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INTRODUCTION

This work is an essay in the history of ideas, the report of an inquiry into the sources and evolution of Jeremy Bentham's ideas about the functions, structure and activities of government. Its starting point is the programme for the organization of government that Bentham set out in his *Constitutional Code*, which was the last and in a sense the culminating major product of his many years' work on jurisprudence and codification.[1]

The *Constitutional Code* is in some respects a repellent work. Its arrangement is obscure and its language is obsolete and contorted. It represents, nevertheless, a remarkable achievement.[2] It far surpasses in comprehensiveness and in attention to detail the many Constitutions that were drafted during Bentham's own lifetime, in North and South America, in France, in Norway, in Spain, in Portugal and elsewhere in Europe.

In particular, the five chapters relating to the Executive display these qualities and other important ones as well. They are much more extensive and go into much more detail than the material that Bentham's contemporaries provided for this branch of government: their 250 pages of double-column print contrast strikingly with, for example, the couple of score of Articles in the French Constitution of 1791, the 4 Sections in the Constitution of the United States of 1789, the 33 Articles in the Greek Constitution of 1822 or even the 100 Articles in the Spanish Constitution of 1812. And Bentham's chapters possess a theoretical consistency and sophistication and a prescience that are quite unusual among constitutional draftsmen at any time or in any place.

Bentham's account of government's functions is much closer to the twentieth-century pattern than to that of his own lifetime. He allocated to it a sparse but positive role, giving a relatively large weight to the domestic (social and economic) functions that

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British and other governments were only cautiously and hesitantly assuming in the 1820s and 1830s. He thus foresaw and advocated the multiplication of functions that in Britain fell within the scope of the Home Office and the Board of Trade and that came to be a dominant feature in nineteenth-century administrative experience.

He similarly foresaw and advocated many of the changes in the structure and organization of the Executive that were adopted to cope with the new responsibilities: the establishment of central government departments for health, education and other social services, the concomitant recasting of the system of local government, the rationalization of control of the armed forces, the replacement of a multitude of financial authorities by a single department of finance (the Treasury), and the substitution of hierarchically-organized and single-headed ministries for boards as the typical administrative agencies. Similarly his Civil Service was to be organized on modern not on early nineteenth-century lines, for it was to consist of officials remunerated wholly by salaries, and recruited, promoted and disciplined according to carefully prescribed, formal and quasi-objective methods. And the working relations, the obligations and many of the working conditions of the officials were also prescribed in great detail. Central to the working relations were the correlative notions of superordination and subordination – hierarchy – which Bentham insisted must operate throughout the whole governmental system. The obligations included the keeping of a complex set of records and accounts (in which fourteen different kinds of books were named in a section occupying twenty-one pages of one of the chapters) and the observance of a set of 'Rules of Deportment by Functionaries towards non-Functionaries'. The treatment of working conditions extended in one direction to 'Architectural Arrangements' and in another to the sorts of tribunals that might consider charges of misconduct against officials.

Bentham's treatment of the Judiciary was less novel than his treatment of the Executive, but it displayed many of the same qualities. It too was very detailed and extensive, occupying eleven chapters of the Code and extending to such matters as the time of sittings, the provision of courts and the character of their furniture and equipment, and the form of the judges' robes. It also ran parallel to the treatment of the Executive over con-

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siderable areas, for it sought to rationalize the structure and operations of the Judiciary along the same lines and by the same means. Bentham saw the Executive and Judiciary as two co-ordinate 'departments' of a single governmental structure and he wanted to apply the same criteria to each of them, and as far as possible to arrange them according to the same pattern.

As significant as the detail was the inner coherence of Bentham's Code. Most constitutions have been the work of conventions or committees, and have been enriched or disfigured by the outcome of contests and bargains among the competing interests and philosophies. Bentham's was the product of a single controlling mind, it proceeded according to a single mode of analysis and it expressed a single philosophy.[3] And the analysis and the philosophy were made explicit in the Code itself, for Bentham included in it a great deal of material that normally does not find a place in formal constitutions. To the conventional contents of a constitution – which he called the Enactive articles – he added a mass of Expositive, Ratiocinative and Instructional articles in which he explained and defended the Enactive provisions. He thus provided a theory of as well as a programme for the organization of government.[4]

