

JEREMY BENTHAM AND THE GREEK INDEPENDENCE¹

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WHEN a member of the Academy of Athens who happens to be a lawyer is invited to talk within the walls of this glorious and learned institution, his thought necessarily goes to Jeremy Bentham, who, through his admirers, particularly Colonel Leicester Stanhope and Edward Blaquière who came to Greece, tried to impart his ideas to renascent Greece at the time of her War of Independence in the years 1821 and onwards.

This speaker is, of course, conscious of the fact that, with the subject of his talk, there is the risk of his carrying an owl, as the Greek expression goes, not to Athens, but to London, considering that Jeremy Bentham's activities are eminently familiar to a British audience. Yet, this speaker dares to speak on the subject in the hope that he has something to add to this at once interesting and charming story of English-Greek cultural relations in the first quarter of the last century. With this hope, I am asking you to forgive the effrontery of my invasion of an area which is only too familiar to the learned audience before which I have the honour to speak today.

I

Jeremy Bentham was a Utilitarian theoretical lawyer

Utilitarianism is known to be a doctrine of which many basic tenets can be traced to the classical Greek philosophy of the Epicureans; a doctrine which, nevertheless, was evolved in modern times into a full-fledged system, primarily in England, where both Francis Bacon and John Locke expounded the Utilitarian conceptions of the common good and common interest. As a system of philosophy of law, however, Utilitarianism emerges mainly in the teachings of Jeremy Bentham, who, with his habitual enthusiasm, proclaimed that virtue is whatever

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promotes men's happiness and restricts men's unhappiness, and that justice is whatever contributes to the achievement of the greatest happiness of the greatest number. It will be recalled that this utilitarian position was carried farther by John Stuart Mill as well as by many other, later English theoreticians or philosophers of law. One is, therefore, justified in saying that Jeremy Bentham's Utilitarianism was a law philosophy system of a most remarkable influence and irradiance.

That influence and irradiance have been pointed out by many jurists, both in and outside of England. And the importance of Bentham's theory to the development of English as well as of a good number of foreign laws was brought out sharply in a book published in 1948 on behalf of the Faculty of Law of the University College in London by the distinguished jurists George W. Keeton and George Schwarzenberger—a book which, under the title *Jeremy Bentham and the Law: A Symposium*, assembled thirteen studies of celebrated authors, who set forth with great force the influence of Bentham's theories on English Law and on International Law, as well as the significance of those theories in the fields of Comparative and Foreign Laws and of Jurisprudence.¹

Of those thirteen learned studies, a contribution by our eminent old friend Dr. Karl Lipstein, entitled 'Bentham, Foreign Law and Foreign Lawyers', is of particular relevance here.²

The author of that contribution has used the rich material that lies unpublished in University College, material which contains a large portion of Jeremy Bentham's correspondence, with some notable figures of the Greek Revolution, started in 1821.

As Karl Lipstein observes, the official relations between Bentham and the Greek Provisional Government are illustrated by the invitation conveyed in a letter of Andreas Louriotis, dated 14 February 1823, in which Louriotis asks Bentham to send his Codes to the Greek Government. The same request is made by John Orlandos in a letter to Bentham, dated 12 May 1823.

Andreas Louriotis and John Orlandos were delegated by the Greek Government to London, where they were to raise a loan, and they collaborated closely to that end with the Greek Committee set up in the English capital, among the members of which were Edward Blaquièrre and Colonel Leicester Stanhope, both admirers of Jeremy Bentham. Louriotis and Orlandos were

¹ George W. Keeton and George Schwarzenberger, *Jeremy Bentham and the Law: A Symposium* (London, 1948).

² K. Lipstein, *ibid.*, pp. 202–21, esp. pp. 211–14.

introduced to Bentham probably by Blaquière and they proceeded to a closer contact with many other influential English personalities. Their correspondence, still preserved at the State General Archives in Athens, contains letters addressed to Lord Byron, to Colonel Stanhope, to Edward Blaquière, to Thomas Gordon, to George Canning, to J. C. Hobhouse, to Sir James Mackintosh, to John Bowring, and other philhellenes. It is worth noting that in their letters to Jeremy Bentham, written in French, they call him '*Père et protecteur de la Grèce*'; '*Ami et Père de notre patrie*'; '*Notre Ami fidèle, notre Père bien chéri*', or '*Notre respectable Père*'. And this was not without reason. Bentham, being then at the age of 76 years, was a fervent philhellene, who not only vigorously helped and advocated the granting of a loan to Greece, but also employed every means to assist the education of the Greeks and promote the cause and the progress of the Greek nation.¹

From Bentham's surviving correspondence, as it emerges from the University College manuscripts as well as from the texts published at times in Greece, it becomes evident that Bentham actually sent the Greek Government a memorandum and notes on the Greek Constitution of 1 January 1822, which was then in force. Bentham himself, in a letter of 7 March 1824 to the Prime Minister Alexander Mavrocordatos, described the memorandum and notes as a draft of a Constitutional Code, which provided for the establishment of a democratic government—which actually existed in Greece at the time, but which, in Bentham's mind, could be better adapted to the ideas of the English philosopher. On the other hand, Mavrocordatos addressed a letter on 3 June 1824 to the so-called 'Executive' (i.e. to the Government) in which he said that he was sending 'various documents of the philosopher Bentham, written in English', and suggested, that the 'Administration' must be sure to reply with thanks to this 'wise man and zealot' for the Code which he was preparing for the benefit of Greece; Mavrocordatos added in this letter, that Bentham 'is an old man, who had decided to devote this last work of his life to the Greek cause'.²

¹ The correspondence of A. Louriotis and J. Orlandos is edited by E. Daleggio, *Les philhellènes et la guerre de l'indépendance, Lettres inédites de J. Orlandos et A. Louriotis* (Athens, 1949).

