JOHN STUART MILL
AND FREEDOM OF EXPRESSION

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in fulfilment of the requirements for the degree of
Doctor of Philosophy (Ph.D.)**

by

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ABSTRACT

This thesis challenges traditional interpretations of John Stuart Mill's theory of freedom of expression, as exemplified in *On Liberty* (1859), by way of an examination of his other publications and correspondence. The first section outlines the evidence for the influences exerted on him during his youth, and examines his writings prior to 1859. His father's writings on the liberty of the press provide a framework within which to interpret Mill's earliest work on the same topic. Charges that Mill subsequently abandoned support for this perspective are examined and dismissed, while the importance of the influence of Samuel Taylor Coleridge is highlighted. The role of Mill's wife in the formation and articulation of his mature ideas on individuality and liberty is emphasised.

On Liberty itself is the subject of the second section. Mill's knowledge of criticisms by reviewers is used as a base from which to examine his defence of freedom of thought and discussion. The priority of the right to hear over the right to express opinions is clarified, and the essential anti-paternalism of Mill's defence is identified. The importance afforded to James Fitzjames Stephen's refutation of Mill is questioned, and historical and conceptual inaccuracies in some of the more prominent contemporary interpretations are pointed out. A refutation of the idea that Mill's defence of freedom of thought and discussion does not rely on his principle of liberty is attempted, and a reinterpretation of that principle is offered. Exceptions to freedom of expression are investigated in this light.

The final section looks at Mill's writings after *On Liberty*, outlining how in his role as an MP and public figure he demonstrated the practical application of his theory.

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The origin of this thesis lies in ideas which first occurred to me during 1988–89 while I was completing a minor dissertation for an M.A. degree in philosophy at University College Dublin. Under the supervision of John Baker in the Department of Politics there, I first began to take John Stuart Mill seriously as a thinker and to believe that his defence of freedom of thought and discussion offered more than I had previously been led to perceive. My introduction to Professor Fred Rosen at the Bentham Project in the Department of History at University College London came about through Ted Honderich, who helped me with my original proposal for this thesis. Professor Rosen has proved to be an inspirational critic at all times, whose patient attention to my work has brought a reasoned balance to my writing and ideas. Largely due to his enthusiasm I have managed to produce this thesis in just over four years, while registered as a part-time student: my sincere thanks, Fred. Above all however, my gratitude is due to Deirdre, my wife, whose encouragement, support and patience over the past ten years have inspired me to believe in my ability to complete this project: inadequate as it may be, the thesis is dedicated to you, Dee.

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INTRODUCTION

This thesis examines critically the development of John Stuart Mill's writings on freedom of thought and expression. Although his theory is best known from the argument in the second chapter of *On Liberty*, which has become a source for practically every subsequent discussion of freedom of speech, the thesis represents the first attempt to understand the evolution of Mill's ideas concerning freedom of thought and discussion throughout his life, drawing not only from *On Liberty* but from his many other writings on the subject.¹ It is argued that, under the influence of various figures, Mill moved from the Radicals' notion of freedom of the press as a security against corruption in government, to a deeper appreciation of the necessity of intellectual freedom for individuals in order to promote their own happiness and thereby contribute to the good of society. The thesis also challenges the view that Mill cannot be regarded as consistent throughout his career in his support for freedom of expression.²

In addition to considering the evolution of Mill's thought, the thesis offers an interpretation of *On Liberty* itself which challenges many of the traditional and contemporary readings of the essay. For almost a century *On Liberty* was regarded as a self-contained philosophical tract, and was read in isolation from Mill's other writings. Recent philosophers such as John Rees, John Gray and John Skorupski have done much to correct the imbalance of such interpretations, examining the ideas of *On Liberty* in

¹ *On Liberty*, in *The Collected Works of John Stuart Mill*, vol. XVIII, ed. John M. Robson (London and Toronto, 1963–91), pp. 213–310. All subsequent references to the *Collected Works* will here be designated by *CW*, followed by volume and page numbers. Alan Haworth has recently referred to Mill's argument as 'the classic version of the classic defence' – see Alan Haworth, *Free Speech* (London, 1998), p. 3.

² See Alexander Brady's introduction to *CW XVIII*, p. lv. See also John Robson's *The Improvement of Mankind* (London, 1968), p. 100; Gertrude Himmelfarb, *On Liberty and Liberalism: The Case of John Stuart Mill* (New York, 1974).

the context of other writings, especially the *System of Logic* and *Utilitarianism*.³ Yet, largely as a result of the efforts of such thinkers, it has become commonplace to regard Mill's defence of freedom of thought and discussion as incompatible with the rest of the essay: most commentators now agree that the second chapter of *On Liberty* is based on a principle other than Mill's principle of liberty.⁴ This thesis argues that Mill's defence of freedom of thought and discussion in *On Liberty* is consistent with the principle of liberty, and attempts to introduce a clearer understanding of that principle, consistent with the manner in which Mill himself defended it.

For convenience, Mill's writings have been divided into three chronological periods, which are discussed in the three sections of the work. The first section covers Mill's many influences and writings on the freedom of the press which preceded the appearance of *On Liberty*. The second section looks at *On Liberty* itself and the many direct responses to that work, from nineteenth-century reviews to current commentary. The third and final section examines Mill's writings on intellectual freedom during the remaining years of his life, following the appearance of *On Liberty*. In discussing this material, the practical application of Mill's ideas regarding freedom of expression is emphasised.⁵

Freedom of the press was an extremely topical issue in early nineteenth-century Britain, not least in the circles into which Mill was born. While successive governments

³ John C. Rees, *John Stuart Mill's On Liberty*, ed. G.L. Williams (Oxford, 1985); John Gray, *Mill On Liberty: A Defence*, 2nd edn (London, 1996); John Skorupski, *John Stuart Mill* (London, 1991). *A System of Logic* (CW VII, VIII); *Utilitarianism* (CW X).

⁴ See Rees, *op. cit.*, p. 98; Skorupski, *op. cit.*, p. 376; Himmelfarb, *op. cit.*, p. 24; Ted Honderich, *Punishment: The Supposed Justifications* (London, 1989), p. 194; Roger Crisp, *Mill on Utilitarianism* (London, 1997), p. 190.

⁵ See Haworth, *op. cit.*, pp. 27ff., who refers to Mill's defence of freedom of thought and discussion as having no wider application than 'the liberty of the seminar room'.

regarded restrictions on the press as essential to the preservation of law and order, the Radicals advocated liberalisation as essential to progress and democracy.⁶ In Chapter 1, the intellectual legacy of James Mill, Jeremy Bentham and others is examined. In the elder Mill's *Common Place Book*, 'Foremost of all the topics is the subject of the Liberty of the Press'.⁷ His best-known defence of press freedom appeared in the *Encyclopaedia Britannica*, written as a companion piece to his famous essay on government.⁸ Less well appreciated is the fact that James Mill had also defended the freedom of the press on more than one occasion in articles which appeared in the *Edinburgh Review*, possibly as early as 1807. John Stuart Mill was unquestionably familiar with and influenced by such writings.⁹

While still quite young, Mill was made familiar with the implications of freedom of thought for religious and political belief.¹⁰ His earliest press writings reflect this awareness, not least his 1825 *Westminster Review* article on the liberty of the press. Although he later chose not to republish this article, it undoubtedly can be regarded as a milestone in his intellectual development as it represents a first attempt to discover 'to what extent restraints upon the freedom of the press can be considered as warranted by sound principles of political philosophy'.¹¹ Although John Stuart Mill believed that he did not find his own voice until after his 'mental crisis' of 1826–27, that voice never entirely abandoned the ideas of James Mill.

⁶ See W.H. Wickwar, *The Struggle for the Freedom of the Press, 1819–1832* (London, 1928).

⁷ Alexander Bain, *James Mill: A Biography* (London, 1882; repr. New York, 1967), p. 464.

⁸ See James Mill, *Political Writings*, ed. Terence Ball (Cambridge, 1992).

⁹ See *Autobiography*, CWI, p. 95.

¹⁰ Ibid. p. 11, where the Reformation is described as 'the great and decisive contest against priestly tyranny for liberty of thought'.

¹¹ 'Law of Libel and Liberty of the Press', *Westminster Review*, April 1825, CW XXI, p. 4.

Chapter 2 challenges the notion (expounded by Gertrude Himmelfarb, John Robson and others) that Mill abandoned his support for freedom of the press during his reaction against his upbringing.¹² After his mental crisis, under the influence of Romanticism and Idealism, Mill began to appreciate the value of viewpoints from outside the Radical entourage of Bentham. Influenced by the scientific, positivist approach which he discovered in the writings of Auguste Comte, he applied new ideas concerning progress and history, to contemporary events in the run-up to the Reform Act of 1832.¹³ These influences are evident in his 1831 series of essays for the *Examiner* entitled 'The Spirit of the Age'.¹⁴ There, the importance of leadership is stressed and the value of discussion in an era of upheaval and uncertainty is emphasised. However, this thesis argues that to read such ideas in the manner of Himmelfarb, who argues that they undermine freedom of thought and discussion as defended in *On Liberty*, is incorrect. Mill's mature ideas regarding individuality and intellectual freedom had not developed at this stage: he still regarded freedom of the press as a political rather than a social necessity. Yet, in his own words, he was in 'an intermediate state – a state of *reaction* from logical-utilitarian narrowness of the very narrowest kind, out of which after much unhappiness and inward struggling I had emerged, and had taken temporary refuge in its extreme opposite'.¹⁵ But nowhere is it consistently evident that he lost his commitment to the idea of freedom of the press. Himmelfarb's conclusions, it is argued, are often based on selective and incomplete readings of the texts. Similarly, the evidence from Mill's published writings

¹² See note 2 above.

¹³ Unused pages of the early draft of the *Autobiography*, *CW* I, Appendix G, p. 615.

¹⁴ *CW* XXII, pp. 227ff.

¹⁵ Letter to Thomas Carlyle, 12 January 1834, *CW* XII, p. 204.

and private correspondence alike contradicts the idea that at this time Mill developed a life-long, covert commitment to elitism.¹⁶

In 1834, Mill confided in a private letter that 'Few persons have exercised more influence over my thoughts and character than Coleridge has'.¹⁷ Chapter 3 investigates this often under-appreciated influence of Samuel Taylor Coleridge, especially in relation to the idea of individuality and the importance of intellectual freedom.¹⁸ Coleridge's commitment to freedom of the press differed from that of Bentham and James Mill, focusing as it did on the importance of the individual rather than on the necessity of political dissent: in fact, Coleridge supported the traditional dictum of English law, much ridiculed by the Radicals, that a libel is all the worse for being true.¹⁹ Emphasising the importance of the individual mind in the discovery of truth, Coleridge also stressed the importance of not mistaking half-truths for the whole, of keeping truth alive in the individual mind, and the necessity of guarding against the dangers of intellectual stagnation, all ideas which later found their way into *On Liberty*.²⁰ An examination of Mill's assessments of Bentham and Coleridge in his famous essays on these two 'seminal minds' demonstrates the importance which Mill began to attach in the 1830s to

¹⁶ An idea put forward by, among others, Joseph Hamburger. See his *Intellectuals in Politics: John Stuart Mill and the Philosophic Radicals* (New Haven, Connecticut and London, 1965); *How Liberal was John Stuart Mill?* (Austin, Texas, 1991); 'Individuality and Moral Reform: The Rhetoric of Liberalism and the Reality of Restraint in Mill's *On Liberty*', *Political Science Reviewer*, vol. 24, 1995.

¹⁷ CW XII, pp. 220–23.

¹⁸ *Autobiography*, CW I, p. 161; see Christopher Turk, *Coleridge and Mill: A Study of Influence* (Aldershot, 1988).

¹⁹ *The Friend*, in *The Collected Works of Samuel Taylor Coleridge*, ed. Barbara E. Rooke (Princeton, 1969–), vol. 4, part I, pp. 93–94.

²⁰ *Ibid.* p. 110.

intellectual freedom for the sake of the individual.²¹ Much of this change, it is argued, can be traced to the influence of Coleridge and his followers.

