discourses are delivered in ambiguous and figurative language. As a result they keep his followers in ignorance and 'whatsoever tends to lead them or keep them in the paths of ignorance, error and folly/of folly and imbecility, tends in the same proportion to lead them into or keep them in the paths of wickedness, and by that means or in a more immediate way in the paths of unhappiness, comparatives if not positive unhappiness'. Since the language of the religion of Jesus is
improper, its influence is not the influence of the understanding on the understanding. Hence it may be justifiably exposed and criticised.

All this is well and good, although it is evident that Bentham hardly managed in his own criticisms to keep to trying to influence only through appeals to the understanding. Indeed the venom in some of his remarks is undeniable even by the most sympathetic reader as is evidence by the already mentioned embarrassment of Baumgardt in regard to the published writings on religion. And the published writings barely begin the assault. Bentham's own lapses from seeking to influence only through the understanding might be dismissed as simple inconsistency brought about by personal animosity toward religion and his sincere conviction that religion was harmful to mankind. And, unquestionably, there is something to that line of defence, though I think that in the last analysis it is deficient. Indeed, reflecting on Bentham's own inability to seek to influence only through the understanding, leads one to consider some serious difficulties in his systematic approach.

In the first place, Bentham's critique of religion is based on notions about language that would be very difficult to support. To mention only two rather obvious points, his distinction between 'plain' and 'ambiguous' terms is rather simplistic; and it is certainly misleading to suggest that, entertainment aside, the sole purpose of figurative language is to mislead others. Together these two points make one wonder whether Bentham had not badly misconstrued the nature and function of language; or, perhaps less harshly, whether he had not reduced it to a base so small as to be unable to support the arguments he himself wanted to make. As Professor Ayer has suggested in 'What is Communication?':

There are very many uses of language, prescriptive, ritualistic, playful, or performative, which are not fact-stating and cannot be lumped together as forms of emotional expression. They have functions to fulfil, which have to be carefully distinguished and analysed for what they are, not fitted into a single preconceived scheme.

The undertaking of such analyses is an important philosophical activity, but its importance can be over-emphasized. Many problems are linguistic, a matter of our having to be clear about the way in which words are used, or to prescribe the way in which they should be used, but many, even in philosophy, are not, or at least not in any straightforward sense; and outside philosophy most are not. There is a great deal to be achieved by the study of semantics; but the successes which it has recently obtained must not deceive us into thinking that all our trouble would be over if only we could become clearer about the use of words, perhaps even that all that we need is to find suitable definitions. For instance it has been suggested that many political difficulties would vanish if only we could all agree upon a definition of democracy. But this is to put things in the wrong order; it is only when the difficulties have already been removed that any such agreement is at all likely to be secured.
I have quoted Professor Ayer at length because his remarks so clearly indicate a number of serious difficulties in Bentham's understanding of language. For not only is Bentham's linguistic scheme too narrow, not only does he misconstrue the functions of language, but he expects far too much from linguistic clarity.

One need not suggest that ignorance is bliss, and, therefore, that ambiguous language is desirable. One need only recognize that there is a difference between knowing what one ought to do and doing it. Ethical questions aside, most educated individuals today presumably know the physical hazards of eating, drinking, or smoking too much. Yet many, including some of the best informed, indulge excessively in one or more of these activities. It seems evident that few confirmed smokers have even tried to stop smoking despite the substantial scientific evidence concerning the dangers of smoking to health. And it is doubtful that any given smoker would change his way even if he were compelled to read the voluminous literature on the subject, even if it were written in the clearest, plainest language possible.

Now all of this may seem rather obvious. But the point is that it does not always appear to have been obvious to Bentham. It is not that he was ignorant of the 'nonrational' forces determining human action. Indeed, his discussion of religion shows his awareness since, in his eyes, religion was a nonrational force. But to the extent that he relied on plain language, clearly stated directive rules and sanctions, to overcome those nonrational forces, to that extent he simply neglected the importance of the distinction between knowing and doing, between ethical rules and moral behaviour.

In regard to this distinction, John Stuart Mill remarked about Bentham's thought that 'there is no need to expatiate on the deficiencies of a system of ethics which does not pretend to aid individuals in the formation of their own character...'. More recently, however, Bentham has been defended precisely on this count by Nancy Rosenblum. Rosenblum has complained that 'moral philosophers...have nearly monopolized Benthamic studies' and 'often have obscured or even trivialized the import of the principle of utility...'. Private morality was always subordinate to public utility for Bentham, as is exemplified by the fact that 'barely a fraction of his work was on the subject of private morality...'. Undue concern for Bentham's contributions to private ethics has resulted in neglect of his theory of the modern state and his important recognition that utilitarian legislation in such a state was to be 'a special way of accommodating individually desires' and in no way to be 'an instrument of character formation'.

Obviously, in certain respects, Rosenblum is correct. Even if one includes large portions of the manuscripts on religion, Bentham did write relatively little on private ethics; and, in comparison, for example, to Aristotle, he certainly did not intend that legislation should shape character. And it may even be true (though I think it is not) that moral philosophers, rather than political philosophers (or, as we would say today, political theorists) have monopolized Benthamic studies. But if this is true, it ought to give us pause for thought since, truth to tell, whatever the contemporary reasons for distinguishing between moral and political philosophy, they were not so distinguished by either Bentham or Mill. As for Bentham, usually though not always, the same formal standards (such as linguistic clarity, appropriate classification) which he insisted upon for legislation were meant to be the model for private morality as well. And as for the substance of private morality, Bentham's rule ordinarily can be
summarized by saying that what the law does not forbid is not only permissible but ought to be pursued so far as any given individual desires so long as that pursuit does not cause greater pain, particularly in a physical sense, to others.

But it is precisely against this rule that Mill's criticism is directed, i.e. Mill argues that to leave it intentionally at saying that what is not legally forbidden is approved is radically insufficient. Note again what Mill says: 'there is no need to expatiate on the deficiencies of a system of ethics which does not pretend to aid individuals in the formation of their own character'. But Mill did expatiate upon the point and that expatiation suggests that Bentham's failure to reckon with the issue of character formation brings into question the satisfactory nature of his political philosophy. According to Mill:

Morality consists of two parts. One of these is self-education; the training, by the human being himself, of his affections and will. That department is a blank in Bentham's system. The other and coequal part, the regulation of his outward actions, must be altogether halting and imperfect without the first; for how can we judge in what manner many an action will affect even the worldly interests of ourselves or others, unless we take in, as part of the question, its influence on the regulation of our, or their, affections and desires?

Mill goes on to argue that this weakness in Bentham's system was related, in turn, to Bentham's limited view of human action. As he writes:

Every human action has three aspects: its moral aspect, or that of its right and wrong; its aesthetic aspect, or that of its beauty; its sympathetic aspect, or that of its loveliness. The first addresses itself to our reason and conscience; the second to our imagination; the third to our human fellow-feeling. According to the first, we approve or disapprove; according to the second, we admire or despise; according to the third, we love, pity, or dislike. The morality of an action depends on its foreseeable consequences; its beauty, and its loveliness, or the reverse, depend on the qualities which it is evidence of.

Further Mill suggests that 'Bentham's peculiar opinions on poetry' - and we may say on language in general - are connected with his limited view of the nature of human action. I must quote Mill once again:

Did Bentham really suppose that it is in poetry only that propositions cannot be exactly true, cannot contain in themselves all the limitations and qualifications with which they require to be taken when applied to practice? We have seen how far his own prose propositions are from realizing this Utopia: and even the attempt to approach it would be incompatible not with poetry merely, but with
oratory, and popular writing of every kind. Bentham's charge is true to the fullest extent; all writing which undertakes to make men feel truths as well as see them, does take up one point at a time, does seek to impress that, to drive that home, to make it sink into and colour the whole mind of the reader or hearer. It is justified in doing so, if the portion of truth which it thus enforces be that which is called for by the occasion. All writing addressed to the feelings has a natural tendency to exaggeration; but Bentham should have remembered that in this, as in many things, we must aim at too much, to be assured of doing enough.

In the light of this quotation, a number of things may be seen about the manuscripts on religion. Bentham, in fact, did extend the demands for linguistic clarity beyond poetry to 'oratory' and 'popular writing of every kind'. He explicitly rejected the notion that exaggeration is useful in attempting to move individuals to do the good. Indeed, his 'Utopia' is one where appropriate and necessary moral behaviour would be brought about only through the agency of rational discourse cast in the clearest, most concise and complete language possible; where rationally ordered codes and rationally conceived sanctions would do away with the need for character formation in the Aristotelian sense; where all appeals would be of the understanding to the understanding (as in the case of the rational codes themselves) or of the understanding upon the will (as in the case of the sanctions); but never of the will upon the will; and, finally, where appeals to the emotions or the feelings would be completely out of bounds.

Yet while this is the utopian demand Bentham places upon the religion of Jesus, at the same time, the attack on religion in general and on the religion of Jesus in particular shows Bentham at work attempting to make others feel what he perceived to be the 'truth' about religion, and employing a variety of rhetorical devices, including exaggeration, in that endeavour. Of course, this inconsistency is due, in part, to the fact that Bentham's 'Utopia' had not been achieved. If religion was, according to Bentham, born of fear, his desire to 'go public' in his attack on religion was also born of fear since that attack was part of his attack on what he came increasingly to call 'misrule' - a danger which he increasingly feared in the last three decades of his life. And he sought to convey his sense of that danger to others. One wonders how far he succeeded. How influential were his later writings? In many his style became ever more obscure in the pursuit of ever greater clarity. In others, including those on religion, there is a polemical shrillness likely to cause deafness in all save those who are already convinced. Somewhat differently, one may wonder whether Bentham's teachings about language and politics were not, at this stage, in such conflict with one another as to leave him with two options: silence or chattering.

As for silence, one wonders whether Bentham (or anyone adhering to his utopian demands) could really say anything at all, let alone anything very meaningful, if he were to insist on the degree of linguistic purity demanded in these manuscripts. It is not only a matter of recalling Aristotle's famous dictum not to expect more precision in treating a subject than the subject matter permits. It is also important to recognize that this dictum raises particularly troublesome problems for
Bentham because, for him, appropriate or meaningful discourse about ethics and politics ought to have practical results and not be restricted to pure theory. The modern behavioural political scientist may well be in agreement with Heinz Eulau's remark that 'it is the function of science to understand and interpret the world, not to change it'. But Bentham's position was much more in agreement with Karl Marx's 11th Thesis on Feuerbach:

'Philosophers have only interpreted the world in various ways; the point, however, is to change it'. But it seems to me at least exceedingly doubtful whether Bentham could effect any change if he adhered to his demands for linguistic precision. Indeed, if he did adhere to those demands he would be effectively reduced to silence.

But, of course, Bentham was not silent. In particular, in his later years, he wrote at length advocating a prescriptive teaching about the proper function of language; and at even greater length advocating prescriptive individualism. It has been said of An Introduction to the Principles of Morals and Legislation that Bentham 'talks of his definitions as if they were purely and simply descriptive, but in fact they are not so much descriptive, as persuasive'. I believe, however, that Bentham was aware of this fact. In an important footnote to one of the appendices to Of Laws in General (and I make no apologies for the source since it has often been remarked how frequently Bentham buried his important thoughts in his footnotes), Bentham commented on what he considered to be the 'capital blemish' of the Justinian code:

Imperfect as it is, it would have been infinitely less so could the compilers have taught themselves to observe the simple rule of knowing their own minds. Lawyers themselves, and mere lawyers, they seem to have forgot they were speaking in the person of a legislator. Accordingly instead of deciding, they conjecture, they debate where they should decide: they quote, where they should command: they reason upon the import of words instead of fixing it.

