Thomas Cooper (1759-1839)

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See also BENTHAM, JEREMY; DEMOCRACY; JURISPRUDENCE; MILL, JOHN STUART; LEGAL POSITIVISM; SOVEREIGNTY.

COOPER, ANTHONY ASHLEY: See SHAFTESBURY, ANTHONY ASHLEY, EARL OF (1671-1713).

COOPER, THOMAS (1759-1839)

Thomas Cooper was born on 22 October 1759 in London, England, in 1759 and died in Columbus, South Carolina, in 1839. He was a prolific author and controversial whose writings covered a variety of subjects, including political economy, law, science, and philosophy, and in many of these areas he utilized utilitarian principles. Cooper maritcellated at University College, Oxford, in 1779, but departed the following year to study medicine in London before acceding to his father's wishes and pursuing a vocation at law. A few thinker and political radical, he paid a traumal visit to the Paris Jacobins on behalf of the Manchester Constitutional Society in 1792, for which he was denounced on the floor of parliament by Edmund Burke. In 1794, he emigrated to America together with his friend and executor, Joseph Priestley. Cooper supported Thomas Jefferson in the presidential election of 1800 and was briefly jailed under the Sedition Act for a pamphlet he had written critical of the incumbent, John Adams. Widely criticized as a martyr to the Jeffersonian cause, he subsequently served 7 years as judge of common pleas before being removed from the bench in an intraparty dispute over the creation of lay lawyers and the popular election of judges (Cooper opposed both measures).

Dissatisfied with democratic politics, which now seemed to him "not quite so perfect in practice as it is beautiful in theory" (Cooper, 1811, p. 6), Cooper became Professor of Chemistry at Carlisle College in 1812. Four years later, he accepted a Professorship at the University of Pennsylvania, and in 1819, he moved to South Carolina College where he remained until his retirement in 1834. Cooper re-entered politics in the American South as an outspoken critic of the propecic tariff and adherent champion of state's rights, going so far as to recommend southern secession during the Nullification Crisis of 1832. Jerome Bentham was sufficiently apprised of Cooper's utilitarian credentials to ask John Quincy Adams, with whom he had become acquainted in London in 1817, to forward to Cooper copies of several of his writings on codification, education, and political reform. Cooper's utilitarian tendencies were apparent long before he encountered Bentham's writings; however, in a paper titled "On Moral Obligation" read before the Literary and Philosophical Society of Manchester in 1784, Cooper argued that the association of ideas, as studied by David Hartley and applied to moral theory by the religious utilitarian John Galt, provided the key to understanding why individuals habitually follow certain courses of action rather than addressing what it is morally right to do on each separate occasion. He gave a sympathetic treatment to David Hume's argument that the motive to virtuous action is rooted in our perceptions of general utility, and quoted Hume at length from "Why Utility Pleases" in an Enquiry Concerning the Principles of Morals (1751), signing with Hume on every point save one—that virtue could be an end desirable in itself, on its own account, without consideration of its consequences. The criteria of virtue, for Cooper, is "utility, which it is incumbent obligatory on the individuals to pursue no farther than self-interest permits them" (Cooper, 2001, vol. 1, p. 105).

Cooper's earliest political writings, Propositions Respecting the Foundation of Civil Government (1787) and reply to Mr. Burke's Inveciive (1792), vigorously debunked the system of hereditary rule, demanding on utilitarian grounds that government become open to men of talent and ability. Years later, when writing about American political institutions, he reiterated his youthful conviction that all government ought to be based on the expressed consent of the people, adding that "the greatest good of the greatest number is the object, and public utility the proper criterion of every measure of government" (Cooper, 2001, vol. 3, p. 209). Cooper's enthusiasm for electoral reform waxed and waned over the years. In his Propositions, he argued against enfranchising the landless poor on account of their lack of independence; however, only a few years later in his reply to Burke he endorsed universal male suffrage, stating that "even the poorest are possessors of the most invaluable species of Property, Life, and Liberty, and Labor," and asserting that "[h]is suffrage upon these directly or indirectly without consent of the Owner, is neither more nor less than Tyranny in the law that enacts it, and Slavery in the Object who is compelled to submit to it" (Cooper, 1792, pp. 71-72). By the time he came to write Lectures on the Elements of Political Economy (1826), his best known and most influential work, Cooper had retreated from his support of universal suffrage on the grounds that the labouring masses might use their votes to effect a redistribution of property contrary to public utility.

