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BENTHAM ON SPANISH PROTECTIONISM

Pedro Schwartz and Carlos Rodriguez Braun

In 1821, John Bowring published a manuscript of Bentham's under the title of Observations on the restrictive and prohibitory commercial system: especially with a reference to the Decree of the Spanish Cortes of July 1820.¹ In all probability this text was originally conceived as an appendix to a book that Bentham never published, to wit 'Rid Yourselves of Ultramarina', the commentary on Spanish colonization.

The 1821 published text has been reprinted by W. Stark in the third volume of Jeremy Bentham's Economic Writings, with some corrections of obvious misprints, but without the benefit of the manuscript. Stark was very dismissive of this work, which he thought 'demonstrated how barren Bentham's economic thought had become'. Stark believed that Bentham was too orthodox in attacking Spanish protectionism when, Stark said,² Spain was a case fit for an 'educational tariff', in the fashion proposed by List. However, many economists today think that few things are so harmful for an underdeveloped country as a tariff, educational or not (except when it is low rated, revenue raising and accompanied by an equivalent domestic excise tax).

Bentham's essay was a criticism of the new Tariff Law passed in fact in October 1820 by the recently installed

Spanish Cortes. In November of that same year additional decrees establishing a new Customs organisation, compiling the list of goods and their respective duties, were also enacted. The spirit of these new decrees was not prohibitionist as had been that of some previous custom systems that totally forbade the importation of goods competing with local manufactures while additionally charging a tariff on exports. It turned out to be less protectionist than later tariff laws, such as the Tariff of 1825 proclaimed two years later when the Constitution had been suspended and the Cortes disbanded again. It was in fact a measure very much in the liberal spirit of the times.

Bentham and Spain

The connection between Bentham and Spain was one of long standing. From 1802 to 1825 and beyond, Spain and her colonies took in the mind of Bentham the place that Greece was to take in the last seven years of his life: that of a country where his ideas of rational legislation and good economic house-keeping could be applied without, he thought, facing the obstacles of an ancient Constitution and entrenched interests, as they did in Britain.

In 1802 Bentham met general Francisco de Miranda (1750-1816), the Venezuelan patriot who by then had started his long fight against Spanish rule. Miranda made Bentham conceive the hope that he would be the law maker of

liberated Venezuela. When in 1811, Miranda mounted his abortive expedition to oust the Spaniards from Venezuela, Bentham prepared for him the outlines of a civil Code and of a Press Law. This is not the place to follow up this connection with Miranda, and Bentham's relations with Bolivar and the great Chilean sage and politician Andrés Bello, but it is interesting to note that the young Bello started to translate the pages that Miranda took with him on the voyage back to America. We shall see below that Bentham's interests in America did not cease with the downfall of Miranda.

In 1808 the Peninsular War started and the French overran the greater part of Spain. In 1810, the free Spaniards of both hemispheres sheltering in Cadiz, convened the Cortes and started drafting a Constitution. On the suggestion of a Spaniard long resident in London, José Blanco White, and of Lord Holland, Aaron Burr, and Etienne Dumont, Bentham started adapting a book of rules he had written in 1789 with the French états Généraux in mind, for the use of the Cortes. The work as usual with Bentham took longer than foreseen and was not published until 1816, in a French translation by Dumont, under the title, Lactique des Assemblées législatives. It was finally and rather uselessly published in Spanish in Paris in 1824, when a second attempt at constitutional rule in Spain had just come to a sorry end.

In 1802 Dumont had published in Paris his personal adaptation of a number of important legal fragments culled

from the manuscripts of Bentham. This book, titled Traité de législation civile et pénale, was widely read in France and the whole of Europe. It soon found readers in Spain as well. In Salamanca, there was a group of enlightened literati, where Bentham's ideas found congenial soil in which to grow. Its undisputed leader was the magistrate and poet Juan Meléndez Valdés (1754-1817), who in 1803 had bought Sur les pauvres (1801) from his bookseller. Two of this group were to become distinguished Benthamites: Toribio Núñez (?-1834), who was to be Librarian of the University, and Ramón de Salas, a professor of civil law there.