In writing on both morals and legislation, Bentham sought to follow his own dictum, to fix the meaning of words. And he believed that, in doing so, he could contribute to the greatest happiness of the greatest number. But one wonders whether it would be possible to fix the meaning of words, that is adhere to Bentham's prescriptive teaching concerning the function of language, in a society where his prescriptive individualism was the order of the day.

Though even philosophers have difficulty in agreeing about the meaning of words, it is at least imaginable that a single legislator might be able to succeed in fixing the meaning of words so that the model of unequivocal discourse might be obtained. It is much more difficult to imagine that result if one presumes not a legislator but a numerous legislature. And what would be the chances for success if those legislators were the representatives of a people which had imbibed freely in Bentham's prescriptive individualism?

In attacking the precept of Jesus, that one should do as one would be done by, Bentham restated the axiom that each man is the best judge of his own interest in a way which exemplifies its connection, at least in his mind, with prescriptive individualism. He wrote: 'Infants etc. excepted no other man possessed such constant information as to what is necessary
as well as pleasurable to the man as the man himself does. Of this
precept [to do as one would be done by], the effect would be to deprive each
man’s conduct of its only sufficient guide, to subject each man instead of
"to an attentive self-monarchy, to an essentially ignorant and ever
changing democracy". Bentham’s attacks against misrule, his defence of
prescriptive individualism, led him to call for private individuals to be
are of and to pursue with abandon their own self-regarding interest,
while being on their guard against like attempts by all public function-
aries. The more he thought he saw rulers governed by self-interest
narrowly construed, the more he insisted that the ruled ought to become
self-interested, or, as he says, ever attentive self-monarchs. But how
in a democracy of such monarchs would one fix the meaning of words? Would
not each individual strive to use words in the way that would most likely
promote his own self-regarding interest? Would not each lay claim to the
right asserted by Humpty Dumpty: "When I use a word," Humpty Dumpty said,
in a rather scornful tone, "it means just what I choose it to mean – neither
more nor less". And if all acted as Humpty Dumpty did would not the
result be chatter?

Bentham’s response is implicit in Humpty Dumpty’s dismissal of Alice’s
query as to whether he can make words ‘mean so many different things’.
"The question is", said Humpty Dumpty, "which is to be master – that’s
all". For under Bentham’s prescriptive individualism, no one is to be
master. Each individual will find himself in a situation analogous to
that which Bentham suggested would obtain if all nations were governed by
rulers practising the odious system of Machiavellianism. Each individual
would be on his guard, suspicious and distrustful and jealous, not only of
all public functionaries but of all other private individuals. But each
individual would also recognize that some degree of co-operation is
necessary if he expects to obtain his own greatest happiness. Thus an
ever watchful jealousy would provide for adequate linguistic clarity and
substantive political action favourable to the greatest happiness of the
greatest number.

One is entitled to be sceptical. Would any meaningful discourse be
possible among a people so suspicious and distrustful not only of the
rulers but of one another? Though Bentham radically rejects the importance
of character or dispositions in the manuscripts on religion, his own desire
to eliminate religion, and not merely established religion, reveals his
awareness of the importance of character or disposition. If the religious
individual is, in Bentham’s eyes, almost certain to insist that the
asceticism he practises ought to be practised by others, is not this because
the practice of asceticism has affected his entire character? And if the
religious person is apt to be intolerant, even in the fact of arguments
against intolerance and in favour of tolerance, is it not because
intolerance has become so ingrained as to affect all he does?

But if this is true of the religious individual, as Bentham contended,
then what would be true of the dispositions of those bred up in the rationale
of prescriptive individualism with its atmosphere of suspicion, jealousy,
and distrust? It should be noted that, not even in the manuscripts attack-
ing the religion of Jesus, does Bentham deny the utility of the virtues of
benevolence, beneficence, and even appropriate self-denial. But here,
as in other writings of his later years, he puts very little stock in the
possibility of obtaining such virtues. It is a question, then, of
emphasis, and Bentham puts very much more emphasis on the importance of
developing the self-regarding interests as the means for each individual
to obtain his own greatest happiness and, in the aggregate, for obtaining
the greatest happiness of the greatest number. I will conclude by asking a question and giving a tentative answer: Are more dangerous consequences for the greatest happiness of the greatest number likely to result from encouraging the extreme pursuit of the self-regarding interests and prescriptive individualism; or from encouraging the extreme pursuit of benevolence, beneficence, and self-denial? Reflecting upon the response of my countrymen to the energy crisis, I have no difficulty in answering that a glut of benevolence, beneficence, and self-denial seems singularly unlikely no matter how much they are encouraged.

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NOTES
2. The manuscripts are in U.C. xiv-v. I am grateful to Professor Amnon Goldworth, the editor of the Deontology for the Collected Works, for his thoughtful comments on my paper. He is certain to note that despite his criticisms, I remain unrepentant — perhaps influenced by Bentham's strictures on the doctrine of repentance. See B.L. Add. Mss. 29,806, fols.406-7 and 29,808, fols.43-59.
4. B.L. Add. Mss. 29,806, fols.453-4, 470 and 29,808, fols.3-4, 6-14, 145.
5. B.L. Add. Mss. 29,806, fo.302. Also fols.96, 203, 301.
6. B.L. Add. Mss. 29,806, fo.332.
7. B.L. Add. Mss. 29,806, fo.203.
9. B.L. Add. Mss. 29,806, fo.94. Also fols.93, 191-2, 203 and 29,807, fols.44-54.
10. B.L. Add. Mss. 29,806, fols.417, 469.
11. B.L. Add. Mss. 29,806, fols.332-3.
12. B.L. Add. Mss. 29,806, fo.420. Also 29,808, fo.144.
14. B.L. Add. Mss. 29,808, fo.144. Also fo.149 and 29,806, fols.491-3.
15. B.L. Add. Mss. 29,806, fols. 191, 492- 29,807, fo.149; and 29,809, fo.42.
16. B.L. Add. Mss. 29,807, fo.58.
17. B.L. Add. Mss. 29,807, fols.58-65 and 19,809, fols.41-6, 98-100.
19. B.L. Add. Mss. 29,807, fols.42-3. For similar remarks on the religion of 'Brahm or Hindustan' see fols.64-5.
20. B.L. Add. Mss. 29,807, fo.44.
22. B.L. Add. Mss. 29,807, fols.44-54, 97 and 29,806, fols.207-8.
24. B.L. Add. Mss. 29,806, fo.471.
25. B.L. Add. Mss. 29,807, fo.225 and 29,808, fo.79. In general see 29,806, fo.492 and 29,808, fols.62-4, 66-8, 70-4, 76-86.
26. B.L. Add. Mss. 29,808, fo.86.
27. B.L. Add. Mss. 29,808, fols.80-4. Also fols.66-8.
28. B.L. Add. Mss. 29,808, fols.70-4. The reader will note that the passage Bentham refers to is not from the gospels but from Romans iii.8.
29. B.L. Add. Mss. 29,806, fo.86. Also fols.87-106 and 29,808, fols.135-6.
30. B.L. Add. Mss. 29,806, fo.472. Also 29,807, fo.196.
31. B.L. Add. Mss. 29,808, fo.133. Also fo.138.
33. B.L. Add. Mss. 29,806, fo.192.
34. B.L. Add. Mss. 29,808, fo.134.
36. B.L. Add. Mss. 29,806, fo.482.
37. B.L. Add. Mss. 29,809, fols.121-3. Also 29,807, fols.52-3, 202.
38. B.L. Add. Mss. 29,807, fo.203. Also 29,806, fols.191-4 and 29,808, fo.207.
40. Ibid., 14.
41. Ibid., 15.
42. See B.L. Add. Mss. 29,807, fols.157-62 for the 'Plan of the Work'.
43. B.L. Add. Mss. 19,807, fols.201, 205, 275-80, and 29,808, fols.213-6.
45. Ibid., xv.
46. B.L. Add. Mss. 29,807, fo.135.
47. B.L. Add. Mss. 19,808, fo.37.
49. B.L. Add. Mss. 29,808, fo.227. Also fols.228-30, 233-5; 29,806, fols.191, 193; and 29,807, fols.52-3, 202.
50. B.L. Add. Mss. 29,808, fols.234. Also 29,806, fols.191-5 and 29,807, fo.102.
51. In addition to many of the passages already cited one might consider B.L. Add. Mss. 29,807, fo.233 and 19,809, fols.132-3.
55. Ibid., 27. Whether Rosenblum's claim concerning the dominance of Benthamic studies by moral philosophers deserves much credence may be seen by consulting the bibliography in the first two issues of this journal. For an interpretation of Bentham as an advocate of social engineering see Douglas Long, Bentham on Liberty: Jeremy Benthan's idea of liberty in relation to his utilitarianism (Toronto, 1977).
57. Ibid., 112.
58. Ibid., 113-4.

63. Lewis Carroll, Through the Looking Glass in The Annotated Alice, with an introduction and notes by Martin Gardner (New York, 1960), ch.vi, 269.

64. Ibid.


Volumes 4 and 5 of the Correspondence will be published in the autumn of 1980. They will be the last volumes in the Collected Works of Jeremy Bentham to appear under the imprint of the Athlone Press, which has ceased to exist as a university press.

More than three-quarters of the letters in these two volumes have not been printed before. They contain much new information about Bentham's prolific writing during this period, which saw the publication of his first major work, An Introduction to the Principles of Morals and Legislation (1789), the exposition of his novel prison plan, Panopticon, or the Inspection House (1790-1), his earliest pamphlets on finance, his preliminary essays on the poor law, and much else. Officers of advice to successive French governments after the Revolution of 1789 resulted in several unfinished works, translated by Etienne Dumont. He had been introduced to Bentham by Samuel Romilly, with whom there is also considerable correspondence in the volumes. It was Dumont who got extracts from Bentham's Essay on Political Tactics inserted in Mirabeau's Courrier de Provence in 1789, and later extended knowledge of Bentham's work abroad by publishing long extracts from his writings in the new Geneva periodical, the Bibliothèque Britannique, between 1796 and 1798.

On the personal side, the correspondence reveals more of Bentham's private life. Until his father's death in March 1792, he was spending most of his time, studying and writing, at Dollis farmhouse, Hendon, seven miles northwest of London. He made occasional visits to Bowood in Wiltshire, the seat of the first Marquis of Lansdowne, and there is much communication between them; there are also a number of letters to 'the ladies of Bowood' which show Bentham trying to get on a more intimate footing in that aristocratic household. The return of his brother Samuel from Russia in 1791, and the inheritance of his father's house, Queen's Square Place in Westminster, in 1792, altered the pattern of Bentham's life. With greatly-increased resources, he ventured on the ill-fated Panopticon penitentiary project. Correspondence with Sir John Parnell, the Chancellor of the Exchequer in Ireland, having led to no practical steps in that country, Bentham proposed to the British Prime Minister, William Pitt, the idea of substituting such a prison for the notorious 'hulks' on the river Thames. Negotiations for a Panopticon site continued throughout these ten years and beyond. The site Bentham favoured, Battersea Rise, ran into the opposition of its owner, the second Earl Spencer, who it so happened became Samuel Bentham's official superior when the Earl was appointed First Lord of the Admiralty in 1794 and Samuel Inspector-General of Navy Works in 1796. The marriage of Samuel in 1796 brought further changes to Queen's Square Place, where the couple came to reside with Jeremy the following year.