² See the letter of Bentham to Mavrocordatos in D. Petrakakos, *Koinovoulef-tiki Istoría tis Ellados* (= Parliamentary History of Greece), vol. i (Athens, 1935), p. 361, and in the *Istorikon Archeion Alexandrou Mavrocordatou* (= Historical Archives of Alex. Mavrocordatos), ed. by E. Protopsaltis (Athens Academy, 1974), vol. iv, pp. 237 ff., no. 1279. The letter of Mavrocordatos to

Indeed, Bentham's memorandum was already presented to the Greek Chamber of Deputies by Louriotis, Stanhope, and Blaquièrre. And the Chamber resolved at its sittings of 22 June and 4 July 1823 and then of 11 and 12 August 1824 that Bentham's memorandum and notes be translated into Greek and a letter was composed in which the Chamber's and the Greek people's gratitude was expressed to the English philosopher.

The Parliament's letter, written at Nauplia on 11 August 1824, is a charming text with an interesting history, divulged by the late Professor Constantine Triantaphyllopoulos in a paper presented to the Academy of Athens in 1962.¹ The letter is in archaic Greek and says:

If brilliant and blissful England takes pride in having you a citizen, the mother of Lycurgus and Solon, infelicitous Greece, rejoices in being fortunate enough (to know), at her rebirth, the most learned and philanthropic jurisconsult. The children of friendly Greece, gleaned from the many-flowered meadow of your writings, are constantly elevating themselves to your height, which they still cannot reach. The members of Parliament, developing their powers in keeping with your scientific rules, contribute to an improvement of Greece's political system. Therefore, hail, friend of Greece, and may you have as a worthy reward for your virtue the pleasure you are enjoying for the happiness of your friends. Hail and βάλλ' οὐτως, αἴκεν τι . . .

Nauplia, 11th August 1824

The Deputy Speaker
Theodoretus, Bishop of
Vresthene

The First Secretary
John Scandalides

The letter was composed and approved at the request of Edward Blaquièrre, who appeared before the Chamber on 2 August 1824 and asked that a letter of thanks be written to Bentham for the notes he had sent as early as 1823. As Professor Constantine Triantaphyllopoulos reveals, that letter of thanks, the text of which he himself had unearthed, was drafted as far back as July 1823 by Gregory Constantas, a member of Parlia-

the Executive is published *ibid.*, vol. iv (1974), pp. 473 ff. (esp. p. 475) no. 1495. Also *ibid.*, pp. 405 ff., no. 1439, a letter of F. Carvellas to A. Mavrocordatos, from Zante, 16 May 1824, with a passage relating to the freedom of press according to the opinion of Bentham.

¹ C. Triantaphyllopoulos, 'Ipomnima tou Bentham peri tou protou ellinikou politevmatos kai anekdotoi apantiseis tou Vouleftikou' (= Memorandum of Bentham on the first Greek constitution and unedited answers of the Chamber), in *Praktika tis Akadimias Athinon* (= Acts of the Academy of Athens), vol. 37 (1962), pp. 80-7.

ment and a highly educated man,¹ who expressed clearly and straightforwardly the Chamber's thanks for Bentham's memorandum. But the Chamber elected to answer with the vague floweriness of the letter of 11 August 1824, probably because, as the late Constantine Triantaphyllopoulos conjectured, it had in mind at the time the thoughts expressed on many sides about the establishment of a constitutional monarchy in Greece and would rather not take a forthright stand on Bentham's ideals, which postulated the 'kingless' democratic government that already existed in Greece from the outset of the Revolution.

Nevertheless, and regardless of this latter interpretation, it is certain that, notwithstanding its praises of Bentham and his work, the Greek Parliament was already turning its attention to continental, especially French, models, with which the fighting Greek people felt to be in closer affinity. And this is true, not only of public law, but of the private law of fighting Greece as well, where however the traditionally prevailing Byzantine law was of particular consequence.

II

Indeed, as concerns public law, it need not be explained in detail that the Greek politicians of 1821 were deeply influenced by the ideology of the great French Revolution of 1789, as a result of which all acts of public law and both the first Greek Constitutions, the so-called Epidaurus Constitution, promulgated on 1 January 1822, and the subsequent Astros Constitution, promulgated in the year 1823, were for a democratic form of government, and were modelled on the French Declaration of the Rights of Man and of the Citizen.²

But, when it came to private law, the Greeks of the War of Independence wavered chiefly between the French legislative

¹ On Gregory Constantas see recently G. P. Henderson, *The Revival of Greek Thought 1620-1830* (State University of New York Press, Albany, 1970), pp. 170 ff., esp. 177 ff., with bibliography. See also C. T. Dimazas, *O Korais kai i epochi tou* (= Coraïs and his times) (Athens, 1953), pp. 84 ff.