However, to Mill, the person who wielded the most profound influence over him was undoubtedly Harriet Taylor, who became his wife in 1851.²² As far as Mill was concerned, she was co-author of works subsequent to the *System of Logic*, and *On Liberty* was especially representative of her thinking.²³ Yet the extent of her intellectual influence remains a moot point among Mill scholars.²⁴ She had committed her thoughts on toleration and individuality to paper in an untitled essay, probably dating from the early 1830s.²⁵ As Mill felt that his views had fully matured by the year 1840, his growing commitment to individuality during the 1830s must be seen as complementing Harriet's ideas, if not actually deriving substance from them.²⁶ His writings throughout the 1840s and in the 1850s demonstrate a growing fear of the power of public opinion and conformity, and a belief in the importance of individuality. The belief that intellectual progress must precede all other forms of social progress became fully articulated at this time. Moreover, a firm commitment to freedom of the press and intellectual freedom in society became prominent, and at one point Mill even indicates a willingness to condone violent revolution where such freedom is denied.²⁷

²¹ 'Bentham', *London and Westminster Review*, August 1838; 'Coleridge', *ibid.* March 1840, *CW X*, pp. 75–115 and 116–63.

²² *Autobiography*, *CW I*, pp. 192ff.

²³ *Ibid.* pp. 258, 259.

²⁴ See the (unattributed) introduction to *CW I*, p. xvii.

²⁵ The undated manuscript is in the British Library of Political and Economic Science at the London School of Economics, Mill-Taylor Collection, Box III, No. 78. The paper is watermarked 1832.

²⁶ *Autobiography*, *CW I*, p. 229.

²⁷ 'The French Law Against the Press', *Spectator*, 19 August 1848, *CW XXV*, p. 1118.

Section two deals with *On Liberty*. From the very beginning, it was recognised as an important work, and its defence of freedom of thought and discussion was hailed as a worthy successor to Milton's *Areopagitica*. Yet, it also provoked controversy, not least because of its pronouncements on Christianity in the context of that defence. Discussing the work in his private correspondence, rarely referred to by interpreters of *On Liberty*, Mill said that he had deliberately wanted to kindle such controversy, and explicitly mentioned the reviews which had appeared in the *Dublin University Magazine* and *The English Churchman*.²⁸ Chapter 5 uses these reviews as a basis from which to examine *On Liberty* itself, as many of the arguments voiced in these early pieces continue to be used by critics today. At the outset the priority which *On Liberty*'s arguments place on the right to *hear* all opinions over the right to *express* all opinions is identified, a priority previously unrecognised and certainly important. The claim that all silencing of discussion is an assumption of infallibility is explained in this manner by Mill himself, and the second chapter of *On Liberty* is shown to take its cue from this starting point. The right to hear is grounded in the notion of individuality, which is consequently shown to lie at the heart of Mill's arguments for freedom of thought and discussion. That Mill was anxious to rebut charges of elitism which could be brought against the doctrine of *On Liberty* is shown by reference to his correspondence where he denies outright that his intention lay in this direction.²⁹

The criticisms levelled by James Fitzjames Stephen in *Liberty, Equality, Fraternity* have influenced almost all subsequent discussions of *On Liberty*.³⁰ Yet, when examined closely in Chapter 6 of this thesis, Stephen's interpretation is shown to do Mill less than justice. While appreciating the fact that freedom of thought and discussion is at the heart

²⁸ Letter to Alexander Bain, 15 October 1859, *CW XV*, p. 640.

²⁹ Letter to Alexander Bain, 6 August 1859, *CW XV*, p. 631.

of the principle of liberty, Stephen proceeds to misconstrue Mill's defence. His basic argument is that government *can* interfere in the life of the individual for the sake of the larger good of society, and his overall perspective is at odds with Mill's fundamental standpoint. He attempts to show that discussion cannot play the role in society which Mill attributes to it and that liberty can be pernicious to the majority of people. His elitist utilitarianism serves as a contrast to Mill's position, and demonstrates the integral part played by intellectual freedom in the principle of liberty. (This chapter, in addition, carries an appendix in which three previously unknown letters from Mill to Stephen, discovered in the course of my research, are outlined and analysed.)

Chapter 7 looks at more recent and contemporary commentary on *On Liberty*. Here, the idea that Mill's defence of freedom of thought and discussion is not based on the principle of liberty – an idea popular among recent interpreters – is examined, and an attempt is made to demonstrate that such an idea is unnecessary to a proper interpretation of the ideas of Chapter 2 of *On Liberty*. The importance attached to the notion of 'interests' in these current interpretations is examined.³¹ Moreover, the influential interpretations of John Gray and John Skorupski of the notion of interests are questioned, as is the validity of Gray's recent criticism of Mill's ideas concerning progress.³² A new approach to reading *On Liberty* is then posited, based on the evidence of the actual text and Mill's other writings. Heretofore, the principle of liberty has been interpreted in terms of harm to others: I suggest that the emphasis should instead be placed primarily on the idea of harm to self. Such a reading views the principle of liberty as anti-paternalist at its core, rather than regarding anti-paternalism as an

³⁰ James Fitzjames Stephen, *Liberty, Equality, Fraternity* (London, 1873).

³¹ See, for example, John Rees, 'A Re-reading of Mill on Liberty', *Political Studies*, vol. 8, 1960.

³² Gray, *op. cit.*; Skorupski, *op. cit.*

implication or by-product of that principle. This reading of the principle of liberty is shown to fit with Mill's defence of freedom of thought and discussion in a manner which is more than merely coincidental. Mill's other published writings as well as his private correspondence support such an interpretation. *On Liberty*, based on utilitarian concerns, holds that liberty should have priority wherever it is acknowledged that all people are fundamentally distinct as individuals. When individuals achieve their own happiness, the maximum happiness can thereby be achieved. It is argued that this position is similar to that held by Mill in his later essay, *Utilitarianism*.³³

The connection between the expression of opinion and the performance of actions harmful to others forms the starting point of Chapter 8, which examines the exceptions to freedom of thought and discussion admitted by *On Liberty*. The famous corn-dealer passage and Mill's example of incitement to tyrannicide are examined in the light of the revised interpretation presented, and are shown to be consistent with that interpretation.³⁴ The distinction between speech acts and other actions is brought into focus. That *On Liberty* sets down no precise criteria by which the difference between harmful incitement and innocent debate can be established is noted, and the interpretations of H.J. McCloskey, D.H. Monro, Gray and others are examined.³⁵ Mill's attitude to racist speech is assessed, the importance of individuality to his overall scheme is again emphasised, and the role of truth in his arguments is again examined.

³³ In private correspondence, Mill explained utilitarianism as the sum total of individual happiness – see his letter to Henry Jones, 13 June 1868, CW XVI, p. 1414.

³⁴ *On Liberty*, CW XVIII, pp. 260, 228n.

³⁵ H.J. McCloskey, 'Liberty of Expression – Its Grounds and Limits (I)', *Inquiry*, vol. 13, 1970; D.H. Monro, 'Liberty of Expression: Its Grounds and Limits (II)', *Inquiry*, vol. 13, 1970, pp. 239–40; Gray, *op. cit.*, p. 105.

The issue of indecency, usually discussed by commentators in the context of Mill's exceptions to freedom of thought and discussion, is also addressed in this chapter.³⁶

The third section of the thesis examines Mill's writings after *On Liberty*. The publication of the essay in 1859 brought with it a popular notoriety which Mill had not previously enjoyed. His fame extended far beyond Britain, and his subsequent election as Member of Parliament for Westminster added to the impact of his ideas on his contemporaries. During this period of public life, he was regularly called upon to express his views and to explain his positions on various topics, not least on the issue of freedom of speech. A study of these writings, as well as other more formal writings, provides the basis for Chapter 9. Together they serve to demonstrate that Mill regarded his theories as practical in their application to society rather than mere intellectual deliberations which had little or no bearing on real life.³⁷ The importance of active and informed intellects to progress and improvement (and through the intellectual to the moral nature of the individual) is one of the central issues of *On Liberty* which continues into Mill's other works, such as his *Thoughts on Parliamentary Reform* (which also first appeared in 1859), *Considerations on Representative Government* and *Utilitarianism* (both 1861), and *Auguste Comte and Positivism* (1865). Mill's defence of utilitarianism is shown to be consistent with the interpretation of *On Liberty* expounded in this thesis.

The issue of intellectual freedom, especially as regards morality and religion, is again broached through Mill's *Inaugural Address* as Rector of St Andrew's University,

³⁶ For commentators who connect the two, see for example D.F.B. Tucker, *Law, Liberalism and Free Speech* (New York, 1985), p. 128, and H.J. McCloskey, *John Stuart Mill: A Critical Study* (London, 1971), p. 106.

delivered in February 1867.³⁸ Yet again, the central role played by the intellect in developing one's individuality is emphasised by Mill. His many speeches to the House of Commons and to public meetings similarly emphasised the importance of freedom of thought and discussion to the well-being of the individual and the progress of society. Moreover, his appreciation of the benefits of freedom of speech when employed as demonstration rather than merely as discussion was evident in his reactions to events such as the Hyde Park riots of 1866 and their aftermath.³⁹ Thus he emphasised the absolute value of freedom of speech in a democratic society, while he also demonstrated the practical application of his ideas regarding incitement.⁴⁰ To the end of his life, Mill continued to maintain that liberty held the key to human happiness, and that intellectual freedom was the first and most important part of such liberty.

In the concluding chapter, I again attempt to sum up and demonstrate the overall consistency in the development of Mill's work. It is argued that Mill's theory is richer than interpreters and critics generally allow. It is again emphasised that it is not abstract truth for its own sake that Mill defends but, rather, the discovery of truth for the sake of individuality. This thesis ultimately contends that *On Liberty* can be fully understood only in the context of Mill's other writings. Attempts to treat as a rigorous philosophical tract what Mill himself described as 'a kind of philosophic text-book of a single truth' are therefore bound to fail, not least because interpreters often mistake what that single truth actually is.⁴¹ Freedom of thought and discussion play a primary role in encouraging

³⁷ In addition to Haworth, *op. cit.*, this charge is made by, among others, Francis Canavan in his 'J.S. Mill on Freedom of Expression', *Modern Age*, vol. 23, Fall 1979, p. 369.

³⁸ *CW XXI*, pp. 215–57.

³⁹ *CW XXVIII*, p. 103.

⁴⁰ See, for example, his attitude to the Fenian movement, as expressed in a letter to G.W. Sharpe, 1 June 1867, *CW XVI*, p. 1275.

⁴¹ See the *Autobiography*, *CW I*, p. 259.

diversity and individuality, regarded by Mill as essential if society is to progress and achieve the greatest possible happiness for the individuals who are its members. In this manner Mill believed himself to be continuing but developing the tradition of utilitarian thinking into which he had been born.

SECTION I

CHAPTER 1

A WORTHY SUCCESSOR

In January 1807, when John Stuart Mill was less than one year old, the *Edinburgh Review* published an article which held that ‘The liberty of the press is, indeed, the most inestimable security of... a people, because it gives that tone to the public feelings, on which all liberty must ultimately rest’.¹ Such words could have been used to describe the position subsequently defended by Mill throughout his life. After his death in 1873, he wrote of him in the *Fortnightly Review* that: ‘The value of [his] wise and virtuous mixture of boldness with tolerance, of courageous speech with courageous reserve, has been enormous’; and that this disposition, in conjunction with the famous second chapter of *On Liberty* in support of freedom of expression, ‘has been the chief source of that liberty of expressing unpopular opinions in this country without social persecution, which is now so nearly complete, that he himself was at last astonished by it’.² Unquestionably, Mill’s influence on the issue of freedom of expression in nineteenth-century Britain (and further afield) was enormous. Yet, in the course of his life, the platform from which he addressed the question changed: initially emphasising the political importance of the freedom of the press for good government, he later stressed the social importance of freedom of thought and discussion for individual development. Moreover, he held that both viewpoints could be defended within a utilitarian framework. The route which he followed from the issues of his youth to the issues of his

¹ ‘The Science of Legislation, from the Italian of Gaetano Filangieri’, *Edinburgh Review*, vol. 9, January 1807, p. 365.

² John Morley, ‘The Death of Mr. Mill’, *Fortnightly Review*, vol. 13 (n.s.), June 1873, pp. 672–73.

later life involved contact with a wide variety of thinkers. To trace that route and to examine the influence of those thinkers on his approach to freedom of expression is the goal of the present work.