In 1807, a soldier on his way to Portugal with the French Army, had brought a copy of the Traité in his baggage. Toribio Núñez purchased it; when he was dismissed from his post of librarian to the University in 1815, he started translating Dumont. As soon as the liberty of the press was restored, he published a summary of Bentham's legal and ethical thought, under the title of Espiritu de Bentham ó sistema de la ciencia social (Spirit of Bentham or System of the Social Science, 1820), as a prelude to his intended translation of the Traité; and a year later, when his translation had been pre-empted by the publication of that of Salas, he published an interesting imaginary dialogue among Kant and Bentham and himself on physics and ethics.

Ramón de Salas, was Núñez's mentor. We were unable to trace the dates of his birth (in Belchite, Aragón) and death. In 1796 he clashed with the Inquisition who suspected him of disseminating the works of the philosophes. Salas inclined towards Napoleon in the civil war that the English know as the 'Peninsular wars', accepted a post from king Joseph Bonaparte and had to take refuge in France when the French lost. During the years in exile between 1814 and 1820, he too set to work on the translation of Dumont, but had finished the work at the beginning of the Triennium, when Núñez had only completed one volume. He published his translation in 1821, in five volumes carrying detailed comments. In that same year Salas, appointed member of the Cortes in 1820 and assumed to be one of the authors of the penal code, published Lecciones de Derecho Público y Constitucional (Lectures on public and constitutional law), where he showed himself to be an independent and well-read thinker on political questions.

An example of a different kind of Benthamist may be of interest here, since many on the Continent interpreted Bentham as a conservative thinker, an antidote of the radicalism of 'natural law' Rousseauians. José Gómez Hermosilla (1771-1823) was also an afrancesado, that is to say, sided with Joseph Bonaparte. Back from exile with the return of the Constitution during the Triennium, he published a translation of Bentham's 'Anarchical Fallacies' in the review El Censor. In 1823 he published a book called El Jacobinismo, where 'under the protection', he says, 'of that paragon of liberalism, Jeremy Bentham', he fought 'the anarchical principles of the Jacobin sect'.

All this helped to broadcast Bentham's name among Spanish liberals during the Constitutional Triennium, a period which we could call the high tide of Benthamism in Spain. We could name many more Spanish correspondents and disciples of Bentham at this time, but shall choose only another two, especially connected with the Tariff Bill against which Bentham directed his Observations: they are Mora and Canga Argüelles.

José Joaquín de Mora, a journalist and prolific writer, as well as an international educationalist, was born in Cadiz in 1783 and died in Madrid in 1864. He travelled widely, blown hither and thither by the winds of politics. The French made him a prisoner at the beginning of the Peninsular War. During the Constitutional Triennium, Mora was very active as a journalist and political propagandist; these were precisely the years when he corresponded with Bentham, translated his pamphlets, and, more to the point, could have suggested him that he intervene in the discussion on the Tariff. In exile in London, Mora worked for the publisher Rudolph Ackermann, for whom he wrote many educational works and almanacks, and translated copiously. Then he travelled with his wife to Argentina, Chile, and Bolivia, setting up schools, publishing newspapers, and with his pen and his counsel helping the diverse Liberal politicians who had invited him thither. Back in Spain, he published De la libertad de comercio (Of free trade, 1843). For a time he was

the Spanish consul in London. He died a member of the "Real Academia de la Lengua".

José Canga Argüelles (1770-1843), born in Asturias, that maritime nest of liberals as Cádiz was in the South, was a politician and a public finance specialist. A former Minister of Finance during the Gobierno de la Regencia (1810-1814), and later a deputy at the Cortes of Cádiz, he lived in London as did the other exiled liberales from 1814, when the Constitution was suspended, until 1816. In 1820 he was appointed again head of the Spanish Treasury in the first government of the Triennium. On the re-establishment of the absolutist régime, he fled once again to London, where he published Elementos de la ciencia de Hacienda (Elements of Science of Finance, 1825) and Diccionario de Hacienda (Dictionary of Public Finance, 1827-28), his main titles to fame. At the time of his death he had become the Director of the "Archivo Histórico de Simancas". He was an occasional correspondent of Jeremy Bentham.