² See the rich Greek, English, and foreign bibliography in C. M. Woodhouse, *The Greek War of Independence* (London, 1952), D. Dakin, *The Greek Struggle for Independence 1821-1833* (London, 1973), R. Clogg, *The Struggle for Greek Independence: Essays to mark the 150th anniversary of the Greek War of Independence* (London, 1973), and *The Movement for Greek Independence 1770-1821* (London, 1976). See also P. Zepos, 'La science du droit au cours du dernier siècle: Grèce', in M. Rotondi, *Inchieste di diritto comparato*, vol. 6, *La scienza del diritto nell'ultimo secolo* (Padua, 1976), pp. 361 ff. (p. 363, note 2, bibliography).

models of their age and the Byzantine–Roman law, which traditionally continued to regulate the legal relationships of private individuals. That wavering was manifest throughout private law, that is, in commercial and civil law alike.¹

Thus, in the area of commercial law, even before the outbreak of the Greek Revolution, the French Code de Commerce of the year 1804 had asserted itself, translated into Greek and applied by the Greek traders and seafarers. This prevalence of the French Code de Commerce was preserved both during and after the Revolution and, indeed, with some additions and changes, it is current to this very day.

As regards civil law, however, the controversy between Byzantine–Roman law and the model of the French Civil Code of 1804 was plain. The Byzantine–Roman law, actually in the form of the *Hexabible* of the judge Constantine Armenopoulos, compiled at Thessaloniki in the year 1345, was the Greeks' national heritage and was in force throughout the long period of Turkish domination, so that it was hard to uproot and abandon. On the other hand, it had been very forcibly maintained since 1821, primarily by French-educated Greeks, that there was need for an introduction of the more modern French Civil Code and this view was advanced with many arguments in the years of the Greek Revolution, when Greek politicians sought to found a legislative system that would respond to the needs of the re-nascent nation. It was, therefore, only natural that, as far as civil law was concerned, in that climate of strongly antagonizing preferences for the French Civil Code or the Byzantine–Roman law, an adoption of Bentham's theories should be difficult. Of this and of the framing of a Greek civil code that was envisaged, we are informed by Colonel Leicester Stanhope in his correspondence where he apprises Bentham of the difficulties encountered in his endeavour.

Stanhope, an admirer of Bentham's theories, had come in contact in Greece with Theodore Negris, then minister of the fighting nation, and his correspondence, which was published in London in 1824,² makes it evident that both Negris and the members of the Greek Parliament had received Bentham's memorandum and notes with deep gratitude. However, in his letter to Bentham, sent from Salona (Amphissa) on 4 May 1824, Stanhope says that the representatives of the Greek people received Bentham's manuscript with expressions of deep-felt

¹ See P. Zepos, *op. cit.*, pp. 361 ff. (notes 1 ff. bibliography).

² Col. Leicester Stanhope, *Greece in 1823 and 1824* (London, 1824).

gratitude and promised that they would consult it as their wisest oracle and act accordingly. And Stanhope adds:

... Monsieur Negris, who is the ablest man in Greece and professes wise principles of government, is labouring at a code of laws. He says that, in order to make it palatable to the people, he must make them believe that it is framed after the model of the Byzantine code. I condemned this quackery and told him to read Dumont. He then desired me to put him in correspondence with yourself. I promised to take this liberty, provided he would act up to your advice. He consented and I shall forward to you his letter. Were your code ready, it would, I think, be immediately adopted in Greece. Your works are known and admired here by the few who are educated.¹

From these passages of Stanhope's letter it becomes evident in the first place that, independently of the manuscript memorandum which Bentham sent to the Greek Parliament, the principal works of the English scholar were known in Greece, especially from their French edition of the Swiss Etienne Dumont in three volumes, containing *inter alia* the 'Principles of the Civil Code', the 'Principles of Penal Law', and an 'Essay on Indirect Legislation'.² Moreover, Stanhope's letter confirms what was known from other sources, namely, that Negris was preparing a Draft of a Civil Code, which, however, was principally modelled on the French Civil Code of 1804. It seems that Negris intended to present that draft as a codification of Byzantine law in order to silence the opposition of those who treasured Byzantine law as a national heritage that should not be forsaken in any way. Looking at it from that angle, one should justify Negris's remark that, even though it incorporated some of Bentham's ideas, the code had to be presented as fashioned after the Byzantine model, which remark Stanhope was, of course, unable to grasp. Lastly, it is deduced from the letter that Negris desired to correspond directly with Bentham. But Theodore Negris died in the year 1824 at Nauplia. The civil code draft he had been labouring at did not survive him and, in any event, his transient flirtation with Bentham's teachings came to an end with his death. With Negris also vanished the hope for an adoption of Bentham's theories by the Greek officials, even though the Greek Parliament

¹ Col. Leicester Stanhope, *ibid.*, pp. 196–200.