1.1 James Mill and the liberty of the press

The author of the 1807 *Edinburgh Review* article on press freedom cited above bemoaned the fact that ‘the liberty of the press does not exist, nor ever did exist in England, but by connivance’.³ In 1811 James Mill, also writing in the *Edinburgh*, quoted the earlier article with approval to demonstrate that ‘the opinions which we now deliver have not been hastily adopted, and are not the immediate suggestion of any particular occurrence to which the public attention may have been recently attracted’.⁴ The elder Mill questioned the wisdom of the undefined nature of the law of libel as it then existed in Britain, and defended the notion that ‘If men would only employ a little patient consideration in forming their notions, we should not despair of getting all but a few, to join with us in opinion, that, so far from the freedom of the press being the cause of the French revolution, had a free press existed in France, the French revolution never

³ ‘The Science of Legislation, from the Italian of Gaetano Filangieri’, *loc. cit.*

⁴ ‘Memoires de Candide sur la liberté de la presse’, *Edinburgh Review*, vol. 18, May 1811, p. 101. Press prosecutions had achieved particular notoriety in 1809 through a libel case involving the Duke of York. (Jeremy Bentham’s *The Elements of the Art of Packing, as Applied to Special Juries: Particularly in Cases of Libel Law* was produced at this time as an attack on the system whereby juries in such libel cases were selected by ministers and judges, who could thereby ensure the outcome of the trial. Somewhat ironically, that work was itself not publicly circulated until 1821.) The *Wellesley Index to Victorian Periodicals on CD-ROM*, ed. W.E. Houghton (London, 1999) identifies James Mill as the author of the 1811 article using evidence from the Brougham Manuscript Lists in the Ogden Papers, University College London Library. It does not identify the author of the 1807 article, but suggests ‘Henry Hallam’ as a possible candidate. However, the cited passage suggests that James Mill may have been the author of the earlier article: Henry Brougham’s *Autobiography* claims that Mill began contributing to the *Edinburgh* in 1807 – see Alexander Bain, *James Mill: A Biography* (London, 1882; repr. New York, 1967), pp. 75n, 91.

would have taken place'.⁵ This radical position on the question of press freedom and libel law became a regular and favourite idea of James Mill.⁶

That the importance of freedom of thought was impressed by James Mill on his eldest son in this early period is related by John Stuart Mill in the posthumously published *Autobiography*.⁷ It should come as no surprise, therefore, that this topic constitutes the subject of some of John Stuart Mill's earliest published writings, along with tracts against religious persecution and the law of libel as it was enforced in England in the opening decades of the nineteenth century. We can be in no doubt that he perceived a connection between the practice of religion and the right to freedom of expression: in the *Autobiography* he explicitly defines the Reformation as 'the great and decisive contest against priestly tyranny for liberty of thought'.⁸

The topic of freedom of expression remained close to the heart of James Mill throughout his eldest son's formative years: subsequent to the 1811 article, he appears to

⁵ 'Memoires de Candide sur la liberte de la presse', p. 121.

⁶ See Bain, *op. cit.*, pp. 98ff.; Joseph Hamburger, *James Mill and the Art of Revolution* (New Haven, Connecticut and London, 1963), pp. 27ff. In addition to James Mill's published writings on the issue of freedom of the press, his *Common Place Book* (four volumes, presented by John Stuart Mill to the London Library in January 1872) shows extensive research into all aspects of the topic, including newspaper cuttings and personal notes. Bain, in his biography of James Mill, comments on the contents of that book: 'Foremost of all the topics is the subject of the Liberty of the Press. On this he had accumulated opinions and illustrations from the wide compass of ancient and modern literature. The general drift is, of course, in favour of Liberty, with practical refutations of the various subterfuges for evading the application of the principle' (Bain, *op. cit.*, Appendix E, p. 464).

⁷ *Autobiography*, CWI, p. 45.

⁸ *Ibid.* p. 11. Additionally, Mosheim's *Ecclesiastical History* was prescribed by his father as reading material between the ages of four and seven.

have taken on the subject in the *Edinburgh Review* yet again in 1815,⁹ and in 1821 he proposed that he himself should undertake the entry on liberty of the press for Macvey Napier's fifth edition of the *Encyclopaedia Britannica*.¹⁰ The piece, in addition to his articles on government and jurisprudence, was soon acknowledged as a classic defence of the radical cause and was reprinted subsequently as a pamphlet. Jeremy Bentham's interest in libel and press freedom also continued after *The Elements of the Art of Packing*: he wrote a series of letters to the Spanish people on this very topic in October 1820, urging them to resist any imposition made upon the liberty of their press by laws being drafted at that time, on the grounds that 'whatsoever evil can result from this liberty, is everywhere, and at all times, greatly outweighed by the good'.¹¹ For Bentham and James Mill alike, the freedom to discuss ideas in public and to criticise government and its institutions was an essential element in the struggle against corruption among the ruling classes, a topic at the heart of the agenda of the group of radical thinkers which centred around Bentham. Their ideas reflected the growing discontent with traditional models of government and society.

In the aftermath of the French Revolution, the young Mill was stimulated by the debates concerning reform of the British constitution. Throughout the country, the possibility of a similar revolution was widely feared: 'Many persons felt that society was resting on

⁹ 'Liberty of the Continental Press', *Edinburgh Review*, vol. 25, June 1815, pp. 112–34. The *Wellesley Index* identifies Mill as author of this article on the basis of letters from Francis Place and David Ricardo.

¹⁰ A letter to Napier, dated 3 January 1821, says: 'I believe I have now fulfilled all the obligations, in the way of articles, which I am under to you. There is one article more, however, which, if you have not otherwise provided for it, I shall be very glad to undertake. That is, Liberty of the Press, or Libel Law, whichever title you choose to range it under. I think on that subject I could throw a good deal of light' – cited in Bain, *op. cit.*, p. 193, who also records a letter from James Mill dated 21 August 1821 informing Napier that he was not pleased with the finished article. See Hamburger, *op. cit.*, p. 27, n. 18.

¹¹ *The Works of Jeremy Bentham*, ed. John Bowring (Edinburgh, 1843), vol. II, p. 279.

crumbling foundations, and this made every expression of discontent... appear ominous'.¹² Opinions which supported the need for reform were viewed with suspicion by those in power, while any opinion which attempted to undermine Christianity – regarded as being at the very heart of law and order – was met with alarm. Yet, long-held ideas concerning religion, government and the *status quo* were being questioned openly. That the lower classes – now becoming more literate and consequently susceptible to influences from a far broader spectrum of ideas than their forefathers – should begin to question religious principles, or have a right to question their own status or the status of their 'betters', was considered especially dangerous. In 1821, one newspaper observed that:

The libels of former times were only read by the higher classes, which possessed the means of detecting their falsehood – those of the present times are exclusively read by the lower orders, who are destitute of all means of arriving at the truth.... Former libels attacked only measures of policy and men – present ones attack laws and institutions. Former libels were only intended to drive a ministry from office – the object of the present ones is to dethrone the King and overthrow the Constitution. Moreover, to render their effects still more destructive, the poison of a great number of them is spewed forth on the Sabbath.¹³

In the years of John Stuart Mill's youth, a person could be found guilty of libel by instilling dissatisfaction with the government or the constitution: freedom of the press was freedom within the confines of the law, and was certainly not unrestricted. In 1811 James Mill's article in the *Edinburgh Review* had cited a legal case where it had been

¹² Hamburger, *op. cit.*, p. 18.

pointed out that 'if a publication be calculated to alienate the affections of the people, *by bringing the government into disesteem*, whether the expression be ridicule or obloquy, the person so conducting himself is exposed to the inflictions of the law: – It is a crime'.¹⁴ The elder Mill commented: 'Now, to point out any fault in the government undoubtedly tends to bring, so far, the government into disesteem. Therefore, to point out any fault in government, is a liberty not allowed to the press by the law of England'.¹⁵

The term 'libel' at this time was used in relation to any expression of opinion in the press, including the publication of facts: truthful utterances could be libellous if they were considered disagreeable by a judge, thought liable to disturb the peace or otherwise to cause widespread dissatisfaction. Truth or falsity were irrelevant: in fact, 'the greater the truth, the greater the libel' was a common idiom of the time.¹⁶ From the very beginning of his career as a writer and thinker, at the time of what he later called his 'youthful propagandism', John Stuart Mill clearly placed himself on the side of those who held and professed opinions which sought to overthrow the old political order and to replace it with an order based on reason and consensus, where rational debate won the

¹³ *New Times*, 5 January 1821, quoted in W.H. Wickwar, *The Struggle for the Freedom of the Press, 1819–1832* (London, 1928), p. 183.

¹⁴ 'Memoires de Candide sur la liberté de la press', p. 100. Mill was citing Lord Ellenborough in *The King versus Cobbet*, 24 May 1804.

¹⁵ Ibid. pp. 100–1. Note also that James Mill, in a letter dated 10 September 1819, was quick to reassure the publisher of the *Encyclopaedia* that 'You need be under no alarm about my article *Government*. I shall say nothing capable of alarming even a Whig, and he is more terrified at the principles of good government than the worst of Tories' (cited in Bain, *op. cit.*, p. 188).

¹⁶ See Wickwar, *op. cit.*, p. 24, n. 1.

day and intellect triumphed over the blind acceptance of tradition.¹⁷ Looking back on that period fifty years later, Mill commented:

Freedom of discussion even in politics, much more in religion, was at that time far from being, even in theory, the conceded point which it at least seems to be now; and the holders of obnoxious opinions had to be always ready to argue and reargue for the liberty of expressing them.¹⁸

Mill specifically mentioned Richard Carlisle, whose position at the forefront of the movement to establish a free press at the time was notorious, and who doggedly defied all attempts to silence him. In 1817, Carlisle began deliberately to provoke the government by publishing works considered immoral. Imprisoned initially for publishing political parodies which mocked the Church of England, upon his release he used *Sherwin's Weekly Political Register* to serialise the works of Thomas Paine. (Paine had been tried and prosecuted for publishing his unorthodox ideas concerning religion and politics almost thirty years previously.) Encouraged by the lack of government response, Carlisle next reprinted Paine's political writings in two volumes. Subsequently in 1818 he published Paine's *Age of Reason*, a work which challenged Christianity and the nature of revealed religion.¹⁹ The radical press was, in turn, encouraged by the success of men such as Carlisle and started to become more outspoken.²⁰ Growing discontent with the prevailing political situation also manifested

¹⁷ *Autobiography*, Chapter 4 is named 'Youthful Propagandism. The Westminster Review' (CW I, pp. 88ff.).

¹⁸ *Ibid.* p. 89.

¹⁹ This work had previously been condemned as blasphemous, its publishers convicted in 1797 and 1812. The American edition of this work (1794) carried a message from Paine to his readers: 'He who denies to another this right, makes a slave of himself to his present opinion, because he precludes himself the right of changing it' – cf. *On Liberty*, CW XVIII, pp. 229ff.

²⁰ Newspaper circulation was comparatively low because a stamp duty on paper kept production costs high and print runs short. Ann P. Robson's introduction' to CW XXII

itself in meetings and public gatherings convened to address the problems discussed in the press. In August 1819, such a meeting was called at St Peter's Fields in Manchester to consider the most appropriate means of pressing reform on parliament. As Henry Hunt (a radical for whom a warrant had been issued) was about to address the meeting, armed constabulary attempted to arrest him. The crowd was charged, resulting in the death of eleven people and the injury of over four hundred. Carlisle had been in attendance and subsequently published an eyewitness account of the 'Peterloo' massacre. Outrage at the actions of the yeomanry was echoed in newspapers and journals up and down the country, and calls to arms became the demand of the day.²¹

The official response to the widespread unrest came in December with the passing of the 'Six Acts', two of which related directly to the freedom of the press. One allowed for the confiscation of all copies of a published work deemed libellous and, in the event of a second offence, banishment of the author. Another attempted to enforce a strict code of practice on newspapers by introducing criteria regulating subject matter, frequency of publication, and size and amount of paper used, imposing a minimum price of 6d (excluding the 4d stamp duty). To sell unstamped publications was to be an offence punishable by fine. Moreover, printers and publishers of newspapers covered by the new laws were obliged to pay a pre-determined security in advance of publication against any possible libel fines which they might subsequently incur. These measures were explicitly intended to crush the growing circulation of radical newspapers and, in

(p. xxx, n. 15) estimates that a circulation of 3,000–5,000 was typical in the 1820s; see also Wickwar, *op. cit.*, pp. 29–30. However, readership was high, and public houses and reading rooms were the gathering points for people to read or to hear read aloud publications which actively criticised the government, the Church and the Crown.