The final chapter in the story of Bentham's connection with Spain has to do with America again. In 1818 Bernardino Rivadavia (1780-1845), an Argentinian who had come to Europe to find a King for the River Plate, visited Bentham and then corresponded with him. On his suggestion, Bentham again started adapting a pamphlet he had written for the French in 1793, this one titled Emancipate your Colonies. He provisionally called it "Emancipation Spanish". Then he started re-writing it da capo under the title "Rid

Yourselves of Ultramarina", under the form of a series of letters to the Spanish.

This book was much more than an anti-colonial pamphlet, it had turned into a pioneering commentary on the 1812 Constitution of Cádiz. Although Bentham dwelt upon the incompatibility of a democratic system with the holding of colonies, his main object in this 'advice to the people of Spain, in a series of letters' was not so much the relinquishment of the Spanish colonies as the reform of their Constitution.³

He had much advanced in the book when the absolute rule of Ferdinand VII was re-imposed in Spain in 1823, and in 1824 General Sucre defeated the Spaniards in a last decisive battle in Ayacucho and the Spanish possessions in America were reduced to Cuba and Puerto Rico. Bentham's interest in Spanish matters had waned, and his interest in Greece waxed.

The 'Trienio Liberal'

One cannot understand the Decrees of 1820 that Bentham was criticising without bearing in mind the political and administrative circumstances in Spain at the time. The two last kings of the Ancien Régime, Charles III (who reigned from 1759 to 1788) and Charles IV (from 1788 to 1808) had shown some reforming zeal, the first using direct rule, the second through his favourite, Godoy. Charles III introduced some freedom in the peninsular grain trade and broke the

Cádiz monopoly in the trade with the Indies. Charles IV substituted a protectionist for a prohibitionist tariff in 1802.

A most cruel and devastating war against the French, lasting from 1808 until 1813, left Spain at its lowest point since the time when Castille discovered America, more than three centuries earlier. In the American kingdoms of the Spanish Monarchy, rebellion and war started in 1810 and were to culminate in the final rout of the Spanish expeditionary force at Ayacucho (Perú) in 1824.

During the Peninsular War the liberals had taken shelter in Cádiz under the wing of the British Navy. There the beleaguered representatives of the Spanish kingdoms, including the kingdoms, viceroyalties and capitancies of the Indies, proclaimed the radical Constitution of 1812, which was to be the object of extensive commentary by Bentham in 'Rid Yourselves of Ultramarina'. As soon as Ferdinand VII, the son of Charles IV, set foot on Spanish soil in 1814, after leaving Talleyrand's country seat where he had been held in custody during the Peninsular War, he abolished the Constitution of 1812.

In 1820, troops destined to fight the insurgents in America staged a coup and restored the liberal régime. This new democratic period, however, was to be short-lived since in 1823 Ferdinand VII again, with the help of troops sent in by the Holy Alliance, restored his absolute rule. It was precisely during this short period, called the liberal

triennium', that the Cortes passed the protectionist decrees criticized by Bentham.

Economic changes

When the Cortes turned their attention to foreign trade, changes in Spain since the enactment of the previous tariff had not been merely constitutional. The state of the economy was deeply worrying owing to three circumstances: the devastation of the war, the loss of the Indies, and the growing industrialization of competing nations, especially Britain. Economic historians do not agree on the extent of the trade and revenue losses caused by the rebellion in America. In Spain itself, however, the scorched earth policy of the Spanish guerrillas and the plundering habits of the French must have turned the country into a semi-desert. Also the administrative apparatus of the State was thrown into disarray.

As far as the loss of the Indies is concerned, the effect seems to have been more a shift in Spanish currents of trade than a fall in real terms, since the kingdoms beyond the seas after the decrees of the 1760's issued by Charles III had ceased to be exploited colonies and became commercial partners in a protected commonwealth. One historian at least, L.Prados de la Escosura, has argued that Spanish foreign trade as a whole was not materially much reduced by the severing of ties with the Indies, but mainly

shunted in a European direction.⁴ One pressure group keenly felt the competition of British manufacturers: the Catalonian clothmakers, who clamoured for protection against English cotton. The invasion of iron and steel goods was not to come till some ten years later.