In his theory and his programme he treated the Executive and the Judiciary as both bundles of offices and masses of individual employees. He analysed the offices separately and linked them to each other through relations of command and obedience – the right to command and the duty to obey. The individuals participated in the system through their occupancy of particular offices and their possession of the relevant rights and obligations; they were related to each other through the same system of command and obedience and the sanctions (including reward) that existed to enforce obedience. Thus it may be misleading to say that Bentham was making provision for a modern Civil Service: the use of that phraseology may imply the existence of a corps to which individuals belong in a way that shapes their lives and outlooks, to which and to other members of which they feel a sense of loyalty, and in which loyalty and other informal sentiments and relationships influence the working of the system. It was certainly not Bentham's intention to create a governmental machine of that kind. He knew about informal relationships and their ability to pervade an administrative agency, but it was

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precisely his aim to eliminate such forces and to make the working of his Executive depend entirely on the formal relations of command and obedience.

He analysed and prescribed for each office in terms of a standard set of categories which summed up a great deal of his theory. The broad categories were:

Number in an office, or Grades of offices
Functions, or fields of service
Relations with other offices and authorities
Term of service
Attendance
Remuneration
Location (i.e. recruitment or appointment) – locable who, located how
Securities for appropriate aptitude

These were complemented by standard ways of treating the several categories, and above all by a detailed classification of administrative functions into the following main groups:

(a) Functions relating to persons: Locative, Dislocative, Self-suppletive, Directive;
(b) Functions relating to money or other things: Procurative, Custoditive, Applicative, Reparative, Transformative, Eliminative, Inspective or Information-elicitative;
(c) Functions relating to persons, things and occurrences: Statistic or book-keeping, Registrative, Publicative and Report-Making;
(d) Functions relating to persons, things, and arrangements: Melioration-suggestive[5]

He carried his reflections on many of these matters to the point where he was able to express them as administrative rules or principles, notably 'individual responsibility', 'uniformity in management', 'unity of authority', 'the principle of publicity', and the 'junction-of-interest-and-duty prescribing principle'. In these ways – and however grotesque and obscure the language – Bentham was providing a comprehensive account of administrative activity, that is of the matters to which the designers or directors of any organization must attend and of the ways in which they ought to handle those matters.

On these grounds it seems fair to say that Bentham was providing a substantial and coherent theory of organization and management. He was assuming throughout that one common

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task faced those persons at the head of a government, and that it was identical with the task faced by those in charge of any administrative or productive agency. That task was the deployment of human and material resources within the agency as effectively as possible, with maximum efficiency and at minimum cost – or in his own and oft-repeated phrase 'Official aptitude maximized, official expense minimized'. He was assuming that in all but the simplest and smallest administrative units, the optimum deployment of resources would not be achieved spontaneously but must be actively sought. And he was assuming that successful management did not depend solely on personal talent or flair, but that it must be promoted through the design of the agency itself, and that its requirements could be expressed in rules and principles. He believed that in the *Constitutional Code* he had provided a blue-print which was not only suitable for government but was also adaptable to the requirements of all other substantial organizations.

We can discern in his blueprint two persistent themes and purposes: making the process of decision making as rational as possible, and making the subordinate officials and other resources completely, quickly and economically responsive to the superordinates' commands. His particular observations and recommendations found a place in his scheme because he expected them to contribute to one or the other of these processes, or to both together. This is as true of, for example, his treatment of architectural arrangements as of the statistic function. Each is designed to maximize the flow of information to the superordinates and thus place them in a position to detect and punish disobedience and to adapt their policies and decisions to changing circumstances and varying performances; each is designed to give the subordinates the optimum working environment in which to exercise their talents or 'aptitudes' in the service of the organization and in accordance with the directions of the superordinates. At a more general level it can be said that the whole structure consists of a system of communications, a system of discipline, arrangements for scientific recruitment and a hierarchical pattern of authority. But once again these different components are not independent, for communications and hierarchy and perhaps even the mode of recruitment contribute to the maintenance of discipline, and discipline in its turn makes them work well.

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Once Bentham's scheme has been described, I believe there is little room for doubt that it closely resembles the orthodox theory of organization and management which established itself in the first two or three decades of the present century: the theory which we associate with the notions of 'scientific management' and 'principles of administration'. It resembles that theory in objectives, devices, principles and above all in spirit. It shares with it the objective of exploiting resources scientifically through the careful analysis and study of activities and actions to find the 'one best way', a systematic division of labour, the design and construction of systems of rewards and penalties to operate as precise incentives, attention to the layout of buildings and equipment, close control over movements in stocks and the prevention of waste of all kinds, the limitation of initiative and discretion on the part of the individual worker and the centralization of information and authority at the top. It shares with it, too, a belief that the appropriate course of action can be summed up in rules and principles, and reliance on a formal structure of hierarchically-arranged authority and on rules and the means of their enforcement.