²¹ The government, if anything, further ignited the situation by sending congratulations to the magistrates involved, announcing 'the great satisfaction derived by His Royal Highness from their prompt, decisive and efficient measures for the preservation of the public tranquillity' (Wickwar, *op. cit.*, p. 63).

consequence, to reduce demands for reform. As Lord Ellenborough explained to the House, having stressed that the Bill was being introduced because of the 'pauper press': 'The mischief arising from them in the deception and delusion practised upon the lowest classes by means of the grossest and most malignant falsehoods, was such that it threatened the most material injury to the best interests of the country, unless some means were devised of stemming its torrent'.²² Against the background of an overbearing regime which regarded the silencing of controversy as necessary to the well-being of society, James Mill's *Encyclopaedia Britannica* article on the liberty of the press was a radical and brave stance. This article, although composed subsequent to – but not independently of – his articles on government and jurisprudence, provided the theoretical basis for most of John Stuart's thought and early writings on the subject of freedom of expression.²³

The piece begins with the admission that 'The offences capable of being committed by the press are indeed nearly co-extensive with the whole field of delinquency'; it proceeds to investigate the role of the press, briefly in relation to individuals and, for the main, in relation to government; and it closes with an examination of the possible limitations which can be imposed on freedom of discussion in general.²⁴ James Mill assumes that when a published libel upon a private individual is proved in court, that individual should receive appropriate reparation. If the general public continues to believe the libel after such a ruling, it must be because people are aware of additional facts which were not available to the judge, or else because the general public is unable

²² *Parliamentary Debates*, House of Lords, 29 December 1819.

²³ In the first paragraph of James Mill's 'Liberty of the Press', reference is made to the articles 'Government' and 'Jurisprudence'. All three are included in James Mill, *Political Writings*, ed. Terence Ball (Cambridge, 1992) – page references are to this edition.

²⁴ James Mill, in Ball, *op. cit.*, pp. 97–135.

to form correct opinions based on factual evidence. If the latter is the case, then 'it is the fault of the legislature; and for the rectification of this evil, the best course undoubtedly is, to take effectual measures for the instruction of the people, which instruction would soon place them beyond the danger of such delusions'.²⁵ However, such a course of action would not prove attractive to a government wishing to keep society in a servile state of mind and which therefore maintained an interest in keeping education and truth from the majority. It would not be until the interests of the rulers and the interests of its citizens were at one that good government could be achieved. This was the central thesis of the article 'Government' and one of the main themes famously attacked by Thomas Babington Macaulay in the *Edinburgh Review*.²⁶ Among the many criticisms raised by Macaulay was the vague and indeterminate nature of such 'interests' – a criticism echoed in recent interpretation of *On Liberty*, where the notion of interests has again become prominent.²⁷

For James Mill, the liberty of the press provides a means whereby resistance to corruption in government becomes possible. Such a possibility must always be left open or the people are inevitably left in misery and degradation. In matters of government 'The real point of importance is, to establish correct opinions in the minds of the

²⁵ Ibid. p. 103. The stamp duties imposed on publications were popularly known as 'taxes on knowledge'. The phrase 'knowledge is power' was popularised by Richard Carlisle – on 28 April 1822, for example, he wrote in *The Republican*: 'Let us then endeavour to progress in knowledge, since knowledge is demonstratively proved to be power'.

²⁶ 'Mill's *Essay on Government: Utilitarian Logic and Politics*', *Edinburgh Review*, vol. 49, March 1829, pp. 159–89; repr. in Ball, *op. cit.* For the debate which ensued, see George L. Nesbitt, *Benthamite Reviewing: The First Twelve Years of the Westminster Review, 1824–1836* (New York, 1934), pp. 139–44. For John Stuart Mill's own assessment of the debate, see his *Autobiography*, *CWI*, pp. 165–66.

²⁷ The 'interests' interpretation was first mooted by John Rees in 'A Re-reading of Mill on Liberty', *Political Studies*, vol. 8, 1960. It is addressed in Chapter 7 of this thesis.

people'.²⁸ Thus the distinction between factual evidence and subjective opinion is subtly introduced, a distinction which has a precedent in Plato's *Republic*.²⁹ Freedom of discussion – where all opinions are presented equally and no advantage or obstruction is placed in the way of any single opinion – he lauded as the sole method whereby most people can arrive at true opinions based on the evidence presented to them.³⁰ Liberty of the press plays a central role in this process:

Every subject has the best chance of becoming thoroughly understood, when, by the delivery of all opinions, it is presented in all points of view; when all the evidence upon both sides is brought forward, and all those who are most interested in showing the weakness of what is weak in it, and the strength of what is strong, are, by the freedom of the press, permitted... to devote to it the keenest application of their faculties. False opinions will then be delivered. True; but when are we most secure against the influence of false opinions? Most assuredly when the grounds of these opinions are the most thoroughly searched.³¹

If a government makes itself responsible for choosing what the public should hear, that government is acting in a despotic manner. Against the notion that the press must be restricted in order to stop the spread of unrest, James Mill argues that calls to arms by the press, if they result in open rebellion, are not the first but the final stage of resistance – there must be some pre-existing consensus towards the taking up of arms, or any exhortation will mean nothing: 'we think it may be satisfactorily shown, that no

²⁸ James Mill, 'Liberty of the Press', in Ball, *op. cit.*, p. 123.

²⁹ Plato's *Republic* (v. 477–78) distinguishes between knowledge and belief. John Stuart Mill had read and made an abstract of the *Republic* as early as 1819, and later held that, like James Mill before him, there was no author to whom he owed a greater debt for 'mental culture' (*Autobiography*, *CWI*, p. 25).

³⁰ James Mill, 'Liberty of the Press', in Ball, *op. cit.*, p. 121.

operation of the press, however directly exhorting to this species of resistance, ought to be treated as an offence'.³² However, regarding incitement, he subsequently explains in a passage remarkably similar to the famous 'corn-dealer' example used at the start of Chapter 3 of *On Liberty* that: 'A hand-bill, for example, distributed at a critical moment, and operating upon an inflamed state of mind, in a narrow district, may excite a mob to disturb the proceedings of a court of justice, to obstruct police officers in the execution of their duties, or even to disturb, on this or that occasion, the deliberations of the legislature itself'.³³ However, there is always a problem with distinguishing between passionate and dispassionate language, because 'A word which may excite strains of emotion in one breast, will excite none in another'.³⁴

1.2 John Stuart Mill's early writings

James Mill's *Encyclopaedia* article on the liberty of the press concludes with an assertion that people ought especially to have the power to choose their own opinions on religious matters.³⁵ And it is precisely on the point of liberty of discussion and religious freedom that the sixteen-year-old John Stuart Mill made his debut in the *Morning Chronicle* on 1 January 1823. Described in Mill's own bibliography as a letter 'on Free Discussion, signed, An Enemy to Religious Persecution', it challenges the notion that

³¹ Ibid. p. 127.

³² Ibid. p. 112.

³³ Ibid. p. 113 – cf. *On Liberty*, CW XVIII, p. 260. James Mill comments that acts such as these 'are clearly hurtful acts; they may be very accurately defined; and penalties, of moderate severity, would be sufficient to deter from the performance of them'.

³⁴ James Mill, in Ball, *op. cit.*, p. 134.

³⁵ Nesbitt, *op. cit.*, p. 69 comments: 'Before the constructive task of education could begin, however, two nuisances had to be abated. One was the Church of England. The other was censorship of the press. Both institutions being regarded as foes to intellectual liberty, it is not surprising that their chief antagonists among the reviewers were the two Mills'.

‘Christianity is part and parcel of the law of England’.³⁶ This widely endorsed notion – which purportedly demonstrated that any opinions which undermined Christianity were, in fact, a veiled attack on the civil law – was traditionally used in debates and law courts against religious dissenters. Indeed, such were the prevailing attitudes that ‘Those who were not of the Anglican faith could not be regarded as completely English’.³⁷ Mill’s letter attempts to show that these arguments are not worthy of serious consideration. He proceeds in a quasi-legal manner not unlike that employed by his father.³⁸ It cannot be Christian morality which is meant when people use such phrases, he maintains, or *all* of the Christian precepts would have to be a part of the law. Such a scheme would be impossible to enforce. Neither can it be the doctrines and truths of Christianity which are meant – what Mill, following his father, is careful to label the *opinions* of the religion – because precepts and opinions are logically distinct. The law protects Christianity by persecuting those who express contrary opinions, but it cannot offer a basis as to why it should do this, other than to maintain rather lamely that such persecution is part of the law. This reasoning, the young Mill concludes, is totally absurd.

The tone of the letter is precocious and the content is very much in keeping with the opinions of James Mill. Yet, the piece anticipates John Stuart Mill the logician. Its importance, however, lies not so much in the techniques used but in the evidence it provides of the young Mill taking a public stance for intellectual and religious freedom at such an early stage in his publishing career. Moreover, the idea of ‘opinion’ holding

³⁶ CW XXII, pp. 6–8.

³⁷ Bernard Wishy (ed.), *Prefaces to Liberty: Selected Writings of John Stuart Mill* (Boston, 1959), ‘Introduction’, p. 35.

³⁸ In the *Autobiography* (CW I, p. 73) he described his writing style of this period as ‘dry’ and ‘entirely argumentative, without any of the declamation which... might be expected... [of] a young writer’.

the central part in debate on most issues was to be very important for Mill, playing an essential role of his defence of freedom of expression throughout his life. The upshot of the letter's argument is that because debates concerning religion are dealing not with matters of empirical fact but with matters of speculative opinion, the truth cannot be ascertained in the same manner as in mathematics or logic, a position which John Stuart Mill held throughout his life.

This first published piece was a brave (although probably supervised) stand for the cause of intellectual and religious freedom, using a line of argument that was considered blasphemous at this time. The connection between Christianity and the law had similarly been questioned as part of the defence used by Susannah Wright, one of Richard Carlisle's supporters. Carlisle's role in the spread of dissent in the wake of Peterloo had prompted the Lord Mayor to issue a warrant for his arrest on charges of seditious libel. Already facing other charges of blasphemous libel for the publication of Paine's works, a conviction was soon secured, and Carlisle remained in prison for six years. His work was continued on the outside by his wife and sister, who in turn were arrested and imprisoned. Their fight was taken up by Susannah Wright who, having been arrested on charges brought against her by the self-styled Society for the Suppression of Vice, in her defence had questioned the connection between Christianity and the law. However, it was Carlisle himself who had written the defence used in court, subsequently publishing the supposedly blasphemous arguments in the *Republican*, which he continued to edit from behind bars.³⁹

³⁹ Wickwar, *op. cit.* p. 222. A letter from John Stuart Mill, signed 'An Atheist', taking Carlisle to task over his use of the word 'nature' appeared in the *Republican* of 3 January 1823 (CW XXII, pp. 8–9).

These events are explicitly mentioned in the *Autobiography* in connection with a series of letters written by John Stuart Mill which were published in the *Morning Chronicle* in January and February 1823. 'The prosecutions of Richard Carlisle and his wife and sister for publications hostile to Christianity,' he tells us, 'were then exciting much attention, and nowhere more than among the people I frequented.... I wrote a series of five letters under the signature of Wickliffe going over the whole question of free publication of all opinions on religion'.⁴⁰ These letters draw extensively on the writings of both James Mill and Bentham, and mention the *Encyclopaedia Britannica* article on the liberty of the press as a 'most satisfactory' exposition of the topic. Yet the arguments are very narrow in focus, and while they can be said to achieve their purpose, it is questionable whether they really come to grips with the issue of freedom of speech at all. The first letter challenges those who believe that free discussion contributes to the discovery of truth on most subjects to show why it should not equally contribute to the truth on religious matters. If people are not allowed to choose their own opinions, then the government must be choosing their opinions for them: 'But if the Government is allowed to chuse opinions for the people, the government is despotic'.⁴¹ This line of argument, borrowed almost verbatim from James Mill, was to be resurrected by John Stuart Mill again and again in various forms: because opinion with regard to religion does not deal with matters of fact but with subjective feelings regarding what is true, people should be allowed to make up their own minds by weighing the evidence on all sides. To decide for others which opinions are worthy of their consideration is to have ultimate power over them. It may be generally felt that atheism is false, but this is not a valid reason for preventing discussion on the topic 'since before discussion, if their

⁴⁰ CW I, p. 89. The letters (CW XXII, pp. 9ff.) were, in fact, signed 'Wickliff' (without the final 'e') after the fourteenth-century religious reformer.

