

BENTHAM, LARKIN AND THE COMMON GOOD

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Do not live entirely isolated, having retreated into yourselves, as if you were already fully justified, but gather instead to seek together the common good. – The Epistle of Barnabas, Codex Sinaiticus

This 4th of July the United States will celebrate its 238th anniversary. Sadly, this event may go un-noticed by some of that fair republic's younger citizens because they have not taken the time to look up from the latest 144 characters of electronic irrelevance that have just flashed across the coldly glowing screens before which they ceaselessly stare, "ox-like, limp and leaden eyed." What is even more disconcerting is that this ubiquitous personal insularity seems to have metastasized far beyond a generation that has only recently exchanged its well sucked pacifiers for iPhones. In general Americans appear to be increasingly distanced from one another, not only by their dinner table manners, but also by a concomitant loss of civility and sense of community.

So, as the United States celebrates with barbeques and fireworks its 238th birthday, its citizens might do well to reflect a bit on the social contract that brought them together in the first place. This means going just a bit further than a perfunctory recitation of the *Declaration of Independence*. The roots of American democracy go manifestly deeper than the rocky soil of Bunker Hill or the marshes of Yorktown. In this broader but less fervently celebrated context 2014 likewise marks the 238th year since the publication of Jeremy Bentham's *A Fragment on Government*.

Typically, modern liberals and their more radical cohorts have a difficult time dealing with Bentham because of his position on natural rights. He wrote *A Fragment on Government* not to support the infant American republic but to criticize it on the grounds that the theory of natural rights failed as a paradigm for effective government because in Bentham's words it was "nonsense upon stilts". He believed the American experiment in self-government would fail because it lacked social utility – it just wouldn't work. His position ultimately put him in the same camp as Edmund Burke, who unlike Bentham supported the American Revolution, but whose classical liberal posture withered in response to the Reign of Terror going on across the Channel. However, Bentham's liberalism did not die with the Parisian events of 1789. Nor was there any necessity for an intellectual retrenchment. Thirteen years earlier in his critique of natural rights Bentham proposed that a benign but effective government would be best ensured if it were based on what he called a "felicific calculus" – the eminently utilitarian principal of the greatest good for the greatest number.

Utilitarianism did not originate with Bentham and in that regard the author of *A Fragment on Government* rightly credited his countryman, Joseph Priestly, for providing the

philosophic groundwork for Bentham's felicific calculus and, by implication, the theoretical precedent of a socially pervasive common good. For that matter, in the more general context of Western thinking, one of the earliest references to the notion of a common good appears in *The Epistle of St. Barnabas*. It has been argued that Augustine of Hippo certainly must have been aware of the epistle's presence in what was then the concluding books of the *New Testament*. Indeed, given Augustine's Platonism, it is far more likely the church father from Algeria looked to Barnabas' letters rather than an Aristotelian justification of the common good in the classical Greek view of the *polis*. Nonetheless, Barnabas' admonishment to "...not live entirely isolated, having retreated into yourselves..." has a certain normative ring to it that might well have been used by Aristotle as a coda to his pronouncement that only "only gods and beasts" lived outside the boundaries of the *polis*. Not surprisingly, this Aristotelian train of thought was more adroitly expressed nearly a millennium later by Thomas Aquinas, and not by the Church's patristic apologist for the fall of Rome.

Regardless of its roots in antiquity, the modern conception of the common good is seen by most contemporary political theorists as sprouting from the intellectual spadework done by Jeremy Bentham. Born in 1748 to a wealthy Tory family in Houndsditch, London, Bentham was something of a child prodigy, learning Latin as a three year old, and achieving his Masters degree from Queen's College, Oxford, by the age of 18. His life of 84 years is remarkable, not so much in terms of longevity, but that it spanned a shift in Western thinking from the ordered world of Classicism to the post-rational mindset of Romanticism. Viewed in this context, Bentham's somewhat enigmatic political thought becomes more understandable. Although his aristocratic heritage ultimately prompted him to denounce the American Revolution, by the end of his life he had authored tracts proposing the decriminalization of homosexuality, advocating animal rights, and supporting what would now be called informational transparency. Additionally, and probably exacerbating his radicalism, were his views on prison reform, which he ultimately believed alienated him from the Crown and its aristocratic supporters. He died in 1832 nearly a century before the common good became a critical issue in British politics. However, a great deal of the sound and fury of that ideological debate finds its seminal enunciation in Bentham's belief in the greatest good for the greatest number.

When Jeremy Bentham passed on in 1832 several events were occurring across the Atlantic which provide a perspective on the role of the common good in what has sadly become 21st century American political theater.

