

CHAPTER II

BENTHAMITE RADICALISM

JEREMY BENTHAM was born in 1748 and died in 1832, the year of the first Reform Bill. During the eighty-four years of his life Bentham worked with one object before him—to make the law easy, intelligible and pure. He was primarily a law reformer, and by continual reiteration of the principles on which the law should be based, he founded the famous school of English Utilitarians, whose social philosophy had a profound effect on nineteenth century legislation. His genius and his enormous capacity for work also had a great effect upon his contemporaries. "The age of law reform," says Lord Brougham, "and the age of Jeremy Bentham are one and the same. He is the father of the most important of all branches of reform, the leading and ruling depart-

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ment of human improvement. No one before him had ever seriously thought of exposing the defects in our English system of jurisprudence."¹ This quotation very adequately describes Bentham's life work. He was the pioneer of the idea of humanizing the law by making general happiness its avowed object.

The latter part of the eighteenth century and the early years of the nineteenth had been conspicuous for repressive legislation due to fear of revolution and Jacobinism. Fear had been the governing passion in the repressive measures adopted by the Paternal Government of the Tories, and it was against this attitude of repression that Bentham fought. Hitherto, as Dicey says, the law had been "haphazard as the result of customs or modes of thought which had prevailed at different periods,"² and Bentham perceived that what had served the country well through the Middle Ages, the Reformation, the Commonwealth, the Restoration and the Napoleonic Wars, was becoming a curse and an impediment to development under the new conditions created

¹ Brougham's Speeches, II, quoted in Dicey's *Law and Opinion in England*.

² *Law and Opinion in England*.

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by the introduction of machinery. He perceived that the legal machine had broken down, and in its place he wished to build up a new system of jurisprudence less hampering to modern conditions. "I do not know," said Sir Henry Maine in his *Early History of Institutions*, "a single law reform effected since Bentham's day which cannot be traced to his influence."

What then were the fundamental principles underlying the spirit of Bentham's theory of individualism?

With a band of devoted disciples, he founded a school of thought in opposition to the teachings of the Tory system of Paternal Government. "In 1808 he [Bentham] had become acquainted with James Mill, and through Mill with Francis Place. . . . Mill and Place became his devoted disciples and brought their revered and beloved master for the first time into practical English politics. They convinced him that the Greatest Happiness Principle was meaningless unless it led to universal suffrage. Bentham became the intellectual leader of the famous Westminster group of Radical politicians. He was soon surrounded by men a generation or two generations younger than him-

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self, Mill and his son, Place, Wakefield, Grote, Southwood Smith, Chadwick and others. Under the stimulus of these new followers, with their varied experience, and their hopes for a new world after a long war, he carried on his work as political inventor and adviser more continuously and effectively than ever before. He drafted a complete scheme of Parliamentary democracy. He poured out details of elementary, secondary and technical public education. He performed miracles of industry in preparing a codification of all law."¹

His philosophy may be summed up in his own famous phrase adopted from Joseph Priestley, that all legislation should attempt to attain "the greatest happiness of the greatest number." The Benthamite doctrine held that legislation should be directed to increase the happiness and prosperity of the individual, and that only by that means could the State, which is comprised of individuals, be in a healthy and prosperous condition. Benthamism taught that the individual should be freed from petty

¹ *Jeremy Bentham*, by Graham Wallas, Academy of Political Science, N.Y.

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restrictions and cruel laws. He should be encouraged to accept freedom, responsibility, free competition and free contract. This implies the full, unrestricted development of each individual, a most important advance on the mediæval idea of a distinct and permanent status for each person. Too much government had brought manufacturers and wage earners alike to a state of confusion, and there was a natural reaction to *laissez faire*. Let things alone, leave the individuals comprising society to fight things out, so that each in striving for his own happiness will create happiness for all, and thus will be obtained "the greatest happiness of the greatest number"—such was the creed.

This, then, was Bentham's work. He sought to overthrow Paternal Government; he wished his theory to be applied to the wage earners and artisans as well as to the landed aristocracy and the manufacturers; he wanted Parliament to be omnipotent, to be a real power governing in the interests of all classes, and not in those of a small proportion of the population; he was anxious to abolish patronage and replace it by competitive examination; and, finally, he worked

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to establish the Government as a real and effective instrument for the betterment of the whole community.

But Bentham saw clearly that governmental interference would be necessary in order to regulate the system under which the individual lived. In his *Constitutional Code* Bentham details with great minuteness the duties and spheres of activity of each official of an ideal administration. He includes schedules for the Prime Minister and also for the local parish authorities; for the Home Secretary and for the local health authority; for the Lord Chief Justice and for the local magistrate. It is from this that Chadwick took the details for his Poor Law Amendment Act of 1834, and for his agitation for the establishment of a Registrar-General for Births, Deaths and Marriages.

Bentham understood the social relationship between individuals. He saw clearly the possibility that an individual would come to stress his individuality to the detriment of other individuals. Therefore he proposed to introduce a system whereby their activities might be regulated, achieving by this means "the greatest happiness

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of the greatest number " even though at the cost of some interference with the freedom of the individual.

This, then, is the spirit of reform which Bentham breathed into early nineteenth century legislation. In 1861 Sir Henry Maine wrote in his *Ancient Law*: "It is impossible to overrate the importance to a nation or profession of having a distinct object to aim at in the pursuit of improvement. The secret of Bentham's immense influence in England during the past thirty years is his success in placing such an object before the country. He gave us a clear rule of reform. . . . Bentham made the good of the community take precedence of every other object and thus gave escape to a current which had long been trying to find its way outwards."

Bentham did in fact create a creed. He also collected around him a band of admirers and followers, who, if they did not exceed him in genius, did at any rate perpetuate his principles.

In becoming Bentham's secretary in 1830 and in helping him with his *Constitutional Code* Chadwick learnt the Benthamite theory direct from its founder. With his quick

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grasp of detail and with the experience already gained by his work at the Bar he became one of the foremost propagandists of the utilitarian theory. Chadwick had been well schooled for the work he was to perform. No man had a clearer idea of what he wanted to achieve, and it is with this clear cut policy in view that he accepted his first appointment on Lord Grey's Poor Law Commission of 1832.

At the age of thirty-two Chadwick left the Bar, and from that time until his retirement he was to fight continuously for what he believed to be the betterment of the people. Sarcasm and ridicule were to be hurled at his competence; mockery flung at his energy. He was to endure the hatred of the working classes and of the propertied classes. Malicious propaganda was to be stirred up against him. His enemies were strong and in the end they defeated him, the man. But now that we are in a position carefully to examine his work and his ideas it is possible to estimate how much gratitude the country owes to the man who left a profitable career at the Bar for an unremunerative position as administrator of reforms for the public welfare.