Among Bentham's numerous correspondents was William Wilberforce, like him made an honorary citizen of France in 1792. At a dark period of the war between Britain and the French Republic, Bentham seriously suggested that the two of them might act as peace emissaries (1796). Another correspondent was Arthur Young, through whom Bentham was able to ventilate his ideas in the Annals of Agriculture on 'the situation and relief of the poor'. At the end of this decade, Bentham was dividing much of his time between this subject and the Panopticon project.

A.T. Milne
During the second half of 1788, Bentham came to believe that the constitutional changes which were imminent in France provided him with an opportunity to influence the course of events there in a utilitarian direction. He proceeded to compose a number of works, for the most part in French, on the subjects of parliamentary procedure and constitutional reform, in the hope that they would be read by some of the French statesmen of the day. In the event, these works had virtually no influence on the constitutional reforms undertaken in 1789; but Bentham had developed to a considerable degree his ideas on the subject of parliamentary reform in general, and by 1790 he was proposing that the radical reforms he had recommended to the French should be applied in England. The course of the French Revolution during the early 1790s, however, convinced Bentham that radicalism was a highly dangerous doctrine, and by 1795 he had reverted to a position of constitutional conservatism. Yet, during his brief enthusiasm for radical reform, Bentham elaborated several of the arguments which were to become central to the works which he composed on the subject between 1809 and 1832.

The contents of this volume will fall into four broad sections: the Essays on Political Tactics; works on French parliamentary reform; works on constitutional law and English parliamentary reform; and the record of Bentham's disillusionment with radicalism.

A. Essays on Political Tactics (1788-89)

A set of parliamentary procedures, intended originally for the French States General. Bentham sent copies of parts of it to a number of French correspondents and statesmen, but in mid-1789 he appears to have lost interest in it, and the work was never completed. In 1791, however, he had published Essay on Political Tactics, the single essay referred to in the title being Essay VI. This volume contained also a sketch of the complete work, and some copies included, in addition, a preface and part of Essay V. Interest in the work was revived in 1808, when Dumont suggested that it be translated for the benefit of the Spanish Cortes; and, in 1816, Dumont brought out a heavily edited version of the work under the title Tactique des Assemblées Législatives. Finally, Bowring edited Essay on Political Tactics (Bowring, ii, 299-373), 'being edited from the work of M. Dumont, and the papers of Bentham', and incorporating the material published in 1791.

The only fragment of the original manuscript currently to hand is a piece on 'Motion Tables', which Morellet sent to Dumont in 1810. In a covering letter Morellet explained that he had been unable to retrieve the other parts of the work which he had sent to Rocheffoucauld for translation (presumably in 1789). This fragment and the 1791 material constitute the only authentic remains of the original work. Whether any more of the original is extant in the archives of the statesmen to whom Bentham sent copies remains to be seen. The new edition will have to consist mainly of a reconstruction from the Bowring edition and the manuscript of Dumont's 1816 edition, which contains much more material than was published. This task will be considerably eased by the sketch of the entire work which Bentham included in the 1791 edition.
B. French parliamentary reform

There is evidence that Bentham contemplated a substantial work entitled 'Considérations d'un Anglais sur la composition des États-Généraux y compris Réponses aux questions proposées aux Notables 1788' (U.C. clxxii.43), but the manuscripts fall into a number of separate compositions.

i) 'France' (clxix.93-96, clxx.i-42)
Under this heading Bentham aggregated a number of exercises which reflect his initial thoughts on the subject of French parliamentary reform. These include the draft of an open letter intended for Mirabeau, and several pieces on the procedures which Bentham recommended should be followed by the forthcoming meeting of the States General. At this time Bentham was content with the English constitution as it was; the purpose of the radical measures he suggested to the French was to bring their constitution up to the level of the English one.

ii) 'Représentation'(clxxx.64-121)
Bentham records that he read a report in The Times of 15 November 1788 on Necker's address to the assembly of the Notables, held in Paris on 9 November 1788. This report included the questions on constitutional rules which Necker put to the assembly; 'Représentation' consists of Bentham's own answers to some of these questions. The 'Essai sur la représentation' which Halévy appended to volume one of l'Édification philosopohique consists mainly of the introductory section of the work, in which Bentham put forward a utilitarian justification of democratic suffrage. Some of the remaining manuscripts are headed 'États Généraux', but as they consist of answers to Necker's questions they clearly belong to 'Représentation'. In the absence of any outline of the work provided by Bentham, the new edition will be reconstructed in the light of the order of Necker's questions.

iii) 'Observations sur un écrit intitulé Arrêté de la Nobless Bretagne' (clxx.122-33)
Bentham tells us that he 'thought of' and began 'Représentation' at 11 a.m. on Friday, 21 November 1788. Two days later, however, he broke off writing that work in order to compose these 'Observations' on 'Arrêté de la Nobless de Bretagne', which had appeared in the Courrier de l'Île-de-France on the previous day. The Arrêté put forward a number of principles of electoral representation, and the opportunity to criticise it no doubt helped Bentham clarify his own ideas on the subject.

iv) 'A French Constitution' (clxx.xx.60-63 and 134-167, and cxxvii.8)
Apart from clxx.xx.60-63, which appears to be a 'false start', these manuscripts are in English and constitute a complete draft of a constitution, divided into sections and articles, with 'observations' setting out the rationale of each article. They were almost certainly written in 1789 at the earliest, since the style of the articles closely resembles that employed by the French National Assembly in the various constitutional proposals it adopted in that year.

C. Constitutional law and English parliamentary reform

In 1789 and 1790, Bentham began exploring the question of constitutional law in general terms, and composed a number of short works on the subject. He also began work on a critique of the English constitution in the light of his conclusions.
i) 'Of the Influence of the Administrative Power over the Legislative' (cxxvi.1-7)
A short work which, insofar as it established the distinction between influence 'of the understanding on the understanding' and influence 'of the will on the will', foreshadowed Bentham's more substantial treatment of the subject in his 1809-10 manuscript 'Parliamentary Reform'.

ii) 'Division of Power' (cxxvi.8-18, cxxvii.4-5)
Bentham composed a number of brief essays on this subject, the longest of which is entitled 'Of the efficient cause and measure of constitutional liberty'. However, this manuscript, like all the others, is also headed 'Division of Power', and it is under this title that they will be reproduced in the form of a single work.

In these essays, Bentham again foreshadowed his later writings on constitutional reform by arguing that the liberal notion of the separation of powers was incoherent, and that constitutional liberty could be based only on the 'dependence' of government upon the governed.

iii) Constitutional law (clxx.168-170, cxxvii.2-3)
These manuscripts are disconnected fragments, headed variously 'Constit', 'Constitut', and 'Constit Law'. Bentham considered here the nature and the purpose of constitutional law, and distinguished constitutive from legislative power.

iv) British parliamentary reform (cxxvii.6-7, 9-19)
Another set of fragments, whose headings partly overlap with the manuscripts relating to constitutional law (above). Their most frequent heading is 'Parl', and they are concerned specifically with the British constitution. Bentham was concerned above all to justify the secret ballot.

D. Bentham's retreat from radicalism (marginalia; clxx.51, 173, 175-178; xliiv.2-5)

This material, written between 1792 and 1795, records Bentham's growing doubts about radical reform and his return to a defence of the British constitution. In 1794 he was planning a work entitled 'Reform no Improvement'; the following year this title was superseded by 'Rottenness no Corruption - or a Defence of Rotten Boroughs by the Author of the Defence of Usury'. Although the material is entirely in marginal form, its importance as evidence of Bentham's change of heart warrants its being included in some form in the volume.

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WAS BENTHAM A FEMINIST? 1

Jeremy Bentham has long been regarded as an ardent champion of women's rights. No less an authority than Halévy maintains that 'the majority of the Utilitarian Radicals, with Bentham at their head,' were 'feminists'. 2 Mary Mack suggests that Bentham was a 'feminist', albeit a 'covert' one. 3 Miriam Williford agrees that 'Bentham was a feminist with a marked enthusiasm for women's rights'. 4 And Lea Boralevi has hailed Bentham as 'the father of feminism'. 5 But was he really? After briefly examining the reasons most commonly advanced for supposing Bentham to be a feminist, I shall argue that he almost certainly was not.

Bentham's reputation as a feminist derives from several sources. He was, for example, an outspoken critic of the marriage laws, going so far as to defend divorce on the ground that a union from which one cannot escape constitutes a kind of 'slavery'. 6 But Bentham's privileged position in the feminist pantheon is more often traced to his defence of women's suffrage and his dissent from the anti-feminist stance of his foremost disciple, James Mill. According to Bowring, Bentham counted among the elder Mill's 'heresies' his 'abominable opinion' of women. 7 The master took strong exception to his disciple's Essay on Government, which justified excluding women from the franchise:

One thing is pretty clear, that all those individuals whose interests are indisputably included in those of other individuals may be struck off with inconvenience. In this light may be viewed all children up to a certain age, whose interests are involved in those of their parents. In this light, also, women may be regarded, the interest of almost all of whom is involved either in that of their fathers or in that of their husbands.

Bentham minced no words in condemning Mill's '[exclusionist] position, the object of which is to place all females under the absolute domination of all males', thereby 'aggravating the already existing tyranny of the male sex over the female'. Mill is most remiss, however, in failing to provide reasons for excluding women from the franchise. 8 As Bentham remarks in the Constitutional Code, 'If a man who calls for the right of suffrage to be given to any one human being, calls for its being refused to any other human being, it lies upon him to give a particular reason for such refusal.' If we are to exclude anyone from the franchise we must enumerate those 'disqualifying circumstances' which, taken together, would tip the balance against the presumption of their being eligible to vote. In the case of children, the balance is easily tipped; they are excluded only temporarily, on the ground that they are 'not yet competent to the management of [their] own affairs...'. But 'the exclusion thus put on the ground of age, is not like the exclusion put on the ground of sex', because gender, unlike age, does not change. 'Why', Bentham asks, 'exclude the whole female sex from all participation in the constitutive [i.e. electoral] power? ' For surely, 'on the ground of the greatest happiness principle, the claim of this sex is...at least...as good as that of the other. The happiness and interest of a person of the female sex, constitutes as large a portion of the universal happiness and interest, as does that of a person of the male sex'.
There is 'no reason...why a person of the one sex should as such have less
happiness than a person of the other sex'. Thus the presumption of
equality stands.

But Bentham goes further still. He considers the possibility that
mere formal equality between the sexes is not enough. He appears to
advocate something like 'compensatory discrimination' in our modern sense.
For, he argues, since women are subject to physiological pains unique to
their sex - 'such as pains of gestation, of parturition, labour of nur-
titurion, periodical and casual weaknesses, [and] inferiority in all
physical contests with the male sex' - their claim to happiness from other,
non-physiological sources is even greater than men's. It can therefore be
argued that women should have a correspondingly greater share of electoral
or 'constitutive' power. In this regard 'the principle of equality affords
another reason, not merely for admitting the female sex to an equal share
in the constitutive, but even to a greater share than in the case of the
male'. Women need to make up in political power what they lack in physical
power. For example, 'in domestic concerns, males derive greater power from
physical force: here, then, is a means of injury: for security against it,
if in respect of political power, there should be a difference, it should
rather be in their favour than in the favour of males'.