For the rest of the century, the commercial policy of the Spanish governments was to be inspired by two principles: a minor one, the wish to protect Catalonia from the onslaught of Lancashire; a major one, 'the reform of the tax system and within it, that of the tariff, to adapt it to the transformation of foreign trade and to recover the revenue producing capacity of customs duties'.⁵ But Spanish commercial policy did not become thoroughly protectionist until the end of the century. From 1820 onwards the tide of free trade was surging on every shore: Spain was to follow somewhat reluctantly. Cobden visited Cádiz triumphantly in 1846. The most favoured nation clause of the Cobden-Chevalier Treaty of 1860 would influence Spanish trade agreements even when free trade had ebbed. The high point of liberalism was the tariff of Laureano Figuerola in 1869, when Queen Isabella II had been toppled by the Progressive Liberals, with its 'Base 5a.', or fifth principle, whereby textile protection was maintained until 1875, but was thereafter reduced until level with the domestic excise tax in 1881.

Protectionism, slowly turning into economic nationalism, soon became prominent. In 1891 and 1906 two

protectionist tariff laws were enacted. This was the result of the influence of American and Continental protectionism, set in motion by the Civil War, Bismarck, and Cavour, but more importantly by Spanish internal developments. Spain, in the middle of the nineteenth century, had been plagued by Carlist dissension, leading to three civil wars. When Alfonso XII was restored to the throne of his mother, Isabella II, the politicians that restored him immediately took protectionist measures. The purpose was to wean the Catalans away from Carlism. Protectionism turned to nationalism and then to autarchy as the 20th century drew on. The watershed was 1959, when General Franco decided that Spain should join the OECD and the IMF and liberalised foreign trade. She has never looked back, and now is set in free trade ways with membership of the EEC.⁶ Given this background, the 1820 decree was not as bad as Bentham made it out to be.

Prohibitionism and free trade stirrings in early 19th century Spain

The intentions of successive Spanish legislators when setting up tariffs after 1821 was not to defend the budding economic development of the country, but rather to raise revenue. True, the 1802 Tariff regnante Carlos IV had had a protectionist intention, but the Peninsular War had thrown

the customs organisation into disarray and Spain had become the kingdom of the contrabandista.

The commercial policy of Charles IV's father, Charles III, had the twofold aim of backing cottage industry, and creating a free trade area for the whole of the Spanish Monarchy including America. One aim was sought with the prohibitionist tariff of 1778; the other, with the decrees of 1765 suspending the monopoly of Cádiz in the American trade, and allowing in that year and after an increasing number of Peninsular ports to trade with the Indies. But Spain effectively lost her empire after the Napoleonic invasion in 1808; and all thoughts of an industrial policy vanished when the State was troubled by public bankruptcy.

The need for revenue had turned the tariff into an excise tax on the importation and exportation of a few staples. One may, however, sense an indication of a different kind of protectionist policy in the drift away from the total prohibition of competing manufactured goods towards the imposition of tariff rates allowing some entry.

In April 1816, four years before the re-instatement of the Cádiz Constitution, a committee had been created under the name of the 'Junta de Aranceles'. Its Report was handed to the Cortes in 1820 and it was a strong protectionist report. The new Secretary for the Treasury, however, was the abovementioned José Canga Argüelles, a moderate liberal.

Canga Argüelles presented the Report to the Cortes the 13 and 14 July 1820, including it in his speech on the

annual budget. He criticized the ideas of the 'Junta de Aranceles', spoke about the 'chimeric project of closing our doors to trade', urged the Cortes to 'give up the commercial monopoly', and suggested a 'sweet system' of low tariffs that would produce (à la Laffer) a maximum revenue. Canga Argüelles quoted Adam Smith in this anti-mercantilist speech, and following Smith he recommended a discriminatory tariff treatment in favour of the commodities carried by Spanish ships 'in view of the calamitous situation of our commercial fleet', along the lines of the Navigation Laws that Smith himself had accepted as an exception to free trade. He also proposed the abolition of the protectionist system in favour of a revenue raising one. All this was to little avail.⁷