⁴¹ *Morning Chronicle*, 28 January 1823, CW XXII, p. 11: cf. James Mill, in Ball, *op. cit.*, p. 120.

opinions are true it is only by accident, whereas after it they hold them with a complete conviction, and perfect knowledge of the proofs on which they are grounded'.⁴² There is an appreciation in this letter of the dignity of possessing knowledge and of the necessity of individual choice, both notions to which Mill maintained a lifelong commitment and which appear to be derived directly from James Mill. This commitment in turn was fuelled by a belief in progress and individual development which was to be used as the intellectual driving force behind *On Liberty*.⁴³

In the second letter of the series, Mill examines the notion that to allow the spread of 'infidel doctrines' leads to private morality being undermined, thereby leading to the demise of what was widely held to be the only security of 'good judicature'.⁴⁴ The letter proceeds to show that although Christianity may appear to be at the heart of maintaining law and order, public opinion regarding what is acceptable is more fundamental than Christianity and is that which primarily influences people's actions. In the courts, for example, swearing on a Christian Bible ostensibly guarantees truth in the judicial system, but this guarantee can be demonstrated as a sham: jurists at a trial, for example, swear to judge on the evidence given but will sometimes find criminals guilty of lesser offences than the evidence warrants if a statutory punishment is thought excessive for a

⁴² *Morning Chronicle*, 28 January 1823, CW XXII, *loc. cit.*: cf. James Mill, in Ball, *op. cit.*, p. 129: '...it is not safe for the people to let any body choose opinions for them. If it be said, that the people themselves might be the authors of this preference, what is this but to say, that the people can choose better before discussion than after; before they have obtained information than after it? No, if the people choose before discussion, before information, they cannot choose for themselves. They must follow blindly the impulse of certain individuals, who, therefore, choose for them'.

⁴³ *On Liberty*'s phrase 'man as a progressive being' is also found in James Mill's writings on education: see Geraint Williams, 'The Greek Origins of J.S. Mill's Happiness', *Utilitas*, vol. 8, 1996, pp. 8ff.

⁴⁴ *Morning Chronicle*, 8 February 1823, CW XXII, pp. 12–15.

particular instance of the crime.⁴⁵ Similarly public opinion accepts ‘duelling and fornication’ although both are forbidden by Christianity. The letter concludes that the argument regarding the necessity of Christianity to the preservation of society is essentially without foundation in practice.

The third letter of the series aims ‘to prove that persecution [of infidels] is not necessary for the preservation of Christianity’.⁴⁶ To persecute non-believers, Mill contends, is to assume ‘the utter incapacity and incorrigible imbecility of the people’ insofar as it assumes that the Christian populace is so easily swayed that it is unable to distinguish truth from falsehood.⁴⁷ Yet, through their Christian upbringing and education, the people are already favourably predisposed towards opinions which support Christianity, and consequently the persecution of infidels cannot be justified on the grounds that these opinions will mislead Christians. Moreover, as it is generally believed that people prefer the comfort of faith to the insecurity of doubt, persecution seems unjustified unless it is also believed that the Christian public at large is in danger of embracing non-belief. If anything, opposition to blasphemies serves mainly to advertise and give life to opinions which would otherwise die out of their own accord.⁴⁸ Such opposition usually amounts to little more than abuse which is ‘far easier and requires less time and application than argument’. In England, Christians would fare far better, Mill implies, by trying to offer

⁴⁵ His other examples include import-export merchants who regularly falsely swear regarding the quality and amount of their goods, and entrants to Oxford University who swear to obey the outdated statutes of the university. The argument here draws on Bentham’s writings on oaths – see the introduction to the letter at *CW XXII*, p. 12.

⁴⁶ *Morning Chronicle*, 12 February 1823, *ibid.* p. 15.

⁴⁷ *Ibid.* p. 16.

⁴⁸ Cf. *On Liberty*, *CW XVIII*, p. 239: ‘The real advantage which truth has, consists in this, that when an opinion is true, it may be extinguished once, twice, or many times, but in the course of ages there will generally be found persons to rediscover it, until some one of its reappearances falls on a time when from favourable circumstances it escapes persecution until it has made such head as to withstand all subsequent attempts to suppress it’.

reasoned arguments against the so-called blasphemers, thereby thinking out the basis of their own beliefs.

In this letter the emphasis is placed on the importance of rational argument for achieving truth in discussion, a position which mirrors the Socratic dialogues. However, Mill's position was developed no further in public: of the five letters mentioned, just three appeared in the *Morning Chronicle*. The other two, he explains in the *Autobiography*, contained materials which were considered too outspoken for publication.⁴⁹ The fact that the letters were considered too forthright for a radical newspaper (if such was indeed the reason for their non-appearance) demonstrates the precarious nature of press freedom at this time, as prosecutions of publishers continued and Carlisle remained in jail. But it was not publishers alone who risked the wrath of the censor. Around this time, it was later reputed, John Stuart Mill was himself arrested and brought before the magistrates on a charge of distributing obscene material.⁵⁰ The alleged incident involved the distribution of leaflets in working class districts, promoting artificial contraception as a means to alleviate the miseries that come with the bearing and upbringing of large families. Certainly there was such a scheme around this time organised by Francis Place,

⁴⁹ The final two letters are presumed lost.

⁵⁰ The incident gained notoriety after Mill's death when an obituary in *The Times* of 10 May 1873 reprinted a satire written by Thomas Moore, 'An Ode to the Goddess Ceres', which had appeared in *The Times* of 21 February 1826:

There are two Mr. M___'s, too, whom those that like reading
Through all that's unreadable, call very clever;
And, whereas M___ Senior makes war on *good* breeding
M___ Junior makes war on all breeding whatever!

The Times obituary prompted Gladstone to correspond privately with its author, Abraham Hayward, about the matter. In a letter dated 20 May 1873, Hayward wrote to Gladstone: 'Arthur Arnold called on me today and unequivocally admitted that Mill did circulate the antipopulation handbills and was prosecuted for it.... the fact of his and his father's advocacy of the *physical* check on population is beyond dispute' (Gladstone Papers, British Library, Add Mss 44,207 folios 128ff.). However, there seems to be no extant record contemporary to the event.

a friend of the Mill family, whose writings on the law of libel John Stuart was to review shortly afterwards (both men made contributions on the subject of population control later that year in the *Black Dwarf*).⁵¹ For whatever reason, the event is not recalled by Mill himself in the *Autobiography*, and he remained cautious on the issue of birth control in later life.⁵²

In May 1823 Mill wrote a leader in the *Morning Chronicle*, commenting on the petition for the release from imprisonment of Mary Ann Carlisle, a sister of Richard.⁵³ This article upbraids parliament for the ‘mental cowardice which prevents men from giving expression to their conviction, and the insincerity which leads them to express what they do not think’. However, it also admits that the question relating to Mary Ann Carlisle

⁵¹ The so-called ‘diabolical handbills’ (in volume 61 of the Place Papers in the British Library) were distributed by Place and his circle around this time (although Place was apparently not the author – an editor’s note at CW XXVI, p. 419, n. 3 suggests that they may have been written by Richard Carlisle). They are reproduced in Pedro Schwartz, *The New Political Economy of J.S. Mill* (London, 1972), Appendix 2, pp. 245–56. Schwartz discusses the incident of the young Mill’s involvement and claims that it most likely occurred in the summer of 1823, citing a letter which mentions the existence of the handbills at that time. Karl Britton, in his *John Stuart Mill* (New York, 1969), pp. 17–18, maintains that Mill actually spent time in jail for the offence and dates the incident to 1824. However, Britton’s explanation includes a detail of Mill walking to the East India House through Kensington Gardens and Green Park. Mill, however, still lived in Westminster in 1824: the family did not move to Kensington until 1831, so Britton’s story (which otherwise follows Michael St. John Packe’s *The Life of John Stuart Mill* (London, 1954), pp. 56–59) appears confused.

⁵² For example, in a letter to Thomas Joseph Haslam, dated 19 February 1868 (CW XVI, pp. 1363–64), Mill comments on a pamphlet dealing with the issue of birth control: ‘Nothing can be more important than the question to which it relates, nor more laudable than the purpose it has in view. About the expediency of putting it into circulation, in however quiet a manner, you are the best judge. My opinion is that the morality of the matter lies wholly between married people themselves, and that such facts as those which the pamphlet communicates ought to be made known to them by their medical advisers. But we are very far from that point at present, and in the meantime every one must act according to his own judgment of what is prudent and right’. That society was indeed ‘very far from that point’ even five years later was evident in the scandal caused by the revelation in *The Times* obituary, which resounded through all levels of society and politics. Gladstone subsequently dissociated himself from the committee established to erect a monument in Mill’s honour.

⁵³ *Morning Chronicle*, 9 May 1823, CW XXII, pp. 21–24.

‘was not so much free discussion itself, as the injustice which has been committed under a sentence levied against it’, the injustice being the inability of Richard Carlisle to pay fines levied against him, due to the confiscation of his property and the imprisonment of his staff. This article was the last of the shorter letters on practical issues which constituted Mill’s first writings on the topic of freedom of discussion. His next ventures would be more ambitious, in line with the beginning of his adult life on his seventeenth birthday in May 1823 when Mill joined his father in the Examiner’s Office at the East India House: there he spent his entire working life until his retirement thirty-five years later.

1.3 The Westminster Review

The establishment of the *Westminster Review* in 1823 gave a voice to the radical cause to rival those of the *Quarterly* and *Edinburgh* Reviews.⁵⁴ One of John Stuart Mill’s first tasks in relation to the new publication involved reading all issues of the *Edinburgh Review* in order to assist his father in writing a general commentary on that journal since its commencement, making ‘notes for him of the articles which I thought he would have to examine, either on account of their good or their bad qualities’.⁵⁵ In the *Westminster* of April 1824, Mill himself wrote the continuation of his father’s article, dealing with the *Edinburgh* since 1812.⁵⁶ Of the topics which he considers, freedom of discussion and the law of libel are singled out for special attention:

⁵⁴ The first issue of the *Westminster Review* was dated January 1824; see Nesbitt, *op. cit.*, pp. 34ff. For Mill’s own account of this time, see chapter 4 of the *Autobiography*, *CW I*, pp. 93ff.

⁵⁵ *Autobiography*, *CW I*, p. 95.

⁵⁶ ‘Periodical Literature: Edinburgh Review’, *Westminster Review*, vol. 1, April 1824, pp. 505–41, *CW I*, pp. 291–325. In the *Autobiography* (*CW I*, p. 95 n.) Mill comments that ‘except as practice in composition, in which respect it was to me, more useful than anything else I ever wrote’, this article was ‘of little or no value’.

Among the instruments of misgovernment which the rulers of this country have at their command, the law of libel is justly considered the most dangerous: as it enables them to free themselves from that which is in itself a considerable check upon them, and without which all other checks are ineffectual, free discussion. There is no legal definition of libel: there can be no definition, so long as libel law continues in its present state, that of common, or unwritten law.⁵⁷

The article holds that the *Edinburgh*, although ostensibly supporting liberty, supports the *status quo* and proceeds 'to surrender up all the essential points to the aristocracy'.⁵⁸ This topic of libel and liberty of the press was finally addressed at length by Mill in an article which appeared in the *Westminster Review* the following year.⁵⁹

The 'Law of Libel and Liberty of the Press' was Mill's first attempt to investigate and defend the foundations of intellectual freedom in a full-length article. It declares as its purpose to discover 'to what extent restraints upon the freedom of the press can be

⁵⁷ CW I, p. 297.