Bentham's case for enfranchising women comes to this: Everyone has an
equal interest in happiness. But it does not follow from this that women's
interests are wholly included in those of their husbands or fathers. For
example, if a man's interest in happiness is served by his regularly beating
his wife, it does not follow that her interest in happiness is - *vex James
Mill* - 'included in' that of her husband; on the contrary, her pain being
the source of his pleasure, her interest is diametrically opposed to his.
Women are, moreover, subject to certain kinds of pain - e.g. the physical
and psychic pain of rape - to which men are not similarly subject. If
women are to have a say in the passage of legislation affecting their happi-
ness it follows, Bentham argues, that they must have a hand in electing
legislators. Their enfranchisement is consistent with - indeed, required
by - the Utilitarians' greatest-happiness principle. 'Can [any] prac-
tical good', he asks, come 'from admitting the female sex into a participa-
tion of the supreme constitutive power', i.e. the electorate? He answers:
'Yes. The affording increased probability of the adoption of legislative
arrangements, placing sexual intercourse upon a footing less disadvantageous
than the present to the weaker sex'. The enfranchisement of women is
thus justified in principle as well as practice.

It thus appears that Bentham is indeed the feminist he is reputed to
be. The appearance, however, is misleading. For what Bentham gives with
one hand he takes away with the other. After a lengthy consideration of
the reasons for enfranchising women, he concludes that they should never-
theless be denied the right to vote. He justifies this rather surprising
conclusion on grounds of practicality and of principle, and on both counts
he contradicts himself.

Bentham's 'practical' argument for exclusion runs as follows. He does
not 'think it at present expedient to propose a set of legislative arrange-
ments directed to this end' because 'the contest and confusion produced by
the proposal of this improvement would entirely engross the public mind,
and throw improvement, in all other shapes, to a distance'. Returning,
then, to his original question - 'Why exclude the whole female sex from
all participation in the constitutive power?' - he answers: 'Because the
prepossession against their admission is at present too general, and too
intense, to afford any chance in favour of a proposal for their admission'. This practical objection looms large in Bentham's less-than-radical radical Reform Mill, which pointedly excludes women from the franchise. If the suffrage is to be at all meaningful it must, he says, be both universal and equal. But then he adds: 'universalitv we say for shortness, instead of Virtual Universality. No man means that children that can but just speak, should vote [nor] that females should vote'.16 What then of equality? 'By equality of suffrage', Bentham explains, 'is meant equality...between the suffrage of one man and the suffrage of another'.17 Nor does Bentham mean 'man' in the generic sense. The electors comprise 'every male person' who meets residence, literacy, and other requirements.18

Bentham's 'practical' argument for exclusion is remarkable in two respects. Firstly, he reaches - albeit by a different route - the exclusionist position enunciated in Mill's hasty. Considered in this light, Bentham's purportedly pro-feminist critique of Mill loses much of its force and, indeed, its credibility. Secondly, the very mode of argument by which Bentham reaches his 'practical' conclusion is - by his own lights - an illegitimate one, since he commits two of the 'Fallacies of Delay' decried in his Book of Fallacies. The first is 'The Procrastinator's Argument' to the effect that proponents of reform should 'wait a little, this is not the time'. This 'instrument of deception', he says, is 'employed by those who, being in wish and endeavour hostile to a measure, are afraid or ashamed of being seen to be so. They pretend, perhaps, to approve of the measure - they only differ as to the proper time of bringing it forward'. In this 'practical' ploy is concealed their 'wish...that it should remain excluded for ever'. Bentham then hoists himself with his own petard: 'Which is the properest day to do good? - which is the properest day to remove a nuisance? Answer: The very first day that a man can be found to propose the removal of it; and whoever opposes the removal of it on that day will, if he dare, oppose the removal on every other'.19 Bentham's practical objection relies, moreover, upon a second fallacious argument - the 'snail's-pace argument' - which admonishes 'One thing at a time! Not too fast! Slow and sure!20 Both arguments he condemns as fallacious. Yet Bentham's 'practical' objections to the disfranchisement of women rest upon these same fallacies.

Bentham's objections to women's suffrage are not, however, exclusively 'practical' ones resting upon political expediency.21 Some of his objections are based explicitly or implicitly upon 'principle'. Of his scheme for 'virtual universality' of suffrage - in which all women are excluded - Bentham says that it is 'defensible on principle'.22 Now when Bentham says 'principle' he invariably means the principle of Utility. The disfranchisement of women must then somehow contravene the principle of Utility. But how, in the light of his arguments in the Constitutional Code, is such a view even conceivable, much less defensible? For an answer we must turn to an Introduction to the Principles of Morals and Legislation. There Bentham draws a distinction between learned and innate differences between the sexes - or, as we might say nowadays, between 'nurture' and 'nature'. Differences of the first sort stem from education and environment; differences of the second, from 'primitive modifications of the corporeal frame'. The former can be eliminated, or at least modified, through education; the latter, being innate, cannot. To which category, then, do the politically relevant differences between the sexes belong? Bentham answers that they belong, in the main, to unchangeable nature. A woman's nature, he maintains, is so constituted as to render her less able than men to make rational political judgments - that is,
decisions based upon the principle of Utility. This is so because 'the female is rather more inclined than the male to superstition; that is, to observances not dictated by the principle of utility...'. This difference between the sexes, he adds, 'may be pretty well accounted for by innate inclinations, that is, by 'the primitive modifications of the corporeal frame' that 'influence the quantum and bias of sensibility'. A woman's 'sympathetic biases', Bentham continues, 'are in many respects different: for her own offspring...her affection is commonly stronger than that of the male. Her affections are apt to be less enlarged: seldom expanding themselves so much as to take in the welfare of her country in general, much less that of mankind, or the whole sensitive creation: seldom embracing any extensive class or division, even of her own countrymen, unless it be in virtue of her sympathy for some particular individuals that belong to it'. Women, in other words, are scarcely capable of thinking about, much less promoting, the greatest happiness of the greatest number; their 'sympathetic biases' rarely, if ever, extend beyond an immediate and intimate circle composed of family and friends. 'In general', Bentham concludes, a woman's 'antipathetic, as well as sympathetic biases, are apt to be less conformable to the principle of utility than those of the male...'

The political implication is both clear and astounding: A Utilitarian polity could not enfranchise women without subverting itself. To permit women to vote would be to open the door to 'superstition' and other forces hostile to the principle of Utility. Considered in this light, Bentham's justification of 'virtual universality' of suffrage as 'defensible on principle' comes into clearer view. Politically speaking, biology - 'primitive modifications of the corporeal frame' - is destiny, and women are quite properly excluded from participation in utilitarian politics. Their exclusion is predicated upon the principle of Utility itself.

To the degree that biology is destiny, education is of strictly limited value. This view is implicit in Bentham's *Introduction to the Principles of Morals and Legislation*, and explicit in his treatise on education, the *Christomathia*. Although 'female children' are to be admitted to Bentham's model Chræstomathic School, they - unlike the boys - are to receive instruction in 'needle-work' and other aspects of 'domestic economy'. To instruct young women in the political arts would be to waste precious pedagogical resources. For, Bentham holds, not only should women be excluded from the franchise, but from serving on juries, holding public office, and even from attending parliamentary debates. The two latter exclusions provide important clues to Bentham's thinking, and bear closer examination.

Considering that Bentham would in the end exclude women from voting, it is hardly surprising that he would likewise bar them from holding public office. But if this conclusion is not surprising, his reasons for reaching it are: 'The reciprocal seduction that would ensue in the case of a mixture of the sexes in the composition of a legislative or executive body, seems a conclusive reason against admitting the weaker sex into a share in those branches of power: it would lead to nothing but confusion and ridicule'. Their natural seductiveness, combined with 'the comparative inaptitude of the female sex, with reference to the legislative and executive functions', is, Bentham believes, sufficient reason for barring women from public office. This apparent 'infringement on equality', he concludes, is 'necessary'. Only men may hold political office. Still it might be objected, Bentham acknowledges, that women have, after all, sat on the throne of England: why, then, should they not hold lesser public office? This 'practice of
vesting political power in the softer sex', Bentham replies, is merely an artefact of an hereditary system of monarchy which will presumably disappear as democracy advances.29

To the foregoing list of exclusions Bentham adds another: women ought not be allowed to attend parliamentary debates. In support of this exclusion Bentham argues as follows. The 'sinister interest' of the few is served by secrecy; the public interest of the many is served by 'publicity', that is, by the public airing and critical examination of political positions and issues. A free press serves this critical function; so too does the practice of admitting visitors to parliamentary debates. Yet some restrictions must be placed upon who is to be admitted. Clearly, anyone whose presence would disrupt the proceedings should not be admitted. Therefore rowdies, drunks, and madmen may be excluded. But, Bentham asks,

Ought females to be admitted? No. I have hesitated, I have weighed the reasons for and against. I would repudiate a separation, which appears an act of injustice and contempt. But to fear women is not to despise them. Removing them from an assembly where tranquil and cool reason ought alone to reign, is avowing their influence, and it ought not to wound their pride.

Bentham does not say why this would leave women's pride intact. On the contrary he goes on to add insult to injury by arguing that their influence upon political debate and deliberation is wholly deleterious:

The seductions of eloquence and ridicule are most dangerous instruments in the political assembly. Admit females - you add a new force to these seductions.... All the passions touch and enkindle each other reciprocally. The right of speaking would often be employed only as a means of pleasing; but the direct method of pleasing female sensibility consists in showing a mind susceptible of emotion and enthusiasm. Everything would take an exalted tone, brilliant or tragical - excitement and tropes would be scattered everywhere; it would be necessary to speak of liberty in lyric strains, and to be poetical with regard to those great events which require the greatest calmness.

The House of Commons showed rare good judgment in banishing women from parliamentary debates:

Among the English, where females have so little influence on political affairs - where they seek so little to meddle with them - where the two sexes are accustomed to separate for a time, even after familiar repasts, - females are not permitted to be present at the parliamentary debates. They have been excluded from the House of Commons, after the experiment has been tried, and for weighty reasons. It has been found that their presence gave a particular turn to the deliberations - that self-love played too conspicuous a part - that personalities were more lively - and that too much was sacrificed to vanity and wit.30
Bentham never considers the possibility that his 'weighty reasons' imply rather more about the silliness of men than they do about the seductiveness of women.

In his proposals for depriving women of any distinctively political rights and roles, Bentham considerably outdistances James Mill. Mill, after all, merely suggested that women could be excluded from the franchise, not that they should be. Bentham would deprive them not only of the right to vote, but to serve on juries, to hold public office, and to attend parliamentary debates. Women are consigned by Bentham to a kind of permanent political unemployment. Women's natural sphere of operation, he suggests, is centered on home and hearth. And yet, when we inquire into his views concerning the familial microcosm, we find that women fare little better there than they do in the wider political macrocosm.

There is says Bentham, a 'fundamental law, which subjects the wife to the authority of the husband'. This fundamental law, upon closer inspection, turns out to be the law of the stronger:

Between the wishes of two persons who pass their life together, there may at every moment be a contradiction. The benefit of peace renders it desirable that a pre-eminence should be established, which should prevent or terminate these contests. But why is the man to be the governor? Because he is the stronger. In his hands power sustains itself. Place the authority in the hands of the wife, every moment will be marked by revolt on the part of the husband.