As an economist, Cooper insisted on the maintenance of property rights and argued that the maximization of the community's wealth, and hence the happiness of its members, could only be achieved by laissez-faire economic policies. He was a fervent disciple of the basic principles of Adam Smith's Wealth of Nations (1776) arguing...
that government regulation in the marketplace should be kept to a minimum. Like Smith, however, he allowed of exceptions where the public utility could be served by no other means than government intervention. It is plain that Cooper had read and digested Bentham's arguments against Smith on the usury laws. In the context of a broad-ranging debate about the availability of bank credit in the United States, in 1830, Frances Walker Gilman, a prominent Virginia lawyer and scholar, published anonymously *A Vindication of the Laws Limiting the Rate of Interest on Loans, from the Objections of Jeremy Bentham and the Edinburgh Reviewers,* in which he defended Smith's justification for legal restrictions on rates of interest. Cooper took Bentham's side, advancing nearly all Bentham's principal arguments as unimpeachable.

Among Cooper's legal writings is a lengthy review of Bentham's *Rationale of Judicial Evidence* (1827) published in 1830. Cooper was persuaded by Bentham's critique of the English system of common law that American law was also in need of radical reform. He recommended that a commission be appointed to codify the various branches of American law on Benthamite principles and that it be reconvened every 10 years to review the effectiveness of the several codes. In the same year, Cooper published a Treatise on the Law of Libel and the Liberty of the Press (1830) in which he explicitly followed Bentham's antirestriction critique of the latter laid down in the pamphlet *Suar Ton* at All (1817). Cooper had long been a stalwart defender of free enquiry on the grounds that this was the only means to truth, and declared that the only test of truth was "utility" (Cooper, 2003, vol. 2, p. 127).

It is arguable that ultimately Cooper's utilitarianism was compromised by his partisan convictions. As a defender of southern interests, including black slavery, he denied that all men are born "free, equal and independent," insisting that the only natural right is the right of the strongest, "the right of power" (Cooper, 1830, pp. 360, 361). Consonant with views expressed by Bentham, Cooper argued that society creates and enforces positive rights for its own advantage. On the other hand, in opposition to Bentham he read property-less workers out of society, calling them mere "servitors" among the landed proprietors who formed the permanent body of the nation (p. 362). In his later stance on slavery, he drew upon physiology and the pseudoscience of phrenology to argue that Africans were morally and mentally an inferior race, and that the well-being of slaves, who created and in large part constituted the wealth of the southern planter aristocracy, like the good of property-less white workers, was satisfied in the good of the property class, perversely making "the greatest good of the greatest number" into a formula for minority rule and brutal exploitation (Cooper, 1835a, 1835b; Kilbride, 1993).

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**Further Reading**


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See also BENTHAM; JEREMY; PRIESTLEY; JOSEPH; SLAVERY.

**COOPERATIVE UTILITARIANISM:** See COLLECTIVE UTILITARIANISM.

**CRITERIA OF RIGHTEOUSNESS:** See INDIRECT UTILITARIANISM.

**CRITICAL-LEVEL UTILITARIANISM**

Critical-level Utilitarianism, a population principle first introduced by Blackorby and Donaldson (1984), is an extension and adaptation of fixed-population utilitarianism to environments where the size and the composition of the population under consideration may vary. In a variable-population context, individual utilities are assumed to represent lifetime well-being rather than well-being in a specific period of life; this rules out counter-inuitive recommendations regarding the termination of lives. A neutral life is a life that is, from the viewpoint of the individual leading it, neither worse nor better than a life with no experiences. The standard practice in population ethics is to identify a neutral life with a lifetime utility of zero.

Critical-level Utilitarianism employs a parameter, the critical level, that can be interpreted as the level of lifetime well-being that, if experienced by a single individual added to a utility-neutral existing population, results in a state of affairs that is as good as the original. For each possible value of this critical level, a different Critical-level Utilitarianism population principle results. The criterion corresponding to a given critical level is obtained by first subtracting this critical level from each individual utility and then adding the resulting individual utility gains across the population. If the critical level is equal to zero (i.e. the utility level representing neutrality), Total Utilitarianism results. As pointed out by Parfit, Total Utilitarianism suffers from a serious shortcoming that he labels the "repugnant conclusion" (1982, sec. vii). A population principle implies the repugnant conclusion if any state of affairs in which each member of society enjoys a positive utility level, no matter how high, is ranked as worse than some state in which a larger population has a utility level that is above neutrality but arbitrarily close to it. Such principles may recommend the creation of a large population in which everyone's life is barely worth living. If the critical level is above the level representing a neutral life, the repugnant conclusion is avoided; the addition of an individual below the critical level but above neutrality does not lead to a social improvement. For detailed discussions and different viewpoints on the repugnant