With the ending of the month-long presidential election on December 5, 1832, Andrew Jackson with 54% of the popular vote was easily elected to a second term in office as the seventh president of the United States. Presumably, his second inaugural celebration was a bit more sedate than the first, which required troughs of punch to be hastily placed in the garden to lure Jackson's constituents out of the White House in order to preserve its floors from the ravages of their mud-caked boots. The near riot that was Jackson's first inauguration reflected the fact that he was really the first American president to be elected by a broadly national and popular base of voters.

Notably, he also was one of only five second term presidents to receive less votes in his second than his first election – the others being James Madison, Grover Cleveland, Franklin D. Roosevelt and Barack Obama. Although not warranting the designation of “King of the Mob”, as he was called by many of his critics, Jackson openly introduced patronage and the solicitation of special interests into the American political system. Cursed by many as “the spoils system”, John Kenneth Galbraith more eloquently referred to it as the *damnosa hereditas* of Jacksonian democracy. The *modus operandi* of any politician with national aspirations, it has most recently been justified in 2010 by an abysmally benighted U.S. Supreme Court in *Citizens United v. Federal Election Commission*. As might be expected, the continuing impact of Jacksonian politics -- and the resulting influence of special interests and the patronage they receive -- on the common good is more than consequential.

On a far smaller scale of historical events but with equally significant ramifications, as Jeremy Bentham lay on his death bed in 1832 and Andrew Jackson was beginning his second term as U.S. president, the small sleepy village of Monterey in Alta California welcomed a new *extranjero* – an American foreigner – into a community of no more than 600 *Californios*. After a long voyage around Cape Horn, the young American, Thomas Larkin, arrived to begin a new life in a land which just a short sixty years before had been wilderness. Decamping from a failed business venture in North Carolina, Larkin came to California at the urging of his half-brother, John “Bautista” Cooper, who had arrived in Monterey in 1823. However, unlike Cooper, Thomas never married a local *Californio* girl, and therefore did not benefit from the generous land grants that accrued to *extranjeros* who became naturalized Mexican citizens.

Nonetheless, by the early 1840s Thomas Larkin was a successful and popular figure in the *Californio* community. He spoke reasonably good Spanish and was on likewise good terms with Juan Alvarado, who was then residing in Monterey as the interim Mexican governor. This relationship proved fortuitous. On October 19th, 1842, U.S. Navy Commodore Thomas ap Catesby Jones, falsely believing the United States of America was at war with Mexico, sailed into Monterey Bay with the Pacific fleet flagship *United States* and the sloop-of-war, *Cyane*. Upon anchoring in the quiet waters of the bay in the mid-afternoon, he immediately sent the commander of the *United States* ashore to demand the unconditional surrender of Alta California to the U.S. government. Given the presence of two U.S. naval vessels with a combined complement of 800 men and 80 cannon, Governor Alvarado whose local military resources consisted of a garrison of 29 soldiers and 11 Spanish cannons, the operability of which was uncertain, wisely agreed to Jones’ demands and indicated that Thomas Larkin would serve as the Governor’s interpreter at the surrender formalities which were to occur the next morning.

Larkin could not believe the United States was at war with Mexico. There had been no communiqués from the Mexican government to Governor Alvarado indicating hostilities had commenced, as was the case also with the most recent newspapers arriving by ship from both Mexico and the United States. In this light Larkin felt compelled on the night of October 19th to board the *United States* and quietly ask the Commodore which

side had declared war. Jones replied that, it only can be assumed rather sheepishly, he wasn't quite sure. Larkin mentioned the absence of any Mexican documents indicating anything other than that relations between the two countries were peaceful and that, indeed, Governor Alvarado was in possession of a written Mexican territorial policy which assumed the United States would defend Alta California against British interests, consistent with the terms of the Munroe Doctrine. Larkin probably then asked Jones what were his direct orders as to the mission of the American fleet in the eastern Pacific. Those orders were quite explicit -- to monitor and if necessary interdict British naval activity along the California and Oregon coasts. By the afternoon of the next day Commodore Jones rescinded his demand for surrender, promised "to return things as they were" in the previously quiet little capital of Alta California, and sailed back down the coast to Los Angeles to formally apologize to the newly appointed Mexican Governor, Manuel Micheltoena. The Governor graciously accepted Jones' apology and, much to their delight, the Commodore and his men were treated to a *Californio* banquet and fiesta.