These general points can be illustrated in two examples drawn from the classical literature of management theory. The first is Henri Fayol's list of the fourteen 'principles of management which [he had] most frequently had to apply': division of work, authority, discipline, unity of command, unity of direction, subordination of individual interests to the general interest, remuneration, centralization, scalar chain (line of authority), order, equity, stability of tenure of personnel, initiative, esprit de corps.[6] Some of these reproduce almost exactly Bentham's thoughts in almost his own words. Very few do not appear in some form in his reasoning and even some of the exceptions – stability of personnel, initiative – turn out to be so qualified by Fayol that they do not differ greatly from Bentham's doctrines. Perhaps only in relation to 'esprit de corps' is there a real difference between them. The second example is Luther Gulick's list of the functions of the executive of an organization: planning, organizing, staffing, directing, co-ordinating, reporting, budgeting.[7] Again, some of these are covered explicitly and most of the remainder implicitly in Bentham's standard set of functions. Among the less-obvious ones planning and organization are both comprehended

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within what Bentham calls the Melioration-suggestive function, which is the activity of proposing reforms and improvements in 'persons, things, money, instruments of statistication, registration and publication, ordinances and consequent arrangements', in short in any and every aspect of the organization.[8] Co-ordination may be the absentee from Bentham's list, for it seems that he took so strictly hierarchical a view, and left the subordinate officials so little discretion, that he did not separate out co-ordination from the general directive function.

It can be conceded that Bentham did not anticipate all the detailed conclusions of scientific management or all the 'principles of administration' that had been accumulated by the 1930s. He did, however, develop an approach that could accommodate scientific management and the principles, that did in fact include some elements of both of them, and that covered (even if sketchily and sometimes crudely) all the ground claimed for classical organization theory in its heyday. The scheme set out in the *Constitutional Code* comes much closer to being a complete version of that theory than do, say, the writings of Charles Babbage who is commonly regarded as a precursor of it.[9]

It is also true that Bentham's scheme was markedly bureaucratic, in the sense of that term popularized by Max Weber. As in Weber's ideal-type, Bentham's functionaries were to be subject to authority only with respect to their official obligations; they were to be organized in a clearly defined hierarchy of offices each of which had a clearly defined sphere of legal competence; the office was to be filled by a free contractual relationship and on the basis of technical qualifications possessed by the candidates and tested by formal examinations; the officials were to be remunerated by fixed monetary salaries and were to treat their official duties as their sole or primary occupation; there was to be a system of promotion; the officials were not to own or to be allowed to appropriate the means of administration; and they were to be subject to strict and systematic discipline and control in the conduct of their offices.[10] Bentham's proposals diverged from the ideal-type only by retaining a novel scheme for the sale of offices within the arrangements for recruitment and promotion, by providing less security of tenure in the last resort, and by placing a ban on retirement pensions (which he called 'pensions of retreat').

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The comparison with Weber's analysis leads on to a more general point. Bentham's programme for government was an exercise in rational-legal authority, in which every act, activity and office was legitimate only in so far as it was authorized by rules of law formulated and enacted by a legislator, and in which loyalty and obedience were owed not to individuals as such but to individuals endowed with authority by law. Bentham did not match Weber's achievement in looking at bureaucracy from the outside and in seeing it as just one of a number of possible modes of organization. Yet he did in a sense perceive the nature of bureaucracy and the conditions of its existence, and he sensed its growing importance in European life. The theory of bureaucratic organization had emerged fully in his work.

These characteristics of the *Constitutional Code* pose a challenge to historians of ideas to explain how Bentham was able to reach these points in his thinking. The problem has two aspects, one relating to the general evolution of ideas and the other more specific to Bentham. The general aspect can be illustrated by reference to Fayol. The latter published his little treatise in 1911 and it was regarded almost immediately as a major contribution to the subject. In the words of a recent commentator, 'he was the first of the modern management writers to propound a theoretical analysis of what managers have to do and by what principles they have to do it'.[11] How was Bentham able to work to substantially the same position eighty or ninety years earlier? The more specific aspects of the problem relate to a distinctive feature of Bentham's general philosophy and modes of reasoning, his commitment to a thoroughgoing individualism and nominalism which denied the reality of all but individual persons, acts, events and experiences. Given his individualism, how was he able to create a system in which abstractions and collectivities – the office as distinct from the official, the chain of responsibility and the system of communications as distinct from particular rules and prescriptions – were recognized and came to play a large part?