Though the main recommendations of the Report were embodied in the Tariff decree of 1820,⁸ it turned out to be relatively more liberal than later tariff laws. Perhaps not again until the late 1860s, when the Liberals briefly gained power again after toppling the monarchy, was Spanish commercial policy relatively so favourable to free trade. Decree XLVI, of October 5, 1820, 'Establishing a Customs Tariff', is an interesting piece of economic legislation, in that it approximated to the principles of a non-discriminatory tariff much more than Bentham's strictures would lead one to expect.

Rates were relatively moderate. Article 33 established a maximum of 30 per cent ad valorem on the importation of

foreign goods, with a minimum of 2 per cent for dispatch; and a maximum of 10 per cent on the export of Spanish goods, with a minimum of 2 per cent for dispatch. The same article established an internal excise tax of a maximum of 15 per cent on the Spanish goods having to pay it. Article 34 stated that between those maxima and minima there were to be 'the proper graduations, according to the scientific principles that rule in this matter'. There was also in article 7 the rule that 'no prize, gratification, or reduction of the rate would be conceded to stimulate the entry or exit of any good whatever, be it for motives of utility or security, nor for any other motive'. As for prohibited goods, a no-discrimination rule was again established. Article 25 decreed that whatever be prohibited or permitted in any part of the Spanish Monarchy, will by general rule be so in every part'; even exceptions were to be granted 'in common benefit of all Spaniards'. Finally, no less than 15 articles (articles 9 to 23) were devoted to the details of the preference for transport in Spanish ships.

Bentham's Observations

Jeremy Bentham was only vaguely familiar with all these circumstances when he wrote his Observations, though he may have received information about Canga's speech: thus, he speaks of a 'decree' of July 1820, when the debate took place, instead of October, when the decree was published.

Bentham says: 'The writer takes it for granted that the decree exists, though neither he, nor any individual he has seen, is able to speak to the fact of its publication'.⁹ The text of the Observations is full allusions to smugglers' songs, and information about Spanish textile production. It may have been inspired by some newspaper piece written by José Joaquín de Mora or by correspondence received through John Bowring.

The original manuscript of the Observations seems to have been destroyed as usually happened with anything sent to the press by Bentham or by Bowring. Besides the half dozen pages in UC xxii. 268-274, a large part of the pamphlet is to be found in draft form in UC clx of the Bentham Collection at University College London.¹⁰ It bears the date of January 1821 and a repeated indication of it being an 'Appendix'. It appears that Bentham may have wanted to publish it together with 'Rid Yourselves of Ultramarina',¹¹ though perhaps he first intended to have it issued in Spain, in view of the success there of his pamphlet against a Spanish House of Lords.¹²

The fact is that Bowring published the Observations independently in English in 1821. He may have intended the English edition as a preparation for a translation into Spanish. Despite this, there are enough allusions to the British Corn Laws to justify an English publication on the basis of English circumstances alone.

The Observations and 'Rid Yourselves' were conceived as independent pieces. In a letter written but not sent by Bentham to the Chilean President Bernardo O'Higgins, Bentham refers to both 'Rid Yourselves' and the Observations as being prepared for consumption in the Hispanic World, but without any relation established between the two pieces.¹³ Although the date of the draft letter to O'Higgins is not certain, it was probably written in 1821.¹⁴

The argument of the Observations

Stark was wrong in seeing the Observations as a sample of Bentham's economic thought at its most barren: from a modern point of view the essay has many features to commend it. One is the listing of the advantages and disadvantages of the prohibitory system.

The burthen to those who are injured, what is its amount? The benefit of those who are meant to be favoured, what is its amount? persons -human feelings- pounds, shillings and pence in English, in Spanish reals of Vellón -to all these subjects must the arithmetical calculation be applied, before we can come to any just and well-grounded conclusions...¹⁵

Another interesting feature is that Bentham actually asks himself why such measures as this prohibition are

actually enforced, if the balance of their effects is as harmful as in the case under consideration.