² E. Dumont, *Traité de Législation civile et pénale, précédés de principes généraux de législation et d'une vue d'un corps complet de droit, terminés par un essai sur l'influence de temps et des lieux relativement aux lois*, vols. 1–3 (Paris, 1802), 2nd edn. 1820, 3rd edn. 1830, London edn. 1858. Cf. K. Lipstein, *op. cit.*, p. 203, notes 5 ff.

proclaimed its admiration for the English scholar and his theory and even though Greek lawyers kept studying and publishing his works till after 1824, as we shall see later.

So the English influence exercised by Bentham and his admirers who went to Greece, especially Stanhope and Blaquièrè, was only temporary. And it should be noted that Edward Blaquièrè confesses in his book of impressions from Greece, which appeared in London in 1825, that he did not publish the code on international law drafted by Sir James Mackintosh because his friend N. Maniakis of Parga had told him that he was preparing a synopsis of public law, in which he would also treat of the draft of Sir James Mackintosh, that eminent English jurist, politician, and internationalist.¹ Now, N. Maniakis, the Greek jurist, who later held free courses on law at Nauplia and, during the English domination, was appointed professor of law at the Ionian Academy of Corfu, does not seem to have published what he had announced.² But Blaquièrè's story reveals that, in addition to Bentham's theories, an English influence also manifested itself through the teachings of other English jurists too, though to no avail.

As far as civil law was concerned, the Greeks of the War of Independence finally adhered to their traditional Byzantine law. Thus, neither English influence nor the stronger French influence succeeded in asserting themselves in the framing of a civil code. In this period, which, from the standpoint of a Greek civil law, I once called 'a period of quest and preparation', Greeks weighed the pros and cons of the French and English models, and even the possibility of using earlier Greek codes, possibly deposited in the archives of Venice.³ But, finally, they clung to Byzantine law which emerged triumphant and prevailed in Greece up to 1946, when the Greek Civil Code was promulgated, modelled primarily on the German Civil Code, the Swiss and French Civil Codes and with a broad comparative overview.⁴

¹ Edward Blaquièrè Esq., *Narrative of a Second Visit to Greece. Facts connected with the last days of Lord Byron* (London, 1825), p. 114 note.

² On N. Maniakis and on some manuscripts referring to his activities, deposited in the Greek General State Archives, see P. Zepos, *I neotera elliniki epistimi tou astikou dikaiou* (= Modern Greek Science on Civil Law), (Athens, 1934), p. 11 (note 3), p. 13 (note 6), and p. 29 (note 28).

³ See P. Zepos, *ibid.*, pp. 10–21 (with sources and bibliography). On the efforts of John Capodistria, President of Greece (1828–31), for using the archives of Venice see C. W. Crawley, *The Question of Greek Independence, 1821–1833* (Cambridge, 1930), pp. 132 ff.

⁴ P. Zepos, *Greek Law*, Three Lectures delivered at Cambridge and Oxford

III

With this triumph of the Byzantine–Roman law as concerns civil law and the adoption of French models in the areas of commercial and public laws, the effort officially undertaken in the years 1823 and 1824 for an adoption of Bentham's theories and the English legal outlook in general fell through.

But in the last section of this talk, I find it necessary to add a few things about Bentham himself and about those who tried to introduce Bentham's theories in revolutionary Greece. I feel this is necessary because they exhibited their inclination for the English legal outlook at a critical period for the Greek nation. And this is of importance to the history of Greek–English cultural relations in the course of the War of Independence.

As far as Bentham is concerned, I do not consider it necessary to repeat his well-known activities towards Greece, activities which related to the problems of education, of finance, and any other help or supply to the renascent nation. His philhellenism is apparent everywhere. In this connection may I present here a letter of his addressed to Mavrocordatos, dated 6 November 1824, in which Bentham explains the beginnings and the roots of his philhellenism and reaffirms his admiration for Greece. The letter runs as follows:

Jeremy Bentham, to Prince Alexander Maurocordato, Secretary of State to the Provisional Government of Greece, χρίρειν.

Little did my father think, when six and seventy years ago, he first folded me in his arms—little did he think, when seventy and more years ago, he taught me to repeat πάτερ ἡμῶν in its own language, that the object of these his fond labours, was destined to receive, and at the same time, letters, from the two most illustrious successors, of those heroes, whose lives, in the pages of their fellow countrymen, were numbered soon after among the choicest of my amusements.

Not many more years had elapsed, when he put into my hands a work on Ethics, written (I have heard say) by an ancestor of yours, and which at any rate bears your name. Little did I dream of receiving from a name from which I was then receiving lessons of morality, any such missive, as an invitation to address to that same name, a work on Legislation.