The answers to those questions are not and cannot be simple. The student of Bentham's thought enters a Hegelian world, where everything is connected with everything else in multiple ways, and where particular themes and notions appear and re-appear in many contexts in any of which they may display new aspects or be subtly transformed. Bentham's ideas about government must

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accordingly be traced through, and disentangled from, his thinking about many other subjects, including jurisprudence, prison-management, the poor law, the naval dockyards, education, religion and parliamentary reform.

Nevertheless, the rudiments of answers can be given fairly shortly. The essential clues can in fact be found in one of the earliest and best-known assessments of Bentham's character and significance, the essay that Hazlitt published in his collection entitled *The Spirit of the Age*. After identifying Bentham as primarily a 'jurist', Hazlitt went on to deny that he was an original thinker:

> Mr. Bentham's forte is arrangement...He has methodised, collated and condensed all the materials prepared to his hand on the subjects of which he treats, in a masterly and scientific manner; but we should find a difficulty in adducing from his different works (however elaborate or closely reasoned) any new element of thought, or even a new fact or illustration...[In his discussion of utility] his merit is, that he has applied this principle more closely and literally; that he has brought all the objections and arguments, more distinctly labelled and ticketed, under this one head, and made a more constant and explicit reference to it at every step of his progress, than any other writer.[12]

Hazlitt underestimated the extent to which Bentham did produce new structures of thought and new facts or illustrations, but his assessment drew attention to four important points. These were Bentham's concern with the law, his utilitarianism, his sensitivity to and willingness to take over the ideas of others, and his superb capacity to explore systematically and exhaustively any notion that he took seriously. It was, as Hazlitt suggested, his contribution to as well as his blight upon utilitarianism that he clarified and set out in a systematic way the implications of what had been more often a commonly accepted standard of judgement than a formal doctrine. He proceeded in the same way in his consideration of government, seeking to state rigorously what had been formulated only loosely, seeking to translate into operational programmes what he encountered as mere aspirations. In this process, his own utilitarianism was of great importance; not only his acceptance of 'the greatest happiness' as the supreme moral value, but also his never-ending efforts to relate means to ends in a rational way, to treat all institutions and arrangements as means to the supreme end, to condemn and discard the inferior means

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and to shape everything else to serve it more efficiently. And it was equally important that he was a 'jurist', educated in law and committed to it as a mode of social control. His interest in the law led him to the study of a body of writings on legal and quasi-legal issues, in which he found general ideas about government and many of the standard eighteenth-century ideas about administration and administrative reform. His own approach to the law gave heavy weight to problems of judgement, the judiciary and punishment, and this made him especially sensitive to administrative issues and brought him up against specific administrative problems. His utilitarianism and legal bias together encouraged him to immerse himself in the theory of the modern state as it then stood, and to try to perfect the theory.[18]

The general answer to our questions is, then, that Bentham evolved his ideas about government and administration by working simultaneously in two directions. He gradually translated and elaborated certain general theories into a number of principles and devices that could be applied to government and applied in an administrative setting. At the same time he selected, modified and restated administrative principles and devices in order to reconcile them with his general theories, and tried to provide them with an adequate institutional basis. As Hazlitt suggested, very few of the ideas that he took up at either level were wholly new. He found them in the thinking of his contemporaries, as part of the climate of opinion. Equipped, however, with his extraordinary capacity for systematic analysis and his extraordinary pertinacity, he built them into a structure that his contemporaries had not known and probably did not even envisage.

The process of building that structure was a very long one, extending over most of his working life. It was never his principal concern, but was always incidental to the grand work of codification on which he saw himself as almost continuously engaged. Yet it is possible to see in it several distinct phases and a definite progression, as his varying approaches to codification encouraged him to deal successively with different aspects of government and to deal with them in greater or less depth.

The material 'prepared to his hand' by his predecessors and contemporaries was already pretty voluminous. Some of it was to be found in formal works on political philosophy which have

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