'Master of the wife as to what regards his own interests', the husband, Bentham says, 'ought to be guardian of the wife as to what regards her interests'. The husband has the 'aptitude' for judging his wife's interests, and the 'authority' to enforce his judgments. 'This being the case, it is manifest', says Bentham, 'that the legal relation which the husband will bear to the wife will be a complex one: compounded of that of master and that of guardian'. Therefore, 'the condition of a husband', he adds, 'stands upon the same footing as that of a parent', but with one difference: a husband is empowered to command 'certain reciprocal services' of a sexual nature which a parent may not command from a child.

Between husband and wife 'there subsists a legal obligation for the purpose of...a sexual intercourse to be carried on between them', in addition to 'the indiscriminate train of services at large which the husband in his character of master is empowered to exact...'. Even so, Bentham admonishes,

...it is not proper to make the man a tyrant, and to reduce to a state of passive slavery the sex which, by it weakness and gentleness, has the greatest need of protection. The interests of females have too often been neglected.

From this history of neglect Bentham derives a moral: Men should not cease to be masters but should strive, rather, to be better masters. One should at all costs avoid the 'dangerous snare' of 'absolute equality' between the sexes.
...those who, from some vague notion of justice and of generosity, would bestow upon females an absolute equality, would only spread a dangerous snare for them. To set them free, as much as it is possible for the laws so to do, from the necessity of pleasing their husbands, would be, in a moral point of view, to weaken instead of strengthening their empire.35

These arguments against 'women's liberation' have a remarkably familiar ring.

Bentham's reputation as a feminist is almost entirely without foundation. But old myths die hard. The origin of this myth, and the comedy of errors by which it was perpetuated, I have discussed elsewhere.36 It is perhaps enough to say that modern feminists, in their search for heroes and intellectual ancestors, would do well to pass Bentham by.

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NOTES

1. The present essay is excerpted from a much longer article, 'Utilitarianism, Feminism, and the Franchise: James Mill and His Critics', to be published in History of Political Thought in 1980.


7. J. Bentham, Memoirs and Correspondence, Bouver, x, 450.


11. Ibid., Bouver, ix, 106-8.

12. Ibid., Bouver, ix, 109.

13 Cf. Bentham's model French constitution of 1789: U.C. clxx, 144-5, 151. I am grateful to Dr. Michael James of La Trobe University, Melbourne, for calling this to my attention and for helping me to decipher Bentham's handwriting.

15. Ibid., Bowring, ix, 108.


17. Radical Reform Bill, Bowring, iii, 561.

18. Ibid., Bowring, iii, 564.


20. Ibid., Bowring, ii, 433.


22. J. Bentham, Radicalism not Dangerous, Bowring, iii, 599.


24. Ibid., 64-5.

25. J. Bentham, Chrestomathia, Bowring, viii, 56.


28. Radical Reform Bill, Bowring, iii, 566.


32. Ibid., Bowring, i. 355.


34. Ibid., 254-5.


36. See my 'Utilitarianism, Feminism, and the Franchise', op.cit.
IN DEFENCE OF A MYTH

Terence Ball's paper, 'Was Bentham a feminist?', attempts to refute the 'myth' of Bentham's feminism (Bentham himself would probably have preferred the term 'fiction'). Ball's argument runs as follows: (1) There are indeed many pieces of evidence in favour of Bentham's feminism, but there are also many more against it. The latter indicate that Bentham excluded women's enfranchisement not only in practice — as the supporters of this 'myth' admit — but also in principle; (2) The reasons for the exclusion of women from political life, on the ground of principle, are to looked for in Bentham's general conception of woman; (3) This conception is certainly not feminist, and leads Bentham to anti-feminist stands in other fields.

Before discussing each of these points, I would like to pose a question of method: Ball, as if there were no evolution in Bentham's thought from 1776 to 1832, does not take into account the chronological order in which Bentham's works were written — a way of proceeding which allows him to compare works that are distant in time, seeing contradictions where sometimes there are only evolutions. This method I find misleading, especially with regard to Bentham's political writings. To give just one example: Bentham's political position changed from an original conservatism (toryism, or even jacobitism) to an initial enthusiasm for the French Revolution, which soon changed into an overt and angry opposition to it (see Anarchical Fallacies), and, in the 1810s, changed again into radicalism. But no scholar could reasonably call this evolution a contradiction. This is particularly true on the question of women's enfranchisement, on which Bentham's stand underwent a considerable change.

In opposition to Ball's method, I shall try to put the different passages quoted by him in chronological order, relating the passages to the works to which they belong, and to the time in which they were written.

1. Bentham's first writings on women's enfranchisement were two unedited manuscripts of 1789, quoted by Ball, in which 'the enfranchisement of women is justified in principle as well as in practice', as Ball puts it. In these writings, Bentham expresses his views freely, without facing directly any problem of political strategy, as he was obliged to do later. In these writings, indeed, he does not 'take away' anything from his stand in favour of women's suffrage:

As to the Negro and the women, were they by some strange accident to overcome the body of prejudices which opposes their admission (to the right of being elected) with so much force, there could not be a stronger proof of a degree of merit superior to any that was to be found among whites and among men.

Of the two sexes of which the species is composed, how comes all natural right to political benefits to be confined to one?

The second occasion on which Bentham wrote about this subject was in his Catechism of Parliamentary Reform, written in 1809; this was published eight years later, with the addition of an Introduction almost eight times longer than the original work. The Introduction showed many changes in Bentham's thought (Plan of Parliamentary Reform, 1817), among which is the decision to treat the claim for women's suffrage as 'altogether premature'. Let us examine the question more closely. In the Catechism of 1809, Bentham still writes clearly in favour of women's right to vote, without 'giving with one hand and taking away with the other'.

33
Females might even be admitted, and perhaps with as little impropriety or danger as they are in the election of directors for the government of the 30 or 40 millions of souls in British India.5

The subsequent 'taking away', which can already be found in the Introduction of eight years later, is the consequence of the completely negative practical results of the radicals' claim for women's suffrage, which gave an advantage to their opponents, who used it to ridicule the whole question: their scorn about women involved also the claim for universal suffrage on the part of males. These facts were recorded by Bentham in his observations on Brougham's speech in the House of Commons on 2 June 1818:6

On the admission of females Mr. Bentham's plan forbore to lay much stress: because it found no ground for any very determinate assurance, that in that case the result would be materially different: and because no minds could be expected to be at present prepared for it. But it declared that it could find no reasons for exclusion, and that those who in support of it gave a sneer or a laugh for a reason, because they could not find a better, had no objection to the vesting of absolute power in that sex and in a single hand: so that it was not without palpable inconsistency and self condemnation, that the exclusion they put upon this class could be brought forward.7

This passage, not considered by Ball, is taken into account by a recent publication on Bentham by Steintrager.8 It does indeed provide an exact summary of Bentham's change of position. Already in his Introduction to his Plan of Parliamentary Reform, the Utilitarian philosopher states that his claim would be 'altogether premature' and that therefore the use of his observations on women's right to vote was at least

to show in what way and with a degree of attention suited to its importance, the subject is capable of being treated, in respect to principle: of two modes of treatment, which may be the more proper one - on the one hand, the mode here exemplified, or on the other, this or a horæ-laugh, a sneer, an expression of scorn, or a common-place witticism, the reader will determine.9

Here Bentham quotes, in the footnote, Charles James Fox's speech expressing opposition, in principle, to women's rights, on the grounds of the 'law of nations and perhaps also the law of nature';10 and Bentham adds this comment:

Perhaps: A peremptory exclusion, by which one half of the species is excluded from that security for a regard to their interests, which in the case of the other half is pronounced indisputable. Ground of this exclusion - or at least a principal part of that ground - a perhaps! Law of nature: another non-entity etc.11

34
From these quotations, it is evident that in 1817 and 1818 Bentham still recognized women's right to vote in principle.

Up to now, there is no contradiction in Bentham's stand on the ground of principle. That a gap exists between Bentham's theory and his practical recommendations, is a matter of fact which has been noted by all the authors who considered Bentham a feminist. Ball's critical contribution to this point consists in pointing out that (a) Bentham contradicts himself in his 'practical argument', committing two of his own 'fallacies'; (b) Bentham justifies this exclusion not only 'on ground of practicality but also of principle'. I wholly agree on point (a). It is true that Bentham uses in his political strategy the very arguments he elsewhere condemns as Fallacies: Ball is perfectly right in pointing out this contradiction, which has not been noted hitherto and throws some new light on the subject of Bentham's feminism.

On the other hand, I strongly disagree with point (b). Let us examine Ball's evidence. The first quotation is taken from the Constitutional Code (1830), in which Bentham still maintained the position expressed in the Introduction to his Plan of Parliamentary Reform (1817), showing a remarkable consistency. In the Code, as Ball reminds us, Bentham still acknowledged women's right to vote in principle, even if he did not consider it 'at present expedient' to propose a reform in this direction. In the Code, indeed, Bentham articulated the practical as well as the theoretical argument much more clearly than in the preceding works. This way of developing an argument is very common in Bentham, who used to think of a subject many times over. Immediately after, Ball quoted from the Radical Reform Bill, which was published in 1819 - that is, before the Constitutional Code, where the argument became much better articulated. It is therefore misleading to quote the Radical Reform Bill - where this argument is still rather confused after the clear argument of the Code, so that the reader gets the impression of a kind of withdrawal, where there is in fact only an evolution.

Indeed, in the Radical Reform Bill Bentham's position is confused by the compromise he was obliged to accept in those years: I would draw the reader's attention to a nuance of his language, clearly showing Bentham's irony, which Ball has left out. This is the complete sentence:

No man means that children that can just but speak, should vote: no man appears to mean that females should vote.\(^{13}\)

There is another striking piece of evidence, which shows how Bentham's position in the Radical Reform Bill is still confused, and will be clarified by Bentham's subsequent works: in a footnote, he states again the theoretical necessity of admitting women to the suffrage, and, at the same time, its practical inconvenience, without daring to introduce it into the text. From this footnote - which shows quite clearly Bentham's internal conflict - we may conclude that his attitude is still contradictory, but it certainly cannot lead to Ball's conclusion that the 'Radical Reform Bill pointedly excludes women from the Franchise. What Bentham in fact says, after asserting that it would be mischievous and absurd to have women elected to parliament, is:

Not so in the situation of elector: inconvenience there might be upon the whole, absurdity there
would be none. Nor even would there be any novelty in it. In the India House, among the self-elected representatives of sixty millions of Hindoos, are females in any number....Everywhere have females possessed the whole power of a despot....Talk of giving them as here the smallest fraction of a fraction of such power, scorn without reason is all the answer you receive. From custom comes prejudice. No gnat too minute to be strained at by it: no camel too great to be swallowed.  

This same sentence will be picked up again by Bentham in the Code, enlarged and developed fully:

In countries in which the sex is not admitted to the smallest share in the constitutive power, it is admitted to the whole of the executive, coupled with the largest share of the legislative, and that without any constitutive power above it. And of experience, in England, as far as it goes, in this the highest rank of operative power, the decision is more in favour of the female sex than of the male.  

Having shown how female monarchs behaved better than male monarchs, Bentham also cites the example of the East India Company, adding:

England, also, gives the example of a case, in which in the choice of a sublegislature of twenty-four members, governing with absolute sway....sixty millions of subjects in British India, females have an equal share with males. Thus, while gnats are strained at, camels are swallowed.  