As might be expected, Jones' actions were something of an embarrassment to the U.S. government, and he was later relieved of his command of the Pacific fleet. However, Larkin's diplomatic handling of the Monterey incident did not go unnoticed, and in 1843 President Tyler appointed him as the first, and as it turned out to be only, American consul to Alta California. Although unable to own property, Larkin's commercial success continued as he contributed to Monterey's nascent infrastructure with the building of a shipping wharf and customs house. On occasion his business dealings would take him to Yerba Buena, as San Francisco was then known, and it was there that he met another enterprising American, William Leidesdorff. Leidesdorff and Larkin became both business associates and friends, and in 1845 Larkin secured from President Polk, Leidesdorff's appointment as the U.S. Vice Consul residing in what was soon to become San Francisco.

Thomas Larkin's friendship with William Leidesdorff is interesting in that it provides some measure of insight into Larkin's personality, his politics, and ultimately how he viewed his role in the *Californio* community. In 2011 the California Legislature formally recognized Leidesdorff as the "African Founding Father of California", and in this context many view him as the first African-American Californian. However, as is the case with many Americans and Californians today, William Leidesdorff's family roots grew in very mixed soil with his parentage reflecting purportedly African-Cuban, Carib, Jewish, Spanish, and just for good measure, Danish cultural backgrounds.

Thomas Larkin, given his own New England Yankee roots, could have chosen not to associate with William Leidesdorff. After all, Larkin was the grandson of the Deacon John Larkin, who provided the horse for Paul Revere's midnight ride. This is not to say that Larkin might well have reflected some of the prejudices of provincial New England, but simply to recognize the fact that many East Coast American *extranjeros* had less than open views about race and ethnicity. One need only turn to William Brewer's initial observations about the "Spanish Californians" and "Indians" in his *Up and Down California* to see that a Yale education did not necessarily result in an open mind.

But Thomas Larkin did have an open mind. Although shrewd and successful in business, he never placed personal before community interests. His religious beliefs prevented him from joining the Catholic faith, and therefore being eligible for Mexican land grants. However, when he married his Protestant wife in 1833, he did so onboard an American ship in Monterey Bay. Although this may have been a matter of simple expediency, it also reflects the fact that he was sensitive to the prevailing norms and societal expectations of the *Californio* culture. Marriage aboard ship wisely kept community embarrassment to a minimum. Larkin also kept embarrassment to a minimum at the national level for both Mexico and the United States by convincing Commodore Jones to rescind his demands to Governor Alvarado for territorial surrender. All that was spilled was a bit of the Commodore's pride, rather than the blood of *Californio* soldiers and U.S. Marines. Finally, Larkin's acceptance of William Leidesdorff as both a friend and colleague, demonstrates his belief that the common good can best be served by judging people, not by their background, but by their character.

Thomas Larkin died from typhoid in 1858. By the time of his death Larkin saw, in the words of J. S. Holliday, how "the world rushed in" to California. When Larkin arrived in Monterey in 1832, excluding native Americans, the *Californio* population was estimated at less than 800 families with an additional 1,300 American and 500 European *extranjeros*. Two years after Larkin's death the 1860 U.S. Census set California's population at slightly under 380,000 people. In this sense as did Jeremy Bentham, Thomas Larkin lived in a time of significant social and cultural change. And, also as did Bentham, Larkin participated in that change, as attested by his signature approving the California State Constitution initially drafted in 1849 one year in advance of statehood.

Along with Larkin the framers of the 1849 constitution undoubtedly believed they were creating a document which would promote the common good – the greatest good for the greatest number. However, many of those more than 300,000 people who streamed into California as part of the Gold Rush brought with them the Jacksonian notion that, if they discovered gold, then most assuredly that gold could buy power and influence. And, they did. By the late 1870s state and local government had become sufficiently corrupt that a populist movement, reflecting a growing public mistrust of elected officials, prompted the convening of constitutional convention. As a result, a new state constitution was ratified on May 7, 1879.

Unfortunately, the best of intentions will at times go awry, and California's early populist paranoia over government has resulted in a state constitution that is now the third longest in the world, having only less text than the constitutions of Alabama and India. Many jurists consider it a document of civil code, and not constitutional law. Consistent with civil code, it contains provisions addressing private as well as public interests – among other eccentricities a clause amended to the constitution in 1900 which conditionally shields Stanford University, a private institution, from taxation.

Today, in the worst of ways both California's constitution and its politics, as well as those of the nation generally, reflect not only the institutionalization of special interests, but a systemically pervasive dismissal, if not perversion, of the common good. The members of an entire generation have become more concerned about taking photographs of themselves – the appropriately named “selfies” -- than understanding and indeed collectively participating in the broader interests of the human community about them. The thoughts and actions of Jeremy Bentham and Thomas Larkin have become the quiet echoes of a fading history and, most likely, the civilization that is its subject.

Sources

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