This is an age of wonders: and not the least of them is this same correspondence: a correspondence on such a subject, and between such two men: between one of the Descendants, of those handful of men, who in the garden of Europe, for so many ages, kept at bay the Despots of the East, with their ever armed, yet still enslaved millions: between one of

in 1946 (Athens, 1949), pp. 46 ff., 76 ff., also 'La science du droit au cours du dernier siècle, etc.' (as above, p. 297, n. 2).

the most enlightened of that first enlightened nation, and a fellow countryman of those naked barbarians, who were never deemed worth taming, and but for a little tin, they had now and then picked up, would never have been worth visiting.

Continue—in success as well as ender—avoucontinue as you have begun; and Greece, to her former ever tottering liberty, and that engrossed by the few, will see substituted that only true liberty, which is enjoyed alike by all: that liberty which is the matchless fruit of a representative democracy, with secrecy, universality, equality, and annuality, of suffrage.

Jeremy Bentham
London, 6th March 1824.¹

The love of Bentham for Greece, his admiration for the Greek fighters and for the emerging Greek democracy are apparent in this letter. There is no need for further comment.

As regards the English Edward Blaquière and Colonel Stanhope, I think I can only recall that both were admirers of Bentham and members of the Greek Committee, in which capacity they made frequent trips to Greece and did not omit to publish their impressions or their correspondence.² Blaquière in particular was a leading member of the London Greek Committee and came to Greece bringing the first instalment of a loan to the fighting Greeks. For his part, Stanhope, also an energetic member of the London Greek Committee, was the man who brought the first printing presses by means of which the first Greek newspapers were produced.³

From among the Greeks, mention has to be made of the names of Andreas Louriotis, John Orlandos, and Theodore Negris as well as of Gregory Constantas, Nicholas Maniakis, and Alexander Mavrocordatos, that is, the persons who played some part

¹ This letter is published by E. Protosaltis, *Istorikon Archeion Alex. Mavrocordatos* (see above, p. 295, n. 2), vol. iv, pp. 234 ff., no. 1275. On the contribution of the Mavrocordatos's family to the Greek Renaissance (17th–19th century) see G. P. Henderson, *op. cit.*, pp. 20 ff. (with bibliography).

² See above, p. 298, n. 2 and p. 300, n. 1. On Stanhope, Blaquière, and the other British Philhellenes see e.g. D. Dakin, *British and American Philhellenes during the War of Greek Independence, 1821–1833* (Society for Macedonian Studies, Thessaloniki, 1955), C. M. Woodhouse, *The Philhellenes* (London, 1969), W. St. Clair, *That Greece might still be free. The Philhellenes in the War of Independence* (London, 1972). For the Philhellene women see K. Xiradaki, *Philhellenides* (2nd edn., Athens, 1976).

³ Catherine Koumarianou, *O tipos ston Agona* (= The Press during the Struggle for Independence), vols. 1–3 (Athens, 1971, see esp. vol. 1, pp. κθ' ff., λδ' ff., μα' ff.).

in the effort for an adoption of the English legal outlook and particularly of Bentham's teachings.

Of those, Andreas Louriotis was born in 1789 at Ioannina, where he studied at the Greek School of that town and came to master many foreign languages and when, with the outbreak of the Revolution, he came to Greece, he was used, together with John Orlandos, for the raising of the first loan in London. He died in Athens in 1854. John Orlandos, Louriotis's collaborator in the raising of that loan, was born at the end of the eighteenth century and was a rich shipowner of the island of Hydra, where he died in 1852 after serving as a member of the Greek Parliament. Theodore Negris was born in 1790 and was a highly educated and capable man who, after living for some time in Wallachia, returned to Constantinople and thence, when the Revolution broke out, came to Greece, where he became a minister and died prematurely of a plague in 1824 at Nauplia. Of Gregory Constantas, the philosopher and great scholar, and of Nicholas Maniakis, the lawyer, it has already been said earlier here that the first was an admirer of Bentham, while the second was versed in the teachings of English jurists too.¹ Lastly, Alexander Mavrocordatos, a scion of a princely Phanariot family and a close friend of Theodore Negris, was born in Constantinople in 1791 and had studied mainly in Italy. He came to Greece when the Revolution broke out and became an important political figure, serving first as secretary general and chairman of the Executive Committee and, after the Revolution, as ambassador to London and Paris and prime minister. Mavrocordatos was a professed Anglophile and became the key figure of the Anglophile party in Greece. He died in Athens in the year 1865.

All those persons played some part in the brief period of the Greek courtship of English legal thought and especially of Bentham's teachings. But there were others too. From Bentham's unpublished correspondence deposited at London's University College, we learn that the great Greek scholar Adamantios Corays, who lived in Paris, had undertaken a Greek translation of Bentham's Constitutional Code. We do not know if that translation was actually carried through, but it is certain that Corays often referred to Bentham's teachings and in another work of his, the Greek translation of Cesare Beccaria's *Crimes and Punishments* (1764),² a later Greek scholar added the teachings of Bentham,

¹ See above, p. 297, n. 1 and p. 300, n. 2.

² The Greek translation of the book of C. Beccaria was published by A. Corays in Paris in 1802 (2nd edn. with additions, Paris, 1823, 3rd edn. with

widely known from the French translation of the works by Etienne Dumont.¹ Thus, Bentham's teachings were most probably known to many Greek scholars. Though officially not embedded in the Greek law, their influence on Greek thought was great, not only in the days of the Revolution but also after it.