Bentham's repeated use of the standard phrase from the Gospel according to St. Matthew leaves no doubt about his irony: the fact is that Bentham did not acknowledge this objection, as Ball suggests - he put it forward on his own account, pointing out that the nations and the people who deny in principle women's right to vote, de facto allow them to exercise the highest power.

The gravest instance of reading Bentham's thought out of context is however to be found in Ball's paper when he states:

This 'practice of vesting political power in the softer sex', Bentham replies, is merely an artefact of an hereditary system of monarchy which will presumably disappear as democracy advances.

The passage which Ball summarizes thus is taken from the Introduction to the Plan of Parliamentary Reform. In this passage, Bentham deals with women's admission to the suffrage in point of principle, after having taken a survey of the state of the laws, 'by which at present the share between the two sexes is determined':
As to appropriate intellectual aptitude — in the case of monarchy — in the case of integral possession of supreme and all-comprehensive power — by no man, perhaps, unless it be by John Knox, has physical weakness been brought forward in the character of an objection to the practice of vesting political power in the softer sex: by no man, even in the case of the electoral function, where, as in the instance of the East India Direction, the active or self-acting including the imperative power, is in the hands of an aristocracy: an aristocracy, itself in England subject to the mixed monarchy.... by which....in British India so many millions are ruled.\textsuperscript{19}

John Knox, one of the leaders of the Protestant Reformation in Scotland, had published The First Blast of the Trumpet Against the Monstrous Regiment of Women in 1558, by which he refused women — especially Catholic women — the right to govern.\textsuperscript{20} Later on, Elizabeth I never forgave Knox, because his anti-feminist arguments could be used against her, although she was a Protestant monarch. Bentham's irony about John Knox has the opposite meaning to that attributed to this passage by Ball. Nor am I able to find the text on which Ball bases his statement that this practice is 'an artefact....which will presumably disappear as democracy advances', unless Ball refers to the sentence which follows immediately the one I have just quoted and which reads:

Although, in all these several instances, the propriety of the arrangements were confessedly established — yet in the case of the democratic species of election in question, the propriety of it could not be stated as presenting itself in any such character as that of a necessary consequence.\textsuperscript{21}

The point here is that Bentham is complaining that whereas women had been admitted in some way to a share of political power in the case of monarchy and of aristocracy, this has not happened yet with the democratic elections which were being debated in those years. On the contrary, Bentham considered that, in principle, women's admission to the suffrage was a necessary consequence of the democratic conception (universal-interest-comprehension principle).

Returning to the first part of Ball's paper, let us examine his evidence in support of the thesis that Bentham excluded women from the suffrage on the ground of principle. After the quotation from the Radical Reform Bill — with which I have already dealt — the second piece of evidence is a quotation from Radicalism not Dangerous, written between 1819 and 1820 (that is, before the Constitutional Code). It was a pamphlet of only 24 pages, written in order to demonstrate the distinction between Radicalism and 'Communism'.\textsuperscript{22} Here the discussion does not even touch women, as Ball's paper would make one believe: Bentham has to defend himself and the other radicals from the charge of being revolutionaries. The radicals were in fact in favour of universal suffrage, which at that time meant the right to vote extended to all adult males, and not restricted only to those who owned property. The radical position was therefore regarded as an attack on property: in his Radicalism on Dangerous Bentham is trying to
defend the principle of the universality of the suffrage, extending to all adult males, and is showing at the same time that he is not a revolutionary who wants to overturn the principle of property. Bentham's passage reads as follows:

Virtual universality was there proposed as being the only degree of extent which seemed either defensible in principle, or capable of affording any assured promise of giving universal satisfaction, or any near approach to it. 23

The polemics, as Bentham makes clear in the following sentence, are directed against those who wanted the suffrage limited to householders. 24 It is true that, when Bentham says 'principle', most of the time he means the principle of utility; but here virtual universality is being defended in principle against a suffrage restricted to householders, not against its extension to women, who do not figure in this argument.

2. Thus it is hard to find any foundation for Ball's conclusion that 'the enfranchisement of women must then somehow contravene the principle of utility'. Nor can I agree on the method by which Ball turns to An Introduction to the Principles of Morals and Legislation. First of all, it is quite arbitrary to speak of 'politically relevant differences between the two sexes', quoting the Introduction, written in 1780, when the issue of women's participation in political life was not yet present in Bentham's mind. Bentham never said or meant that 'woman's nature is so constituted as to render her less able than man to make rational political judgements'. Bentham's text, which Ball uses in this sense, is taken from a passage that speaks about religion, not about politics:

The religious biases in the two sexes are not apt to be remarkably different; except that the female is rather more inclined than the male to superstition; that is, to observance not dictated by the principle of utility; a difference that may well be accounted for by some of the before-mentioned circumstances. 25

What are these circumstances? The greater 'quantum of sensibility' of the female sex. Bentham does acknowledge some differences existing between the two sexes and considers that some of them - among which sensibility, physical weakness, and so forth - are due to nature, but that most of them are due to society.

What he is listing in the Introduction are all the differences which - in his opinion - can actually be found in men and women, and which any legislator should take into account in order to make adequate laws. 26 His statements are based on observation, not on a speculative reflection on the essence or nature of men or of women. To give one example of this, the same paragraph ends:

In point of pecuniary circumstances, according to the customs of perhaps all countries, she is in general less independent. 27

But let us see more closely the origin of some of these biases:
Her moral biases are also, in certain respects, remarkably different: chastity, modesty, and delicacy, for instance, are prized more than courage in a woman: courage, more than any of those qualities, in a man.  

This sentence comes immediately before the one on superstition quoted by Ball, but fits rather badly into the picture he gives of Bentham's philosophy, dealing with 'innate inclinations' and 'unchangeable nature'.

On the contrary, from these sentences we know that Bentham thought it possible that even biases could be influenced by the social environment, through education and legislation, by praising certain virtues instead of others; as is repeated elsewhere:

From their [females'] earliest infancy, and even before they are capable of understanding the object of it, one of the most important branches of their education is, to instil into them principles of modesty and reserve.

Further on, Bentham never said or believed that 'to permit women to vote would be to open the door to superstition and other forces hostile to the principle of utility', as Ball concludes; nor am I able to see which 'other forces hostile to utility' would enter politics together with women. Ball could have checked the validity of his interpretation in the Introduction itself, by reading the following passage:

In certain nations, women, whether married or not, have been placed in a state of perpetual wardship: this has been evidently founded on the notion of a decided inferiority in points of intellect on the part of the female sex, analogous to that which is the result of infancy or insanity on the part of the male. This is not the only instance in which tyranny has taken advantage of its own wrong, alleging as a reason for the domination it exercises, an imbecility, which, as far as it has been real, has been produced by the abuse of that very power which it is brought to justify. Aristotle, fascinated by the prejudice of the times, divides mankind into two distinct species, that of freemen, and that of slaves. Certain men were born to be slaves, and ought to be slaves. - Why? Because they are so.

Again, where is Ball's 'unchangeable nature' of women?

Although this argument was not yet bound up with women's suffrage in the Introduction (because Bentham did not yet have the latter issue in mind), this was done in his unedited manuscript of 1789:

Why exclude them [from the suffrage]?....As to the custom which has prevailed so generally in prejudice of the softer sex, it has tyranny for its efficient cause, and prejudice for its sole justification.

In the same manuscript, Bentham uses the argument of queens who are better than kings, which he was to use in the Constitutional Code at least
thirty-five years later, as we have already seen. But the most interesting point comes when Bentham himself refutes Ball's interpretation, according to which women's supposed intellectual inferiority should exclude them from the right to vote:

Suppose the inferiority of faculties: the greater it is, the less their capacity of abusing the power in question. If they belong to the class of idiots, at least they do not to the class of mischievous idiots. If there are any points in respect of which their inferiority stands questionable, one should think it were the articles of bodily strength and personal courage. The English Common Law in its wisdom has determined otherwise. It calls them equally with the men to take upon them those offices the duties of which consist in apprehending vagrants and quelling riots. From those political rights which may be exercised without labour or hazard it excludes them with unrelenting care.32

The connection that Bentham makes each time, on the contrary, is between the observation of women's delicacy and the necessity of a special protection to be afforded to them by legislation. In this connection, Bentham wrote many pages, asking for particularly severe punishment for those who have done violence to women;33 the preservation of female dignity in courts of law in cases which involve sexual connections or offences relating to women present in court;34 more effective kinds of punishments in the case of rape;35 protection of women's interests in divorce;36 equal rights to women in the laws of succession, and, on occasions, a kind of 'compensatory discrimination';37 the elimination of the old English law 'manent vestigia ruris';38 and special institutions for the care of unwed mothers and illegitimate children (in his Panopticon project).39

In Bentham's opinion, the causes of the 'tyranny over the softer sex' are mostly to be looked for in prejudice, habits, laws, history - in a word, in society; and not in women's supposed intellectual inferiority. The natural differences between the sexes are considered as existing, but not as a ground for justifying the oppression of the 'weaker'. Bentham was not a philosopher who treated 'biology' as 'destiny', as Ball suggests. In fact, this argument brings Ball to the strange conclusion that, for Bentham, 'education is of strictly limited value'. Here, in full, is the passage in Chrestomathia which Ball cites as providing the evidence for his conclusion:

In the whole of the proposed field of instruction..., scarcely will there be found a spot, which in itself, custom apart, will not be, in respect of information presented by it, alike useful to both sexes: some parts (and more especially those which concern Domestic Economy and the care of health, as applied to the more delicate sex, and to both sexes, at the time of life during which they are almost exclusively subject to its care) will even be found more useful to females than to males. By an experienced as well as eminently intelligent disciple of Dr. Bell's,40 it is mentioned as a 'well known fact, that girls are more docile and attentive than boys'; and that
accordingly, in that part of their school-time, which remains after subtraction of that which is applied to occupations appropriated to their sex, the degree of proficiency which, at the end of the year, they have attained, is not inferior to that which, in the whole of that same school-time, has, within that same period, been attained by the boys.

In the case of the middling classes, to whatsoever other branches of instruction the labour of female children be applied, needle-work will certainly not be regarded as one that can be omitted; and though, for the practice of this art, there would remain several hours of the four-and-twenty, yet what may naturally be expected is, a general wish to see some portion of the school-time allotted to such works.\footnote{41}

The Chrestomathia is not an abstract manual of pedagogy, but a concrete project for a school to be founded in practice; as the sub-title says, it is 'a collection of papers, explanatory of the design of an Institution.... for the use of the middling and higher ranks of life'.\footnote{42} Needle-work is accepted by Bentham, provided that its introduction in the school-time will not damage girls' education. What then becomes of Ball's statement that 'to instruct young women in the political arts would be to waste precious pedagogical resources'?

Perhaps the best way for demonstrating that Bentham was convinced that women's intellectual inferiority was derived, not from innate inclinations, but from social conditioning, is to quote another unedited manuscript of his. On 24 October 1815, when writing the Table of the Springs of Action, Bentham added some marginals, among which there is a section entitled 'Causes of opposition to the principle of utility by particular classes'. In this, he mentions the example of females:

1. The female sex banished from the dominion of utility, by the rod of derision. 2. For the benefit of the ruling few....the minds of all women are castrated.\footnote{43}

What better slogan for a modern feminist than this: 'the minds of all women are castrated'?

3. Now come three good points in Ball's paper: women's exclusion from juries; from political offices; and from attending parliamentary debates.