⁵⁸ Ibid. p. 298. More precisely, Mill comments (ibid. p. 299): 'Only entrust a judge dependant on the aristocracy, and a packed special jury, with the power of punishing all statements conveyed in what they may call inflammatory language; and nothing more is wanting to enable them to punish any statements whatever'. The article being criticised by Mill was by Henry Brougham, entitled 'Liberty of the Press and its Abuses', *Edinburgh Review*, vol. 27, September 1816, pp. 102–44.

⁵⁹ 'Law of Libel and Liberty of the Press', *Westminster Review*, vol. 3, April 1825, CW XXI, pp. 1–34. This is ostensibly a review of a series of articles (written anonymously by Francis Place, but whose identity was certainly known by Mill) on the law of libel and the Constitutional Association, as well as of a two-volume work by Richard Mence on the law of libel. (The Constitutional Association was formed in 1821 by a group of wealthy aristocrats, popularly known as the 'Bridge Street boys', who were determined to uphold government sanctions on the press by actively seeking out libellous publications: they had been active in securing the arrest of Mary Ann Carlisle. It was a short-lived movement, however, and quickly dissolved before the end of that year.) Francis Place's articles had appeared in 1822, and Mill had reviewed them briefly in the *Morning Chronicle* of 1 January 1824, holding that 'the comparative free discussion which we enjoy exists only by connivance, and would not exist at all, were it not forced upon the government by an enlightened public opinion' (CW XXII, pp. 91–94).

considered as warranted by sound principles of political philosophy' and to show that, in England, the liberty of the press exists 'not in consequence of the law but in spite of it'.⁶⁰ The position defended essentially follows the radical arguments and mode of procedure used in James Mill's article on the liberty of the press.⁶¹ But it also contains and develops ideas drawn from elsewhere (the young Mill had, after all, read quite extensively on the topic at this stage), and expresses many of the arguments which were subsequently to be used by him throughout his life. In the first instance, he draws the familiar distinction between the publication of facts and the expression of opinions.⁶² If opinions are to be restrained, the government will, of course, want to restrain those opinions unfavourable to itself and will regard such opinions as mischievous. But whoever decides which opinions should be heard and which silenced has absolute control over the minds of the people, 'and absolute power of suppressing all opinions would amount, if it *could* be exercised, to a despotism far more perfect than any other which has yet existed'.⁶³ Consequently, no line can safely be drawn between absolute freedom to express opinions on the one hand and absolute despotism on the other. Intellectual freedom is here, by implication, recognised as *the* fundamental liberty. The article maintains that the evils of freedom cannot, on a utilitarian calculation, be worse than the evils of restraint: where freedom of expression prevails, truth will always triumph over error.⁶⁴ However, those who seek to restrain the freedom of the press do so because they believe that there are certain subjects where open discussion does not

⁶⁰ CW XXI, p. 4.

⁶¹ *Loc. cit.*: 'We have no higher ambition than that of treading in his steps; and, taking his principles as our guide, we shall endeavour to unravel the sophistry, and expose the mischievous designs of the enemies to free discussion'.

⁶² *Ibid.* p. 5.

⁶³ *Ibid.* p. 7.

⁶⁴ Although this passage may seem to be at odds with what Mill was later to say in *On Liberty*, note that he is here speaking of truth and error competing within a free system,

enlighten but misleads: 'Among these are all the subjects on which it is the interest of rulers that the people *should* be misled; the political religion of the country, its political institutions, and the conduct and character of its rulers'.⁶⁵

Mill puts forward the idea that all objections to free discussion can be reduced to one idea: 'the incapacity of the people to form correct opinions'.⁶⁶ Yet, it is precisely lack of discussion which causes ignorance, and discussion alone which can remove ignorance. Discussion, therefore, tends to remedy any evils which it may cause. It is ignorance, not education, which produces the worst excesses: 'No people which had ever enjoyed a free press', he offers by way of illustration, 'could have been guilty of the excesses of the French Revolution'.⁶⁷ Thus freedom of discussion is unlikely of itself to incite revolution.⁶⁸ What those in government ultimately fear, however, is the unpredictability of change:

And though history does not prove that discussion produces evil, but the contrary, there is abundant proof from history, that it produces change: change, not indeed in any thing good, but in every thing that is bad, bad laws, bad judicature, and bad government. That it leads to such changes is the very reason for which it is most to be desired, but it is also the reason why short-sighted persons hold it in terror.⁶⁹

not about the persecution of truth where it does not receive fair play (cf. *On Liberty*, CW XVIII, pp. 237–38).

⁶⁵ 'Law of Libel and Liberty of the Press', CW XXI, p. 8.

⁶⁶ Ibid. p. 10.

⁶⁷ Ibid. p. 11. This idea is taken almost verbatim from James Mill's 1811 *Edinburgh Review* article, cited above at note 4.

⁶⁸ Such as Lord Ellenborough, cited above at note 22; see also Stefan Collini's introduction to CW XXI, p. xl.

⁶⁹ 'Law of Libel and Liberty of the Press', CW XXI, p. 11.

Those who wish to maintain the establishment as it exists – in effect, those who want to impede the natural course of progress (although Mill does not here expressly use the term ‘progress’) – are naturally going to be opposed to freedom of discussion and the changes which it can bring.

Later in the article, Mill returns to the distinction between opinions and facts to point out that while false opinions can be tolerated for the sake of true ones, there is no justification for similarly tolerating false statements of fact.⁷⁰ Facts depend on evidence, and there should be no restrictions on the publication of true facts since it is on these that the ability to form true opinions actually rests. Thus the truth of an allegation should be a sufficient defence against any accusation of libel (except perhaps in cases where the truth is of no interest to the public at large). Neither can public discussion be regulated on the basis of its tone (‘the doctrine that *calm* and *fair* discussion should be permitted, but that ridicule and invective ought to be chastised’), because this will introduce a further problem of who is to decide what precisely it is that constitutes fair discussion. Regarding indecent discussion, Mill simply quotes his father’s *Encyclopaedia* article on the topic, which points out the lack of definition of the term ‘indecent’ in English law.⁷¹ The article proceeds to discuss those works of which it is purportedly a review, before concluding that it is only where complete freedom of discussion prevails that good government can exist and human happiness can be at its most extensive. Thus a utilitarian justification for freedom of the press has been attempted, offering the conclusion that in the long-term, the freedom to express all opinions results in the greatest happiness for the greatest number of people.

⁷⁰ Ibid. p. 14: ‘It must be admitted that the case of facts, and that of opinions, are not precisely similar’.

This early work, written when Mill was just eighteen and before his famous 'mental crisis', has been dismissed on the grounds that it merely parrots the arguments of James Mill and that it is therefore of little or no interest. Stefan Collini, for example, describes it as 'of no great theoretical or literary interest... it is repetitive, somewhat crude, and at times simply boring. Its simplistic deductive logic is the hallmark of this early propagandist phase'.⁷² That Mill himself did not think highly of this and other early writings may be inferred from the fact that they were never republished by him. Yet, that he was not entirely displeased with the 1825 article in particular is equally implied in a passage from an early draft of the *Autobiography* which states that, compared to his earlier writings, his articles for the *Westminster Review* at that stage dealt with subjects 'much more level... with my acquirements and experience'.⁷³ Criticism of this early article other than for stylistic reasons is less warranted than may appear at first reading. Certainly Mill relies on his father's thought, but that essay was regarded as the classic statement of the radical position which the *Westminster Review* defended. These arguments were also echoed in the writings of Carlisle and his supporters at that time.⁷⁴ The young John Stuart Mill might be seen as articulating *in his own way* a particular line of thought which was very much prevalent at the time among those urging reform: here is a first attempt to promulgate a comprehensive case for freedom of discussion, using arguments which are used both implicitly and explicitly in his later writings. They

⁷¹ Ibid. p. 17: Mill quotes from his father that "'Decent" and "what the judge likes", have been pretty nearly synonymous' in the history of English law, adding 'And while *indecent* discussion is prohibited by law, they will always be synonymous'.

⁷² Introduction to *CW XXI*, p. xl.

⁷³ *CWI*, p. 98, n. 1-1.

⁷⁴ For example, a defence of the *Age of Reason* was made on the basis that the liberty of the press and free discussion were 'the principal bulwarks of the *liberty* and *happiness* of Mankind' (cited in Wickwar, *op. cit.*, p. 234). Carlisle described free discussion as 'the basis of every kind of reform' which can accomplish the 'happiness and highest

subsequently have become part of the classic arguments on the subject, in no small way because of *On Liberty*. This early piece remains the first full, formal articulation of the argument for freedom of the press in John Stuart Mill's career.

In July 1826 a review of Samuel Bailey's *Essays on the Formation and Publication of Opinions, and other Subjects* appeared in the *Westminster Review*. Written by James Mill, the article was later edited by John Stuart Mill and republished as a monograph after his father's death.⁷⁵ The article itself contains much that is also reflected in the younger Mill's work at the time – for example, the importance of factual evidence to establish truth, the ability of truth to stand its own ground in a fair discussion, the connection between people's interests and the formation of their opinions, and the importance of education to bring about improvement in the state of mankind. In the reprint of the article, however, its editor included an appendix of extracts from the original work which offer 'apt illustrations of the principles that have been explained'.⁷⁶ The second extract concerns the difference between the *conviction* that an opinion is true and the *proof* that an opinion is true. Bailey holds that:

Every one must, of course, think his own opinions right; for if he thought them wrong, they would no longer be his opinions: but here is a wide difference between regarding ourselves as infallible, and being firmly convinced of the truth of our creed.... Every man of common sense and common candour, although he may have no suspicion where his mistakes lie, must have this suspicion of his own

state of mankind', while those who oppose it constitute 'the enemy of the human race' (ibid. p. 241).

⁷⁵ James Mill, *The Principles of Toleration* (London, 1837; repr. New York, 1971 – page numbers used here refer to the reprint). See Keith Quincey, 'Samuel Bailey and Mill's Defence of Freedom of Discussion', *Mill News Letter*, Winter 1986, pp. 4–18.

⁷⁶ James Mill, *The Principles of Toleration*, p. 33.

fallibility; and if he act consistently, he will not seek to suppress opinions by force, because in so doing he might be at once lending support to error, and destroying the only means of its detection.⁷⁷

This argument was simply referred to in the 1837 reprint as ‘another important passage from the work of Mr. Bailey’. Its importance later became most evident as one of the central arguments for freedom of thought and discussion in *On Liberty*.

1.4 Conclusion

In 1826, prior to the ‘crisis’ in Mill’s intellectual development, the value of individuality is merely implicit: freedom of the press is regarded as the highest good on a political rather than a personal level, working primarily for the benefit of society generally rather than the happiness of distinct individuals.⁷⁸ John Stuart Mill’s later shift from the notion of collective happiness as a political aim to individuality as a defence against ‘collective mediocrity’ came about as the result of many factors and influences.⁷⁹ Certainly, he later believed that he did not realise his own identity until after the winter of 1826–27, but neither did he entirely shake off in later life the intellectual acquisitions of his boyhood. Not least among these acquisitions was a commitment to freedom of discussion. James Mill’s passion for and belief in freedom of thought and discussion as a fundamental requirement for human happiness was assimilated early in life by his son. John Stuart Mill’s writings from this time constitute an important milestone on the road to *On Liberty*, containing the seeds which bore fruit in his later work. They stand as a tribute to the mind of James Mill as much as to that of his eldest son.

⁷⁷ Ibid. pp. 39–40.

⁷⁸ In the *Autobiography*, Mill points out on numerous occasions the difference in public attitudes to freedom of discussion in his youth and in his later life; see for example *CW* I, pp. 47, 89, 109 and 245–47.

⁷⁹ *On Liberty*, *CW* XVIII, p. 268.

CHAPTER 2

THE AFTERMATH OF THE 'MENTAL CRISIS'

The 'mental crisis' experienced by John Stuart Mill at the age of twenty was first brought to public knowledge by Mill himself who devoted a whole chapter of his *Autobiography* to the autumn of 1826 and its aftermath.¹ This depression brought insights into his own upbringing and mental development, and with them an openness to others whose intellectual background was almost diametrically opposed to the narrow utilitarianism for which he had been a proponent.² Consequently, further factors such as a new-found appreciation of the poetry of Wordsworth, an acquaintance with the political thought of Comte and the Saint Simonians, and Macaulay's March 1829 attack in the *Edinburgh Review* on James Mill's essay on government, all compounded the situation, driving him towards a deeper questioning of his intellectual inheritance. But just how far Mill strayed during this period from the tradition in which he had been brought up is a moot point: the *Autobiography* claims that he never allowed his intellectual inheritance 'to fall to pieces', but that he amended 'the fabric of my old thought and opinions' as necessary.³ In this manner he was using 'Goethe's device, "many-sidedness", [which] was one which I would most willingly, at this period, have taken for mine'.⁴

Such a motto certainly is favourable to freedom of expression – if many-sidedness is to be completely achieved, then all arguments pro and con must surely be heard (a point later

¹ *Autobiography*, Chapter 5, CW I, pp. 136–91.