The system of injustice and impolicy thus extensively pursued, to what causes shall its existence and domination be ascribed? In this case, as in others, the cause will be found in the comparative strength of the producing influence, concurring with the comparative weakness of the opposing and restraining influence.¹⁶

The point of view is akin to that of today's proponents of Public Choice theory, in that it does not rest content with underlining a policy's bad welfare effect, but proceeds to try to explain why it is adopted if the balance of its effects is so manifestly negative.

Bentham starts by distinguishing three situations in the event of a prohibitory commercial law being passed:

(i) The prohibition is obeyed and the homespun article purchased in substitution; the effect is that of a tax on the consumption of the good, the proceeds of which go into the pockets of the locally protected manufacturers.

(ii) The prohibition is obeyed and nothing bought in substitution; no pecuniary loss but a loss of comfort follows.

(iii) The prohibition is disregarded. Bentham says that the costs of flaunting it must be borne by the community, mainly in the form of gains pocketed (and prison terms suffered) by the contrabandistas. The gains pocketed, however, are pure

redistribution and not an absolute loss of welfare, except in that it is not the market distribution.

Bentham then proceeds to try and evaluate the balance of mischief. He first looks at the higher total price of protected goods, a large effect in view of the £500,000 yearly imported from England into Spain. Then he mentions goods not capable of being produced in Spain at all that are henceforth forbidden; then the removal of the incentive to improve through competition. Furthermore, he notes that Spanish goods used to pay for the imports that now will not be demanded abroad. The measure must also affect the receipts of the customs tax, in Spain nearly a fourth of the total revenue. He mentions the wages of the civil servants needed to watch over the prohibition, and so on, down to the national discord between favoured and discriminated regions, and the growth of aggressive nationalism between countries.

Finally, Bentham returns to the public choice question, of why then is the mischievous prohibition imposed at all. His answer, based on the asymmetry of the concentration of the gains and diffusion of the losses caused by the prohibition, has become classical:

What facilities of general association or combination are possessed by individuals employed as general shopkeepers, bakers, butchers, tailors, shoemakers, farmers, carpenters, bricklayers, masons, etc.? None whatsoever.¹⁷

On the contrary, the protectionists easily form lobbies.

Of the baneful effects produced by the concentrated efforts of a coalition of those individual interests which form the particular interest, as opposed to the general national interest, the Spanish prohibitory decree is a remarkable illustration.... [A] few clamorous manufacturers and a few short-sighted, self-named patriots, united their forces, and besieged the Cortes with their representations.¹⁸

Bentham and laissez faire

This pamphlet against Spanish protectionism undoubtedly shows Bentham as an enthusiastic and able free trader. If he intended publishing it as an appendix to 'Rid yourselves of Ultramarina', then Spaniards have even more reasons to regret that this book was never finished or published. It would have displayed at one and the same time Bentham's perceptive criticisms of Spain's colonial system, a democratic commentary on her Constitution, and a condemnation of her restrictive commercial policy. What the future held in store in those three fields is now well-known. Spain indeed 'got rid' of her empire, but also of her Constitution and her liberal régime, in practically no time at all after the 1821 publication of Bentham's Observations in English.

Notes

An earlier draft of this article was presented at the Conference of the International Bentham Society, University College London, 1987. We wish to thank the participants for their comments. We are also grateful for the help and suggestions received from F.Rosen, S.Conway and P.Schofield.

1. Observations on the restrictive and prohibitory system: especially with a reference to the decree of the Spanish Cortes of July 1820. 'Leave us alone'; from the MSS. of Jeremy Bentham by John Bowring, London, 1821, E.Wilson, Pp. xi + 44. Also in The Works of Jeremy Bentham, Published under the superintendence of...John Bowring, 11 vols., Edinburgh, 1838-43, iii. 85-103. We shall use the text as in Jeremy Bentham's Economic Writings, ed. W.Stark, 3 vols., London, 1952-4, iii. 383-417. Cf. also C.M.Atkinson, Jeremy Bentham. His life and work, New York, 1969 edn., p. 195.