On the first point, it is true that Bentham excluded women from serving on juries, but it is also true that the possibility of including them should be considered in 'a newly constituted State,...for the alleviation of the tyranny hitherto, in a greater or lesser degree, so universally exercised over the weaker by the stronger sex':

Suppose for this purpose, amongst other things, a modification of the Quasi-Jury....Reserving in every case the predominance of the stronger sex,
here then would be the foreman as before, a male erudite, ordinaries two males: of the female sex, erudite one, ordinary the other. Logical field of exercise, those cases in which the interest of the two sexes antagonize.44

But still, Ball is right in suggesting that Bentham did not think it convenient to introduce such an innovation at that time.

The exclusion of women from political offices has already been assessed by Williford as a weak point in Bentham's feminism. Here is Williford's interpretation:

Women, then, are excluded from their political rights not because their intellects are inferior or abilities are lacking, but rather because men lack the maturity to work seriously and effectively with women in their midst. Bentham evidently believed that men associate women so much with their sexual role that they would, like proud peacocks, dissipate their energies in preening and posturing in order to please the opposite sex.45

Such an interpretation would also answer Ball's question why Bentham thinks that his considerations leave women's pride intact. But, I grant, this is only an interpretation, and the fact remains that Bentham's feminism is limited by this exclusion. Again, Bentham does not only 'conclude that this infringement of equality is necessary', but says:

But if this infringement on equality be considered as necessary, regard for the principle of equality affords another reason, not merely for admitting the female sex to an equal share in the constitution, but even to a greater share than in the case of the male.46

The prevention of females from appearing in parliament as visitors is another issue already raised by Williford, in her quoted article. But I have strong doubts about the authenticity of the passage in question, which is attributed to Dumont by a contemporary of Bentham's, William Thompson, who was acquainted with Bentham and had been his guest at Queen's Square Place for four months.47 The problem would be that of checking the original manuscripts against Dumont's recension, and seeing how strong Dumont's influence was on this point. Up to now this work has not been possible, and I can only recall Bentham's words at the beginning of the passage, 'I have hesitated, I have weighed the reasons for and against', which at least show us a conflict in his mind; and I may add that I still consider Williford's interpretation as valid.

The final point raised by Ball is Bentham's consideration of the female role in the family. There are numerous passages in which Bentham explains the origin of 'the law of the stronger'. In short, he says that the origin of this law is to be looked for in the primitive and ancient societies, ruled by a patriarchal régime. In the times when physical force was fundamental to survival, he who was the strongest was also the one to whom power was attributed within the family:
Laying aside generosity and good-breeding, which are the tardy and uncertain fruits of long-established laws, it is evident that there can be no certain means of deciding [a family dispute] but physical power: which indeed is the very means by which family, as well as other competitions, must have been decided long before such office as that of legislator had existence. 48

The legislator therefore accepted de jure what he had already found de facto, because 'there were men and wives...before there were legislators'. 49 Another historical reason given by Bentham as an explanation of the fact that laws, not biology, keep women under the power of men, is a very modern one, which would please any contemporary feminist:

Add to which, in point of motives, that legislators seem all to have been of the male sex, down to the days of Catherine. 50

And elsewhere:

But the strongest have had all the preferences. Why? Because the strongest have made the laws. 51

In any case, as I have already pointed out on another occasion, 52 Bentham was not a revolutionary: the society of his time was still based on the patriarchal family, and he had never heard of the concept of 'matriarchy'. His great merit consists in the fact that he did not just accept women's condition 'because it had already been so', but analyzed it critically, condemned it, and made proposals in order to better it. Certainly, he could not ignore that the prejudice against women was of the most deeply rooted kind, and that it was absolutely impossible to uproot it immediately and completely. Therefore, many of his proposals can be reduced to a list of clauses, 53 to be inserted in the laws which were directly concerned with the condition of women, in order to protect them from the abuse of masculine power, which for the moment appeared impossible to overthrow.

It is in this sense - not in that of making men become 'better masters', as Ball suggests - that I understand Bentham's words. From his consciousness of the inequality of women's condition in society, derive all his demands for a special protection to be allowed to them by the legislator. This is the reason for his strong opposition to the institution of legal separation (whereas he was in favour of divorce): separations in fact do not imply the permission to either of the parties to remarry:

the injured wife and her tyrant are subjected to the same condition. This apparent equality covers a great real inequality. Opinion allows great liberty to the stronger sex, but imposes great restraint upon the weaker one. 54

Bentham on this point is extraordinarily modern: today, minorities and women ask for the right to be different, arguing that formal equality brings a levelling which will always work in favour of the stronger, and against the weaker, the different, the oppressed. This seems to me to be
the meaning of Bentham's words, quoted by Ball, that, in the presence of a substantial inequality, to ask for formal equality would be only a trap for women themselves.

That Bentham kept constantly in mind the ideal of a substantial equality between men and women, to be obtained, in accordance with the principle of the greatest happiness of the greatest number, is a fact. That he did not think it possible to obtain it in his times, is another undeniable fact. Bentham was not a revolutionary, as I have already pointed out. His proposals are the proposals of a reformer who - although in theory a radical reformer - was convinced that great achievements on the way to a better world were to be obtained gradually, without forgetting a concern for the people living in the period of transition. Of course, if we consider feminism in the modern sense of being an activist, Bentham was certainly not a feminist. But he provided feminism with its ideological weapons: to place the origin of 'evil' (in this case the oppression of women) in society, instead of placing it in 'human nature', meant that this evil was not inextinguishable and everlasting, but that, on the contrary, it was possible to uproot it by changing society. The many passages that Bentham devoted to women's admission to the suffrage show that he did not think that 'biology' was 'destiny'. Unlike James Mill, Bentham never gave reasons, on the ground of principle, for excluding women from universal suffrage, but provided, on the contrary, all the best reasons for their enfranchisement. In his effort to promote enlightenment, Bentham fought against, and supplied the means of destroying, most of the more deeply rooted prejudices of his time about women. In this sense, despite all the limitations discussed above, I still 'hail Bentham as the father of feminism':

As in the physical, so in the moral branch of the field of thought and action, parts still remain which may be stated as being as yet unexplored. In the political branch, in that subbranch of the moral, one topic is that which regards the rights and the obligations of one half of the species - the female sex: the rights which it is fit they should possess, the obligations to which it is fit they should be subjected.

For all these reasons, I still believe that the 'myth' of Bentham's feminism has stronger foundations than Ball's claim to destroy it.

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NOTES
1. Like Dr. Ball, I owe the discovery of these manuscripts to the courtesy of Dr. Michael James, of La Trobe University, Victoria.
2. U.C. clxx.151.
3. Jltd., 144.
4. J. Bentham, Plan of Parliamentary Reform (Introduction), — Bowring, iii, 463.


19. Plan of Parliamentary Reform (Introduction), *Bowring*, iii, 463. In the preceding sentences, Bentham had repeated that as to 'the universal-interest-comprehension principle, the quality of appropriate probity and appropriate intellectual aptitude - these guides of decision, if they apply not with propriety to both sexes, it seems not easy to say with what propriety they can be applicable to either'.

20. Knox's argument stated that vesting authority in women was against the law of nature as well as against any revealed religion.


26. Bentham's legislator has to show the way to be followed, but at the same time must never forget that this way must be founded on the actual situation.


31. U.C. clxx.144.
32. Ibid., 145.
33. J. Bentham, Specimen of a Penal Code, Bowring, i, 164.
35. Principles of Penal Law, Bowring, i, 411.
37. Ibid., Bowring, i, 335.
38. Principles of Penal Law, Bowring, i, 373.
40. A. Bell was the inventor of the 'monitorial' system of teaching, later adopted by Lancaster and admired by many of his contemporaries, including Bentham.
41. J. Bentham, Chrismasteia, Bowring, viii, 56. The italics are Bentham's.
42. Ibid., Bowring, viii, 1.
43. U.C. cviii.118. Among the exceptions Bentham quotes: 'Madame Stael'. For the discovery of this manuscript I am indebted to Professor Amnon Goldsworthy of San José State University, California.
44. Constitutional Code, Bowring, ix, 567.
45. Williford, op. cit., 169-70.
46. Constitutional Code, Bowring, ix, 108: that is, if women cannot be elected, they ought to have an even stronger right to vote.
49. Ibid., 238.
50. Ibid.
51. Principles of the Civil Code, Bowring, i, 335.
54. Principles of the Civil Code, Bowring, i, 355. Cf. also U.C. lxxii. 195. Paederasty: 'In all European countries....this propensity (to venereal enjoyment) which in the male sex is under a considerable degree of restraint, is under an incomparably greater restraint in the female. While each are alike prohibited from partaking of these enjoyments but on the terms of marriage by the fluctuating and inefficacious influence of religion, the censure of the world denies
it [to] the female part of the species under the severest penalties, while the male sex is left free. (the female part of the species are interdicted under the severest penalties by the censure of the world by which the male sex is left free.)

55. In my quoted paper, I also gave several historical reasons for calling Bentham 'the father of feminism', referring to the first developments of feminism in M. Wollstonecraft, W. Thompson, and J.S. Mill. This part had to be omitted from the present paper for lack of space.

56. Constitutional Code, Howring, ix, 3.
BENTHAM NO FEMINIST: A REPLY TO BORALEVI

I am much indebted to Mrs. Boralevi for criticising my essay. She will, I hope, forgive me if I remain unpersuaded by her defence of Bentham. Because space is short, I shall comment briefly upon several of what seem to me to be the most serious defects in her critique.

Mrs. Boralevi begins by chiding me for ignoring the chronological order in which Bentham's works were written. She notes, rightly enough, that Bentham changed his mind on a number of points during his lifetime and that such changes should not, properly speaking, be termed 'contradictions'. I cannot, however, agree with her contention that 'Bentham's stand [on the question of women's enfranchisement] underwent a considerable change'. Nor, apparently, can she; for she later remarks that Bentham 'showed a remarkable consistency' in dealing with these matters. It is precisely because Bentham's view of women - from the early analysis of 'female sensibility' in the Introduction to the late discussion of women's suffrage in the Constitutional Code - remained so 'remarkably consistent' that I found it unnecessary to 'take into account the chronological order in which Bentham's works were written' and felt justified in 'compar[ing] works that are distant in time'.

Mrs. Boralevi overlooks Bentham's lawyerly penchant for weighing the reasons for and against granting political rights to women. She interprets the former as somehow representing his 'real' position, and largely ignores or excuses what he says about the latter. Many of Bentham's purported pronouncements in favour of women's rights are, less spectacularly, merely criticisms of others' inadequate reasons for opposing them. For example, Bentham's acidic dismissal of Charles James Fox's defence of excluding women from the franchise is couched exclusively in terms of the inadequacy of Fox's stated reasons for taking that position - and not in of the utter indefensibility of that position, simpliciter. So too with Bentham's curt dismissal of James Mill's exclusionist position: Mill is criticised, not for taking that position, but for offering no reasons for doing so.  

In framing the laws of a nation one must, as Bentham says repeatedly, look to the rule rather than to the exception. For example, Bentham believes that men are, as a rule, more adept at governing than women are. There are, to be sure, some notable exceptions - witness the reigns of Anne and Elizabeth - but these hardly suffice to destroy the rule that 'the female sex, with reference to the executive and legislative functions', exhibits a 'comparative inaptitude'.  

And since laws are framed to fit the rule rather than the exception, laws barring women from public office may be entirely justifiable.