This latter remark is borne out by texts published after the Greek Revolution, from which it emerges that Bentham's teachings had really impressed Greeks. Included among those texts was, firstly, the Greek translation of Jeremy Bentham's works on civil and penal legislation—a translation made from Etienne Dumont's French edition and published by George Athanassiou, a lawyer and judge, in 1834 and 1842, i.e. many years after the Greek official flirtation with Bentham's teachings.²

There are also other texts to the point, such as the speech of a hypothetical member of Parliament, who proclaims his faith in the established form of government and promises to observe it, a speech that appeared in *The Observer*, a literary and legal magazine published at Nauplia, in the issue of 12 January 1838. The magazine's publisher, the Scot Edward Masson, who had come to Greece during the Revolution and, after the liberation, served as a lawyer, a public prosecutor, a member of the Supreme Court, and a professor of law, says in his introductory note that he prints that text from a manuscript of Bentham, whom he calls an illustrious author and adds that to those acquainted with Bentham's works, that really valuable text would serve as a 'delightful memory'.³ And Bentham's teachings were then additions and Bentham's remarks, by C. P. Sophianopoulos, Athens, 1842). See the exact titles of these publications in D. Ginis and V. Mexas, *Elliniki Bibliografia, 1800–1863* (Academy of Athens), vol. i (1939), p. 27, no. 163, p. 217, no. 1373, vol. ii (1941), p. 49, no. 3585. In a letter (from 1827?) A. Corays writes to the Greek representatives in London, that they have to follow the advice of Bentham, N. M. Damalas, *Epistolai Adamantiou Korai* (= Letters of A. Corays), vol. iii (Athens, 1885), pp. 978–83. On the letter of Bentham to Corays see K. Lipstein, *op. cit.*, p. 213, note 100. On the whole activity of Corays see C. T. Dimaras, *op. cit.*, G. P. Henderson, *op. cit.*, pp. 142–58 (with bibliography).

¹ See above, p. 299, n. 2.

² See the exact titles of the two volumes of the Greek translation by George Athanassiou in D. Ginis and V. Mexas, *op. cit.*, vol. i, p. 355, no. 2413, and vol. ii, p. 63, no. 3683.

³ See *O Paratiritis* (= *The Observer*), 1st year, no. 1, Nauplia, 12 January 1838, pp. 1 ff. See also some 'aphorisms' of J. Bentham on p. 15. A translation of the teachings of John Stuart Mill on the Law is to be found in the issue no. 2 (3 February 1838), pp. 17 ff. Another translation of the teachings of Bentham on publicity is to be found already in the periodical *Eos* (= *Aurora*), nos. 9–13, Nauplia, 23 Aug.–20 Sept. 1830.

a 'delightful memory' indeed, though his works were still being discussed and that discussion was not confined to free Greece alone but extended to the Ionian Islands, then under English protection, especially in Corfu, where the Earl of Guildford had founded in 1824 the Ionian Academy and where, either in or outside of that Academy, Bentham's theories were the object of favourable or adverse judgements, as evidenced by a writing of S. Mavroïoanni published in 1842.¹

In sum, if the period 1823-4 can be described as the period of an unsuccessful official effort to introduce Bentham's ideas into the law of modern Greece, it is certain that the ideas of that great English scholar survived for quite some time, which proved the power of their irradiance. If that irradiance did not finally assert itself in Greece as it did elsewhere, it is certain in any event that Bentham's teachings long remained, not merely a 'delightful memory', as Edward Masson put it in 1838, but an evidence of Greek-English cultural relations in the system of law, too, even though, for historical and traditional reasons, that system finally followed different paths in Greece. Different paths, because here—as I was saying in Cambridge in a lecture given thirty years ago—like the English who at a decisive moment in their legal history expressed their unswerving adherence to the laws of England in the Latin maxim *nolumus leges Angliae mutare*, the Greeks of 1821 and onwards declared in the same way their loyalty to the laws 'of our ever memorial Christian Emperors', i.e. to the Byzantine Emperors, in a series of declarations made by a people in revolt. Indeed, the majority of the Greeks, as far as civil law was concerned, were not disposed to abandon their traditional Byzantine law-system; and this opinion, which was not merely sentimental or romantic but historically justified, prevailed in the end and continued to influence the trend of Greek Civil Law during the nineteenth century and basically up to our own times.²

¹ S. Mavroïoanni, *Skepseis epi ton ideon tou kyriou Lantzilli kata tou systimatos tou kyriou Bentham* (= Remarks on the theories of Mr. Lantzilli against the system of Mr. Bentham), Corfu, 1842.

² My lecture at Cambridge (23 May 1946) is published in my booklet *Greek Law* (above, p. 300, n. 4), pp. 46 ff., 52 ff.