2. Stark, i. 52.

3. C.Rodríguez Braun, "'Libraos de Ultramar". Bentham frente a España y sus colonias', Revista de Historia Económica, iii (1985), 497-509, and La cuestión colonial y la economía clásica. De Adam Smith y Jeremy Bentham a Karl Marx, Madrid, 1989.

4. L.Prados de la Escosura, De imperio a nación. Crecimiento y atraso económico en España (1780-1930), Madrid, 1988, Ch. 2.

5. J.Nadal Farreras, Comercio exterior y subdesarrollo. España y Gran Bretaña de 1772 a 1914: Política económica y relaciones comerciales, Madrid, 1978, pp. 77, 80.

6. Cf. J.Velarde, 'La evolución de la economía en los últimos 25 años', in Cuatro rasgos del vivir en España, F.Mayor Zaragoza et al., Farmaindustria, Madrid, 1989, pp. 127-130.

7. J.Canga Argüelles, 'Memoria sobre los presupuestos de los gastos, de los valores de las contribuciones y rentas públicas de la Nación española, y de los medios para cubrir el déficit, que presenta a las Cortes ordinarias de 1820 D.José Canga Argüelles, Secretario de Estado y del Despacho Universal de Hacienda de España y de Ultramar; leída en las sesiones de 13 y 14 de Julio de 1820', Diario de las Sesiones de Cortes, Appendix to No. 9, 13 July 1820, pp. 79-122. See especially pp. 107-8, 110-1, 120-1. Illuminating debates on duties on pp. 1059-66, 1873-83. A sample of Spain's protectionist tradition on pp. 1698-9, but an able quotation of Hume and the price-specie-flow mechanism on p. 1874.

8. The wording of Report and Decree is indeed almost identical. Compare Diario de las Sesiones de Cortes, No. 58, 31 August 1820, pp. 746-8 and Decree XLVI of 5 October 1820, 'Se establece un arancel general de aduanas', in Colección de Reales Decretos, 1820-21, pp. 170-8.

9. The Report was officially read as such on 31 August and enforced as a decree on 5 October 1820. Cf. Diario de las Sesiones de Cortes, Nos. 58 and 93, 31 August and 5 October 1820, pp. 746-8 and 1416. Ironically, a fortnight after the

publication of the decree, the Cortes agreed to concede a 'honorific mention' to Bentham in the Diario de Sesiones, appreciating Bentham's 'warm feelings' towards Spain. Cf. Stark , iii. 385n and the 'mención honorífica' to Bentham in Diario de las Sesiones de Cortes, No. 108, 20 October 1820, p. 1797.

10. UC xxii. 268-74 are marginal sheets, in the hand of a copyist, and headed 'Spanish Anticommercial Decree' or 'Spanish Prohibitory Decree'. There are drafts, in Bentham's hand, headed 'Rid Yourselves. Appendix - Prohibition Decree', on the verso of the following sheets in UC clx: 252, 253, 255, 260, 261, 262, 263, 264, 265, 278, 285, 299, 301, 339, 340, 344, 347, 348, 349, 364, 365, 366, 367. In addition, UC clx. 300v is headed 'Spanish Anticommercial Decree', clx. 345v, 350v are headed 'Rid Yourselves', and clx. 351 is headed 'Emancipation Spanish'. It can be noted that these sheets appear to contain most of the general economic reasoning of the Observations, but very little particulars on the situation of Spain and nothing on her American colonies.

11. The previous name of the work, 'Emancipation Spanish', was changed to 'Rid Yourselves of Ultramaría' sometime in 1820. Bentham probably wrote 'Ultramaría' inspired by the Ultramar mentioned in the Cádiz Constitution.

12. Consejos que dirige a las Cortes y al pueblo español Jeremias Bentham (1820), translated by José Joaquín de Mora.

13. UC lx. 66, 67.



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14. P. Estelle M., 'Un proyecto de código para Chile', Revista Chilena de Derecho, iv (1977), 359-363. It should be noted that O'Higgins's name is not mentioned in this article.

15. Stark, iii. 390.

16. Ibid., p. 403.

17. Ibid., p. 408.

18. Ibid.