This leads us to reconsider Bentham's analysis of 'female sensibility' in the Introduction; for it is this analysis which underpins and renders intelligible Bentham's later - and otherwise puzzling, not to say inexplicable - 'deviations' from the feminist path. Mrs. Boralevi would have us believe that Bentham's views regarding female sensibility are irrelevant to our concerns, because they appear in the Introduction, 'written in 1780, when the issue of women's participation in political life was not yet present in Bentham's mind'. She failed to mention, however, that when the Introduction was republished in 1823 'with the author's full
approval and co-operation', the discussion of female sensibility was left unchanged.\textsuperscript{4} If Bentham's thought on these matters had undergone so marked an 'evolution' as Mrs. Boralevi suggests, he would surely have toned down, or perhaps even eliminated, these passages. In my view Bentham had no reason for doing so, since his general view of women - particularly as regards their penchant for 'irrational', i.e. non-utilitarian, modes of thought - remained quite unchanged, and indeed served (if my interpretation is correct) as an implicit justification for excluding women from political life. Bentham's exclusionist position therefore rests not only upon considerations of expediency and practicality but upon the principle of utility itself. Mrs. Boralevi disagrees with the second claim. She chides me for failing to note than Bentham's remark that 'the female is rather more inclined than the male to superstition; that is, to observances not dictated by the principle of utility', refers not to politics but to religion. A close reading of the passage in question\textsuperscript{5} shows that Bentham's reference to 'religious biases' serves merely to illustrate the more general - and politically relevant - observation that women are more inclined than men to 'superstition'. Indeed, Bentham reiterates the point thus: 'In general, her antipathetic, as well as sympathetic biases, are apt to be less conformable to the principle of utility than those of the male; owing chiefly to some deficiency in point of knowledge, discernment, and comprehension'.\textsuperscript{6} The political implication, I still maintain, is both clear and astounding: a utilitarian polity would enfranchise and give power to women only at its peril. In this light Bentham's anti-feminist 'slips' and 'oversights' come at last into clearer view.

Mrs. Boralevi has surely made the best possible case for Bentham's 'feminism'. I for one do not find the case a compelling or convincing one. It rests too much upon wishful thinking and, by imputing consistently 'feminist' intentions to Bentham, assumes what it is obliged to prove. In the severely limited space allowed me here, I am unable to reply to her other criticisms point by point. But if our exchange prompts others to re-read Bentham from a critical feminist perspective, its purpose will have been well served.

Terence Ball

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NOTES

1. J. Bentham, Plan of Parliamentary Reform, Bowring, iii, 464 n.
5. Ibid., 64.
6. Ibid., 65.

One of the consequences of the revival of liberal political theory in the 1970s has been to identify in utilitarianism, or at least Bentham's version of it, a doctrine which is not merely distinct from liberalism but which is, on many points, deeply hostile to it. For instance, John Rawls, in *A Theory of Justice*,¹ argues that rational individuals would, in the social contract situation, reject the principle of utility as a criterion for evaluating social practices. Again, F.A. Hayek, in some of his more recent works,² has treated Bentham's legal philosophy as one of the main intellectual antecedents of the decline of the liberal order which had emerged in eighteenth-century Britain and of the rise of various forms of absolutist collectivism in the twentieth century. That Bentham should ever have been viewed, if not as a complete liberal, at least as one of the major allies of liberalism, can be explained by the methodological individualism which he shared with the classical liberal theorists and by his espousal of the policy recommendations derived from political economy. But methodological individualism need not rule out moral collectivism. Bentham departed from liberalism in his beliefs that the experiences of a number of individuals could be quantified and rendered commensurable on an objective scale of utility and that government had a moral obligation to pursue policies which maximised utility regardless of the consent or otherwise of the individuals concerned.

In writing *Bentham on Liberty*, Dr. Long's purpose is not to argue that Bentham was, after all, some kind of crypto-liberal. Indeed, he suggests connections between Bentham's philosophy and the behaviourist psychology of B.F. Skinner which serve to emphasise how far removed Bentham was from the moral individualism of the classical liberal school. What he is concerned to show is that Bentham, despite rejecting liberalism, took the concept of liberty very seriously. The interest of the term lies not so much in the way Bentham defined it — he employed a standard negative definition whereby it connoted the absence of coercion — as in its role as a fundamental term in Bentham's attempt to reconstruct reality through the analysis and improvement of language. In this context, liberty is one of the leading ideas surrounding the central concepts of utility and law. Dr. Long's exposition draws greatly on a number of sets of early (1770s) 'preparatory' manuscripts (headed variously 'Key', 'Preparatory Principles Inseranda' and 'Crit. Jur.Crim.') in which Bentham sketched a remarkably complete system of ideas and definitions, a system which was to be fully elaborated and filled out by the well-known works on jurisprudence and moral philosophy composed over the two succeeding decades. One of the main achievements of *Bentham on Liberty* is to establish the importance of these manuscripts within the corpus of Bentham's works as a whole.

According to Dr. Long, Bentham's early rejection of the language of natural liberty did not involve a rejection of the value of liberty as an essential aspect or component of utility. In order to achieve happiness, an individual must enjoy a modicum of liberty to have access to the various sources of utility. Yet liberty could not be accorded the status of an independent principle, or even that of a subordinate end of government, since it was a fictitious entity the analysis of which immediately brought to the fore the more fundamental concept of security. Bentham argued that coercion (whose absence constituted liberty) could arise either from individuals or from the law. But freedom from the one
source implied coercion from the other: either the law was silent, leaving individuals free to harm one another, or the law restrained individuals from doing such harm. The demand for liberty, then, was to be understood as a demand for security against coercion; and this security could be provided only by the coercive instruments of government. To be free was to be secure; it was also to be subject to a number of laws restraining one's ability to coerce others. Bentham contrasted the two sides of the concept of liberty by referring to the one (absence or silence of the law) as 'liberty political entire' and the other (security created by the law) as 'liberty political perfected'. The latter was the result of the intervention of the law and was the kind of liberty which was of value in that it guaranteed individuals access to the sources of utility. So understood, liberty was neither simply surrendered for the sake of security, as it was for Hobbes, nor was it created or expanded by the law, as it was for Rousseau and for classical liberals such as Locke; rather, the effect of the law was to 'redistribute' liberty by way of 'perfecting' it. The role of government was to redistribute it to the point at which utility was maximised:

...the law, acting directly on real entities (persons and things), creates an intricate web of powers and restraints, rights and duties, striking a balance between the oppressiveness of a total liberty of action against wrongdoers and the chaos of a state of unbounded liberty against law: neither of these liberties is thus possessed in entirety, but each is possessed in that perfection which marks an Aristotelian mean between oppression and anarchy (pp.131-2).

The most valuable of our perfected liberties was private property, which consisted of areas of liberty which the law permitted to specific individuals and which it secured by prohibitions against trespass addressed to the general public.

Dr. Long's exposition is perceptive and lucid. By illuminating a relatively obscure aspect of Bentham's thought, he gains a fresh perspective on the entire system of Bentham's ideas. In particular, his emphasis on the connections between the preparatory manuscripts and the later, more substantial works on jurisprudence reveals how formidable a unity is imparted to Bentham's philosophy by his theory of fictions. There is one area, however, where the analysis seems less than complete: the connection between the ideas liberty and right. The concept of right is not neglected; but there is no single, complete explication of the concept which establishes the precise points of overlap and distinction between it and the concept of liberty (an analytical summary of the entire family of leading terms to which liberty belongs would have been a welcome addition to the book). Dr. Long treats rights as being distinct from liberties in that they are created by the law in the sense of being correlative to legal obligations. In this respect, they are equivalent to 'perfected' liberties. But Bentham also spoke of 'naked' rights, i.e., rights which are not protected by correlative obligations, and which arise either from the silence of the law or from explicit legal permissions. Rights of this sort would appear to be equivalent to 'unprotected' liberties; so that the unqualified terms right and liberty are co-extensive. This distinction between the two lies in the real entities from which they spring and to which the analysis of them leads. The idea of a right arises directly from the idea of an obligation; this is no less true of a naked right than of a right secured by a law, since to say that a right is naked is precisely to refer to the absence of a correlative obligation. The analysis of liberty, meanwhile, leads at once to
the idea of coercion; but, as has been noted, the coercion whose absence constitutes liberty does not necessarily arise from the law, but can arise from other human sources.  

Dr. Long's ambitions are mainly expository; apart from a brief though valuable comparison between Bentham and J.S. Mill on the subject, there is little attempt to evaluate the adequacy of Bentham's conception of liberty. But, in restoring that conception to its rightful position of importance in Bentham's system of ideas, he throws fresh light on how it differs from the liberal conception of liberty. As noted above, Bentham's argument that the law can only redistribute and secure liberty marks him off from the liberal tradition, according to which the role of law was to expand liberty. The essential distinction here is to be found in the manner in which law, rather than liberty, is conceived. For Bentham, laws were expressions of the will of the sovereign, and were no less coercive than any other expression of will. His 'logic of the will' entailed a perfect symmetry between liberty and coercion: one man's permission is another man's prohibition. But this relationship need not hold if laws are viewed as rules of conduct whose function is, not to ensure that individuals behave in accordance with some sovereign will, but to allow them spontaneously to co-ordinate their self-chosen actions. From this point of view, civil society does not exchange the coercion which individuals exercise on one another for the coercion which the sovereign exercises over all; rather, the confusion and unpredictability of the state of nature are removed by a number of restrictive rules of universal application which, to the extent that they are observed, enable individuals to pursue their own goals with a high degree of certainty that, in so doing, they will not be hindered by other individuals or by government. Bentham's argument that the law could not create liberty was a direct result of his espousal of the command theory of law, according to which all lawful behaviour is behaviour in accordance with a sovereign will. (To act in accordance with the terms of a permission was, for Bentham, no less a matter of acting in accordance with a sovereign will than to obey a command, since, like a command, a permission represented an aspect of that will.)

Essentially the same point reappears if we contrast Bentham's treatment of the relationship between liberty and security with that proposed by the classical liberals. Although he employed a negative definition of liberty (i.e., the absence of coercion), Bentham's treatment of liberty as an aspect of security comes close to the positive definition, i.e., the ability to do what one wants to do. Liberals do not deny a connection between liberty and security; but what theyavour is a certain minimum 'background security' provided by the rule of law, and giving a reasonable assurance against coercion, as opposed to that level of security required to maximise utility. This view presupposes that the human condition is characterised by ignorance, so that individuals require an experimental liberty to enable them to discover ways of life which bring them satisfaction. As Dr. Long points out, it was this kind of 'open-ended, creative, and dynamic liberty' which J.S. Mill favoured (p.118); of its nature, liberty so conceived involved a great deal of risk and insecurity. Bentham, on the other hand, assumed that the knowledge needed for the creation of human happiness could be centralised and placed at the disposal of the legislator, whose duty would be to arrange for that degree of liberty which was consistent with the maximisation of utility. Bearing in mind the similarities which Dr. Long detects between Bentham and
B.F. Skinner, we could say that, for Bentham, questions concerning liberty amounted to questions concerning the size of the legal cage in which each individual was to be confined.

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The accompanying bibliography is largely based on that compiled by Dr. Donald Jackson of Algoma University College, Sault Ste. Marie, Ontario, and in Keitaro Amano's *Bibliography of the Classical Economists* (Tokyo, 1964). Additions and alterations were also made by readers of the *Newsletter*. We also include further addenda to the post-1945 bibliographies which have already appeared. Future issues of the *Newsletter* will contain a nineteenth-century English language bibliography, and a bibliography of foreign works by, or about, Bentham.


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