² 'I fell more and more into friendly intercourse with our Coleridgian adversaries in the [debating] Society, Frederick Maurice and John Sterling.... I had carried away from them much that helped to build up my new fabric of thought, in the same way as I was deriving much from Coleridge, and from the writings of Goethe and other German authors which I read during those years', *Autobiography*, CW I, pp. 159–61.

³ *Ibid.* p. 163.

made in *On Liberty*) – and the evidence points to Mill's continued support for intellectual freedom. But not all commentators agree on this point. John Robson, for example, has held that:

At the height of his revolt against Benthamism, Mill ceased to defend freedom of thought and inquiry, thinking it merely a manifestation of a 'transitional' state of society, and held, with Comte and the Saint Simonians, that only those specially qualified on social topics should be allowed not only to express, but even to form, opinions on matters of social importance.⁵

Similarly, Alexander Brady's discussion of *On Liberty* in the *Collected Works* itself 'officially' endorses such a view when he claims that 'In the 1830s... [Mill] confessed fears about unlimited free debate. He then doubted that magnifying discussion would necessarily magnify political wisdom, or strengthen public judgement, especially when it affected the fundamental principles underlying the authority of the national state'.⁶ This interpretation has been coloured primarily by Gertrude Himmelfarb's thesis of the 'two Mills' – the notion that the 'real' Mill supported principles very different from the ideas put forward in *On Liberty*.⁷ Making much of works written by Mill in the 1830s which reflected his admiration for certain ideas of the Saint Simonians, Himmelfarb concludes that 'Few critics of *On Liberty* have gone so far as Mill himself, on other occasions, in disputing the absolute value of absolute freedom of discussion'.⁸ The

⁴ Ibid. p. 171.

⁵ John Robson, *The Improvement of Mankind* (London, 1968), p. 100.

⁶ Alexander Brady, 'Introduction', *CW XVIII*, p. lv.

⁷ Gertrude Himmelfarb, *On Liberty and Liberalism: The Case of John Stuart Mill* (New York, 1974); see also Joseph Hamburger, *Intellectuals in Politics: John Stuart Mill and the Philosophic Radicals* (New Haven, Connecticut and London, 1965).

⁸ Himmelfarb, *op. cit.*, p. 55.

grounds on which she arrives at this conclusion, I contend, derive from a selective reading of Mill's works, especially from his writings of the early 1830s, and a closer reading demonstrates that her picture is distorted.⁹ In the aftermath of his mental crisis, Mill certainly questioned and diverged from many of the opinions of his upbringing. But he retained his belief in the necessity of freedom of thought and discussion for the well-being of society as a security against corrupt government, the perspective inherited from the Radical tradition.¹⁰ However, his growing awareness of the importance of intellectual freedom to individual growth and personal development now became more pronounced.

2.1 The gradual change

In the aftermath of his mental crisis, Mill gradually withdrew from his earlier surroundings and friends, eventually abandoning the debating society which he had founded earlier in the decade. His speeches to that gathering after the winter of 1826–27, however, offer some insight into the workings of his mind at this time, not least on the issue of freedom of expression. They reveal a gradual rather than a radical shift from the ideas expressed a few years previously. For example, in a speech on the Church, delivered on 15 February 1828, Mill echoes his earlier forays into the issue of freedom of the press by alluding again to the trials endured by Richard Carlisle and his followers, explaining: 'I never thought him a good reasoner: but he is what I respect infinitely more, he is a man of principle... shall I, because this man is not a good logician... be deterred from expressing my

⁹ The works cited by Himmelfarb include 'The Spirit of the Age' (a series of articles in the *Examiner*, January to May 1831), 'De Tocqueville on Democracy in America' (*London Review*, October 1835), 'Civilization' (*London and Westminster Review*, April 1836) as well as several letters of the period. Her comments on 'Coleridge' are addressed in Chapter 3 of this thesis.

¹⁰ Discussed in Chapter 1 of this thesis.

disapprobation of [his] prosecutors by a cry of impiety?'.¹¹ He goes on to add: 'I am an enemy to church establishments because an established clergy must be enemies to the progressiveness of the human mind.... [whereas] I hold, that it is the nature of the human mind to be progressive'.¹² By 'progressive' he means that the human mind is capable of profiting from experience, but 'we become better qualified to profit by experience in proportion to the culture of our intellectual faculties, and of that culture there are two great instruments, education and discussion'. By way of example of such progress he cites instances in history where access to education and discussion has been impeded by despotism or by the clergy, and the progressive tendency has consequently been halted; but in countries such as England, France and America, he believes, the human mind 'will continue to advance, not only with an unretarded, but as it has done during the last twenty years, with a rapidly increasing pace'.¹³

Turning to religion and morals, Mill holds that 'it is highly probable that there is room for improvement in both'. However:

I shall not chuse to rest my case upon any argument which implies that it is possible for an established opinion to be wrong. I will suppose that our clergy teach no opinions but such as are right.... It is not the less true that in the progress of human improvement, every one of these opinions comes to be questioned. The good of mankind requires that it should be so. The good of mankind requires that nothing should be believed until the question be first asked, what evidence there is for it.

The very idea of progressiveness implies not indeed the rejection, but the

¹¹ *CW XXVI*, p. 419. Mill had previously defended Carlisle and his entourage in the 1820s, as noted in Chapter 1 above. The activities of the Constitutional Association are also mentioned in the 1828 speech – see *CW XXVI*, p. 421.

¹² *CW XXVI*, p. 424.

questioning of all established opinions. The human intellect is then only in its right state when it has searched all things, in order that it may hold fast by that which is good.¹⁴

Yet while ‘discussion always accompanies improvement’, Mill had conceded earlier in his speech that there are instances where two opponents are so divided on a question that there is not ‘much prospect of advantage in a debate, at least if the end in view be mutual persuasion’. He adds that he ‘should despise the man who, having previously been of a different opinion, could be convinced in an evening’ by the arguments of an opponent. However:

I do not... think that a discussion of this sort is wholly useless. Though it does not enable us to compare our several views, it enables all of us to know what they are; which I cannot but consider a point gained in favour of truth and fair dealing, since I think I have observed that much of the misrepresentation and misunderstanding which take place in public and in private life, and very serious impediment to the fair and legitimate collision of opinion arises from real *bonâ fide* ignorance on one side, of the views and principles of the other.¹⁵

Thus discussion can be an instrument of improvement not only through its contribution to the discovery of truths and the exposure of falsehoods, but also as a tool which brings

¹³ Ibid. pp. 424–25.

¹⁴ Ibid. pp. 425–26: cf. *On Liberty*, Chapter 2, which sets up the argument along the same lines.

¹⁵ CW XXVI, pp. 423–24. The theme of the progressive nature of the human mind was again central to a speech on ‘Perfectibility’ of 2 May 1828 (CW XXVI, pp. 428–33). Here he held that ‘a vast majority of those who laugh at the hopes of those who think that man can be raised to any higher rank as a moral and intellectual being, do so from a principle very different from wisdom or knowledge of the world’.

about an appreciation of and toleration towards an opponent's argument, although one may not agree with that opponent. Discussion is of value, therefore, not simply for the discovery of truth but also for the development of toleration in society. At this stage the dogmatic edge of utilitarian narrowness in Mill's own attitudes appears to be softening. Moreover, there is not a notion of the 'absolute value of absolute discussion', as Himmelfarb has it, but a realistic appreciation of the variety of effects – good, bad and indifferent – which discussion can bring about in society.

Just one year later, in a letter dated 11 March 1829 to the Frenchman Gustav d'Eichthal, a member of the Saint Simonians, Mill writes of the first reading of the Catholic Emancipation Bill which had been discussed in the House of Commons just days previously.¹⁶ Describing the importance of the measure to England as constituting 'an era in civilization', he continues:

It is one of those great events, which periodically occur, by which the institutions of a country are brought into harmony with the better part of the mind of that country – by which that which previously existed in the minds only, of the more intelligent portion only of the community, becomes the law of the land, and by consequence raises the whole of the community to its own level.... Much as we have improved in the last 20 years, it is only a part of us that has improved, there remained millions of men in a state of the same brutal ignorance and obstinate prejudice in which they were half a century ago. But this measure will bring forward the rear-guard of civilization: it will give a new direction to the opinions of those who never think for themselves, & who on that account can never be changed unless you change their

¹⁶ CW XII, pp. 26–28.

masters & guides. The intelligent classes lead the government & the government leads the stupid classes.¹⁷

This passage demonstrates the practical application to reality of Mill's theoretical views expressed in the debating society, and sets the platform from which much of his thought of the time emanated. Moreover, it reflects an opinion from which Mill never subsequently departed any great distance. Here is a picture of society not unlike that envisioned by his father, where classes and difference are recognised, and also where the intellectual improvement of all is a goal to be aimed at. There is another element here too, however: a class which naturally leads society due to its intellectual endowment. But for Mill there is also the hope of improving the remainder of mankind, including the 'stupid' classes, rather than merely maintaining some kind of intellectual aristocracy which excludes the majority – the intellectual element 'raises the whole community to its own level'.

2.2 *'The Spirit of the Age'*

Himmelfarb, in her review of Mill's writings from the early 1830s, identifies his foremost aim as being to achieve a distinct intellectual aristocracy as the rulers of society. She correctly identifies the theme of 'The Spirit of the Age' as one of putting forward a theory of history derived from Comte, and implies that Mill's choice of the terms 'natural' and 'transitional' to describe Comte's organic and critical eras was a deliberate attempt to conceal or disguise his Saint Simonianism.¹⁸ She contrasts Mill's later defence of freedom

¹⁷ Ibid. pp. 27–28.

¹⁸ Himmelfarb, *op. cit.*, p. 37, n. 28, holds that 'Mill's choice of words is revealing. To the English ear, "natural" has a more favorable connotation than "organic" or "static"; conversely, "transitional" is more pejorative than "critical" or "dynamic".' However, Himmelfarb overlooks the fact that the adjective 'organic' had previously been popularised by Edmund Burke to describe a static society, but subsequently utilised by Coleridge to mean the opposite (see Richard Holmes, *Coleridge*, Oxford, 1982, p. 74). Mill probably chose the different term simply to avoid confusion.

of discussion (which holds that discussion must prevail if truth is to be discovered at all) with Mill's characterisation of the discussion prevalent in an age of transition, where society is changing its underlying paradigms and which is therefore more conducive to the exposure of error than to the discovery of truth. Moreover, Himmelfarb hints that Mill is at loggerheads with any defence of freedom of discussion when he criticises the view which holds that all judgements deserve equal weight, that an uninformed opinion is of equal value to an informed judgement made by someone familiar with the subject at hand.¹⁹ She quotes passages at length to demonstrate that 'so far from being an absolute good, freedom of discussion appeared, in these articles, as at best a very mixed good, at worst a necessary evil; and rather than furthering the advance of truth, it was seen as hindering, as often as not, the acquisition of truth and, still more, of wisdom'.²⁰

This assessment misses Mill's point entirely: from him, discussion must never be restricted, including that which does not immediately aid the discovery of truth. However, discussion must ultimately aim to inspire learning and reflection rather than remain at the level of a point-scoring battle of wits, a situation which generally prevails in transitional eras when people are uncertain and new beliefs and opinions are actively sought to fill the void which remains once traditional doctrines have been abandoned. That Himmelfarb's interpretation is inaccurate can be demonstrated through a detailed examination of the articles which make up 'The Spirit of the Age'.²¹ Mill's starting point is society in an era

¹⁹ Himmelfarb, *op. cit.*, pp. 37–38.

²⁰ *Ibid.* p. 41.