Ο ΙΕΡΕΜΙΑΣ ΒΕΝΘΑΜ ΚΑΙ Η ΕΛΛΗΝΙΚΗ ΕΠΑΝΑΣΤΑΣΙΣ

ὑπό: Παν. Ἰ. Ζέπου, Ἀκαδημαϊκοῦ

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Εἰς τήν ἀρχήν τῆς ὁμιλίας του ὁ Π. Ζέπος ἐξήγησεν, ὅτι ἐδιάλεξε ὡς θέμα τῆς ὁμιλίας του εἰς τήν Βρετανικήν Ἀκαδημίαν τήν χαριτωμένην ἐρωτοτροπίαν τοῦ Βένθαμ πρὸς τόν ἐπαναστατημένον ἑλληνικόν λαόν, διότι ἡ ἐρωτοτροπία αὐτή εἶναι χαρακτηριστικὴ διὰ τήν ἱστορίαν τῶν ἑλληνοαγγλικῶν πνευματικῶν σχέσεων εἰς τόν τομέα τῆς ἑλληνικῆς νομοθεσίας, κατὰ τὸ πρῶτον τέταρτον τοῦ 19^{ου} αἰῶνος.

Ὁ Ἱερεμίας Βένθαμ ὑπῆρξεν εἰς τήν ἀγγλικὴν φιλοσοφίαν τοῦ δικαίου ὁ θεμελιωτὴς τῆς θεωρίας τοῦ ὠφελιμισμού, τῆς θεωρίας δηλαδή κατὰ τήν ὁποῖαν δίκαιον εἶναι ὃ, τι συμβάλλει εἰς τὸ νὰ ἐπιτυγχάνεται ἡ μεγαλύτερα δυνατὴ εὐτυχία τοῦ μεγαλυτέρου δυνατοῦ ἀριθμοῦ ἀνθρώπων. Τὴν θεωρίαν αὐτήν, ἡ ὁποία ἐγνώρισε κατὰ τὰς ἀρχὰς τοῦ 19^{ου} αἰῶνος μεγάλην ἀκτινοβολίαν καὶ εἰς τήν Ἀγγλίαν καὶ εἰς ἄλλας χώρας, ὁ Βένθαμ προσεπάθησε νὰ ἐπιβάλῃ καὶ στὴν ἑλληνικὴν νομοθεσίαν τῶν χρόνων τῆς Ἐπαναστάσεως τοῦ 1821. Καὶ πρὸς τόν σκοπὸν αὐτὸν ἐχρησιμοποίησε ἰδίως τοὺς ὄπαδούς τῆς θεωρίας του καὶ θαυμαστάς του, τὸν συνταγματάρχην Στάνχοπ καὶ τὸν Ἐδουάρδον Μπλακιέρ, οἱ ὁποῖοι εἶχαν ἔλθει στὴν Ἑλλάδα ὡς ἐκπρόσωποι τοῦ ἀγγλικοῦ φιλελληνικοῦ κοιμητάτου.

Ὁ καθηγητὴς Π. Ζέπος ἀνέφερε πολλὰς ἐπιστολάς τῶν φιλελλήνων αὐτῶν πρὸς τὸν Βένθαμ, καθὼς καὶ ἐπιστολάς των πρὸς τοὺς Ἕλληνας ἐκπροσώπους τῆς προσωρινῆς κυβερνήσεως τῶν ἐτῶν 1823 καὶ 1824. Ἀνέφερε ἐπίσης τὴν ἐπιστολήν τοῦ Βουλευτικοῦ πρὸς τὸν Βένθαμ, τὴν ὁποῖαν ἀνεῦρεν ὁ ἀείμνηστος καθηγητὴς Κωνστ. Τριανταφυλλόπουλος καὶ εἰς τὴν ὁποῖαν ἐξεφράζετο ἡ εὐγνωμοσύνη τῆς Ἑλλάδος διὰ τὸ ἐνδιαφέρον τοῦ ἀγγλοῦ φιλοσόφου. Ἀνέφερε ἀκόμη ὁ Π. Ζέπος καὶ πολλὰς ἄλλας ἐπιστολάς ἑλλήνων πρὸς τὸν Βένθαμ, ὅπως τοῦ Ἀνδρέα Λουριώτη καὶ τοῦ Ἀναστασίου Ὁρλάνδου, οἱ ὁποῖοι, ἐκπροσωποῦντες τότε τὴν Ἑλλάδα εἰς τὴν Ἀγγλίαν, ἀπεκάλουν τὸν Βένθαμ “πατέρα”, ἢ “πατέρα καὶ προστάτην τῆς Ἑλλάδος” κλπ.

Ἀπὸ ὅλας τὰς ἐπιστολάς αὐτὰς προκύπτει, ὅτι οἱ κυβερνῶντες τὴν Ἑλλάδα κατὰ τὰ ἔτη 1823—1824, καὶ μεταξύ αὐτῶν ἰδίως ὁ Θεόδωρος Νέγρης καὶ ὁ Ἀλέξανδρος Μαυροκορδάτος, ἔβλεπαν μὲ συμπάθειαν τὰς ὑποδείξεις τοῦ Βένθαμ. Τὸ κλίμα ὁμως τῆς ἐποχῆς δὲν προσεφέρετο διὰ τὴν ἀποδοχὴν τῶν θεωριῶν τοῦ Βένθαμ, διότι εἰς τὴν Ἑλλάδα οἱ νομικοί, εἰς τὸ ζήτημα τῆς νομοθεσίας, ἐταλαντεύοντο κυρίως μεταξύ τῶν προτύπων τῆς γαλλικῆς νομοθεσίας καὶ τοῦ ἐκ παραδόσεως ἰσχύοντος βυζαντινοῦ δικαίου, ἐνῶ τὰς θεωρίας τοῦ Βένθαμ ἐθεώρουν ξένας πρὸς τὴν ἑλληνικὴν νομικὴν νοοτροπίαν. Καὶ πράγματι, τελικῶς εἰς τὸ ἰδιωτικὸν δίκαιον τῆς

ἀναγεννωμένης Ἑλλάδος, ἐπεκράτησε διά τό ἐμπορικόν μὲν δίκαιον ὁ Γαλλικός Ἐμπορικός Κώδιξ, ἐνῶ διά τό ἀστικόν δίκαιον διετηρήθη τό παραδοσιακόν βυζαντινόν δίκαιον.

Ἔτσι, ἡ θεωρία τοῦ Βένθαμ καί αἱ ὑποδείξεις του δέν ηὔραν ἔδαφος ἐφαρμογῆς εἰς τήν ἑλληνικήν νομοθεσίαν. Ἡ θεωρία ὅμως τοῦ Βένθαμ εἶχε, φαίνεται πολύ ἐντυπωσιάσει τοὺς Ἕλληνας τῆς ἐποχῆς. Αὐτό δέ φαίνεται ἀπό τό γεγονός, ὅτι αἱ θεωρίαι τοῦ ἄγγλου φιλοσόφου ἀπετέλουν ἀντικείμενον συζητήσεως καί ἐδημοσιεύοντο ἀκόμη καί μετά τήν Ἐπανάστασιν. Ὁ δ' ὁμιλητής ἀνέφερε πολλά σχετικά δημοσιεύματα, εἴτε εἰς ἔργα αὐτοτελῆ εἴτε εἰς ἄρθρα καί μελέτας πού ἐδημοσιεύθησαν εἰς ἑλληνικά περιοδικά, ἀκόμη μέχρι περίπου τῶν μέσων τοῦ περασμένου αἰῶνος, ὅπως λ.χ. τοῦ Γ. Ἀθανασίου, τοῦ Ἄδ. Κοραῆ, τοῦ Ἐδ. Μάσσωνος, τοῦ Σ. Μαυροϊωάννου κ.ἄ. Αἱ θεωρίαι τοῦ Βένθαμ, ἂν εἶχαν ἀποτύχει νά ἐνσωματωθοῦν εἰς τό νεώτερον ἑλληνικόν δίκαιον, ὅμως εἶχαν ἀφίσει ζωηρά τά ἴχνη τῆς προσκαίρου ἐρωτοτροπίας τοῦ Βένθαμ πρὸς τήν ἑλληνικήν νομοθεσίαν καί τοῦ θαυμασμοῦ τῶν ἑλλήνων πρὸς τήν διδασκαλίαν τοῦ ἄγγλου φιλοσόφου τοῦ δικαίου. Ὁ τελευταῖος αὐτός ἦτο θερμός καί ἐγκάρδιος φιλέλλην, ὁ ὁποῖος εἶχε προσφέρει πολλά διά τήν οἰκονομικήν βοήθειαν τῆς ἀγωνιζομένης Ἑλλάδος καί διά τήν ἐκπαίδευσιν τῶν ἑλλήνων νέων. Ὁ ἴδιος εἰς ἐπιστολήν του πρὸς τόν Ἀλέξ. Μαυροκορδάτον, τήν ὁποίαν ἀνέγνωσεν ὁ Π. Ζέπος, ὑπερηφανεύετο, ὅτι εἶχε διδαχθῆ τό "πάτερ ἡμῶν" ἑλληνιστί ἀπό τόν πατέρα του καί ὅτι εἶχεν ἀποκτήσει ἑλληνικήν παιδείαν. Καί ὁ φιλελληνισμός του αὐτός, ἐμφανῆς σέ κάθε ἐκδήλωσίν του, εἶχε δημιουργήσει στήν Ἑλλάδα ὄχι μόνον ἀτμόσφαιραν θαυμασμοῦ διά τήν σοφίαν του ἀλλά καί σεβασμοῦ καί ἀγάπης πρὸς τόν ἀνθρωπον ὁ ὁποῖος εἰς τήν ἡλικίαν τότε τῶν 76 ἐτῶν, εἶχε προσπαθήσει νά ἀνακαινίσει σύμφωνα μέ τὰς ιδέας του τήν Ἑλληνικήν νομοθεσίαν. Ἡ μικρά ἱστορία τοῦ Βένθαμ σχετικά μέ τήν ἑλληνικήν νομοθεσίαν εἶναι χαρακτηριστική διά τὰς ἑλληνοαγγλικὰς πνευματικὰς σχέσεις τῶν ἀρχῶν τοῦ 19^{ου} αἰῶνος.