²¹ The articles appeared in the *Examiner* between January and May 1831 (CW XXII, pp. 227ff.). That Mill planned further articles in the series is evident from his statement in the last of these articles (29 May 1831) that 'I shall resume my subject as early as possible after the passing of the Reform Bill' (p. 316), but also in a letter dated 20–22 October of that year to John Sterling (CW XII, p. 80) which says 'I have nothing in view for the public just now, except (when the Reform Bill shall have past) to resume my series of papers headed the Spirit of the Age'. Nothing appears to have come of these plans.

of change, reflecting the mood which then prevailed in the run-up to the Reform Bill. In such circumstances, the fact that doctrines accepted by the population of a previous era are no longer generally regarded as true may, perhaps, be thought to be the result of a pervading increase in wisdom. Mill quickly professes himself unable to adopt such a theory because 'Though a firm believer in the improvement of the age', the achievement being wrought is one of 'the *diffusion of superficial knowledge*'. And while 'The persons who are in possession of knowledge adequate to the formation of sound opinions by their own rights' are constantly growing in number, 'it would be carrying the notion of the march of intellect too far, to suppose that an average man of the present day is superior to the greatest men of the beginning of the eighteenth century'.²² Mill is making a very specific point here. He is certainly not making a point or an argument concerning freedom of discussion in general. If people believe that an increase in the amount of discussion reflects a general increase in wisdom they are, Mill believes, mistaken: 'The progress we have made, is precisely the type of progress which increase of discussion suffices to produce, whether it be attended with increase of wisdom or no'. And although it is by discussion that true opinions are initially discovered and are spread, 'this is not so certain a consequence of it as the weakening of error'.²³ Himmelfarb cites passages such as this to demonstrate that Mill's commitment to absolute freedom of discussion as a means towards discovering truth was not a position which he supported at this stage. Mill's argument, however, is much more complex. The passage cited above continues:

To be rationally assured that a given doctrine is true, it is often necessary to examine and weigh an immense variety of facts.... All the inconsistencies of an opinion with itself, with obvious facts, or even with other prejudices, discussion

²² CW XXII, p. 232.

²³ Ibid. p. 233.

evolves and makes manifest: and indeed this mode of refutation, requiring less study and less real knowledge than any other, is better suited to the inclination of most disputants.²⁴

The point being made here is that discussion will *suffice* to bring out the weak points of an opponent's argument – a fact of which Mill was totally aware from his years in the debating society. But merely pointing out the loopholes in an opponent's argument will not necessarily add to the store of truths discovered. On many issues (note that Mill does not say on *all* issues) informed rational judgement and calm reflection after the fact are also an integral part of the discovery of truth. Discussion alone is not always sufficient to achieve this. At the end of the first article in the series, Mill explicitly says that he is *not* denying that truth is constantly being discovered and error rooted out in all branches of knowledge. But the wisest people in every era are wiser than those who have gone before, because they learn and profit from the ideas of their forbears, and if the multitude (by which he means the majority of *all* ranks) are nearer to the truth in one age than in another 'it is only because they are guided and influenced by the authority of the wisest among them'.²⁵

The authority under consideration here is the informal and invisible authority of wisdom. In her attempt to place Mill firmly in the camp of the Saint Simonians (and thereby demonstrate his authoritarianism in order to prove that his later defence of freedom of discussion is not genuine) Himmelfarb misses the subtlety of the point being made.²⁶ There is no suggestion in this first article of the series that freedom of discussion should not apply to all. What Mill, in effect, has done in attempting to see the issue from all sides

²⁴ Ibid. pp. 233–34.

²⁵ Ibid.

is to put the case against discussion, concluding that, when used without further intellectual input, its achievement is little. Thus in a letter to Gustav d'Eichthal, dated 9 February 1830, he says 'I have a great dislike to controversy, and am persuaded that discussion, *as* discussion, seldom did any good'.²⁷ Similarly, a letter of 18 May 1833 to Carlyle, quoted by Himmelfarb in support of her thesis, says, 'I have not any great notion of the advantage of what the "free discussion" men call the "collision of opinions", it being my creed that truth is *sown* and germinates in the mind itself, and is not to be struck *out* suddenly like fire from a flint by knocking another hard body against it'.²⁸ Again, Himmelfarb omits the continuation of this latter passage: 'so I accustomed myself to *learn* by inducing others to deliver their thoughts, and to teach by scattering my own, and I eschewed occasions of controversy'. The point being made here is that Mill avoided situations where discussion can be reduced to mere adversarial point-scoring: the collision of opinions in such situations does not bring forth truth in the manner which reflection can do. But Mill still engaged in discussion, by getting others to share their opinions with him, he in turn sharing his thoughts with them. There is no argument here against freedom of discussion: Mill is certainly pointing out the shortcomings of controversy and argument, but he cannot be said to conclude that discussion should therefore be restricted to an intelligentsia.

The second article of the series expands on the theme of the first, remarking that in an age of transition, the multitude of people have no guide 'and society is exposed to all the errors and dangers which are to be expected when persons who have never studied any branch of knowledge comprehensively and as a whole attempt to judge for themselves upon

²⁶ Himmelfarb, *op. cit.*, p. 42; see also Hamburger, *op. cit.*, pp. 76–96.

²⁷ *CW XII*, p. 45.

²⁸ *CW XII*, p. 153, quoted in Himmelfarb, *op. cit.*, pp. 47–48.

particular parts of it'.²⁹ Furthermore, 'as in an age of transition the source of all improvement is the exercise of private judgement, no wonder that mankind should attach themselves to that, as to the ultimate refuge, the last and only resource of humanity'. But while consensus can be reached in the physical sciences, no such unanimity exists in the moral sciences. Consequently, those who have spent little or no time in reflection upon the vagaries of morality, politics and the like tend to believe themselves in possession of true knowledge which is of equal value to that possessed by those who have taken time to understand fully the issues involved.³⁰

To say that the majority of people lack the intelligence or mental maturity to appreciate all the subtleties of political or moral discourse may suggest the notion of a natural

²⁹ 'The Spirit of the Age II', *Examiner*, 23 January 1831, *CW* XXII, pp. 238–39.

³⁰ The difference between the physical and moral sciences continued to be one of Mill's favourite themes and he later expanded on it in an early draft of his *Autobiography* (quoted in part by Hamburger, *op. cit.*, p. 82; these rejected leaves are reprinted in *CW* I, Appendix G, pp. 614–15; the actual passage is at R105–6). Explaining that he was previously familiar with the idea that liberty of thought is purely nominal in mathematics and physics, he says that he derived directly from Comte the belief that the same certainty would be possible in moral, political and social knowledge if those branches of knowledge were as advanced as the mathematical and scientific. In a draft which is earlier still, he adds: 'My hopes of improvement in these respects had hitherto rested upon the reason of the multitude, improved as I hoped it might be by education. I henceforth saw that this was not the best, and not even a reasonable hope. Without becoming in the smallest degree less zealous for every practicable increase of the knowledge and improvement of the understanding of the many, I saw that they were never likely to be qualified for judges in the last resort of political any more than of physical truths' (*ibid.*, p. 615, n. *b–b*). The passage continues by positing an agreement on moral and political subjects among intelligent people who lack a sinister motivation; the less educated multitude would, in turn, recognise the superior intelligence of this group and thus defer to them on matters with which they realised they were incapable of thoroughly dealing. However, Mill further amended the passage to read: 'I did not become one atom less zealous for increasing the knowledge and improving the understanding of the mass; but I no longer believed that the fate of mankind depended on the possibility of making all of them competent judges of questions of government and legislation'. He concluded 'This was a view of matters which, as it seemed to me, had been overlooked, or its importance not seen, by my first instructors: and it served still further to widen the distance between my present mode of thinking and that which I had learnt from Bentham and my father' (*ibid.* pp. 615–16). The final draft contained none of this.

intellectual hegemony among mankind. However, Mill dispels any idea of natural elitism when he explains his reasons for arriving at this conclusion. People are not predisposed towards the better use of their intellect as a consequence of natural superiority. Rather, some are intellectually superior as a consequence of the education they have received. In 1831, most people lacked the leisure and opportunity to study and experience everything that leads to the truth of the disputed sciences. As far as Mill could see, this was the way things would remain for some time: 'As long as the day consists but of twenty-four hours, and the age of man extends to but threescore and ten, so long (unless we expect improvements in the arts of production sufficient to restore the golden age) the great majority of mankind will need the far greater part of their time and exertions for procuring their daily bread'.³¹ Mill concedes that even the greatest disadvantages will not hinder some exceptional individuals, but he holds that most people find their level of excellence not in understanding metaphysics or morals but in their own particular daily work. Neither does he deny that such people may lack the ability or potential to achieve great things. However, as long as the social situation of the early nineteenth century were to pertain (and Mill here does not question whether it should), when the era of transition passes away, the majority will be best served by realising that the opinions of the more informed are superior to their own, thereby accepting their lead. Mill does not say that the less informed must defer to the better informed in everything. And it does not follow, he points out immediately, that people are therefore not to use their own intellects. Everybody should and must acquaint themselves with all the facts available to them. But where their information and ability can stretch no farther, they should acknowledge that the wisdom of their (benevolent) intellectual superiors is more valuable than their own.³²

³¹ CW XXII, p. 241. Himmelfarb, *op. cit.*, p. 39, omits these sentences when quoting from this passage.

Such an idea might be interpreted as elitist and authoritarian, but Mill is at pains to explain his position, answering objections and finally reducing his argument to the point that the ignorant and half-instructed should not throw off all authority and trust only their own uninformed judgement. There is not ‘a truth in the whole range of human affairs, however obvious and simple, the evidence of which an ingenious and artful sophist may not succeed in rendering doubtful to minds not very highly cultivated, if these minds insist upon judging of all things exclusively by their own lights’.³³ But this is not to condemn the uneducated to a life of servitude – education is always a possibility and remains necessary for all. To submit to the superior intellect of others and to accept their guidance should never be a permanent state for any class in society.

There may be a sense in which Mill appears to be attempting to straddle both camps at this stage, and to be taking the exact opposite standpoint from that of his 1825 article on the liberty of the press.³⁴ There, on the grounds that nobody was qualified to judge for another which opinions were worthy of acceptance and which were not, he confidently echoed his father in defending the rights of all people to form their own opinions. But note that he does not deny them this right in the later articles: by recognising their need to defer to others they are recognising their own shortcomings. Moreover, there is an important difference of intent: in ‘The Spirit of the Age’ Mill is defending a theory of history, *not* a theory of freedom of expression. Intellectual freedom plays a prominent role within that theory of history: in eras of transition, the ideas of the former age are called into question until such time as new ideas are agreed upon to replace the old, allowing society to settle into a new period of stability, until such time as those ideas are in turn questioned, and the

³² CW XXII, p. 242.

³³ Ibid. p. 244.

³⁴ ‘Law of Libel and Liberty of the Press’, *Westminster Review*, April 1825 (CW XXI, pp. 1–34), discussed in Chapter 1 above.

cycle continues. The era in which Mill was writing, with the Reform Bill and the upheaval of the preceding years, possessed all the characteristics of a transitional era.³⁵ But it is evident that whether society is characterised by the uncertainty which prevails in transitional periods, or by the widespread acceptance of ideas which characterises the period that follows such a phase, intellectual freedom must prevail in both types of era. In the so-called 'natural periods' people are less inclined to question accepted ideas, but Mill does not hold that they *should* not be allowed to question everything: it is simply a matter of empirical fact that people generally do not. These situations are in turn governed by the practical issues of survival – not everybody has the time or money to spend on the education which will bring enlightenment. If it were possible to achieve a society in which this practical barrier were overcome, then presumably people would be better informed and educated. That John Stuart Mill at twenty-five apprehended the practical impossibility of such a state of affairs reflects a departure from his earlier optimism, and the realisation, born from his mental crisis, that the earlier vision was over-simplistic.

In the remaining five articles of the series, Mill developed further the themes of the first two, pointing out that society needs periods of both intellectual and political stability if it is to grow and improve. It is not the materially well-off but the intellectually wealthy who are the best guides for society. By urging the submission to the authority of the wiser opinion he does not mean that people should merely ape their betters: 'it may be almost a misapplication of terms to say that a man believes a fact, although he may never dream of doubting it.... We can hardly be said to believe that, which we do not conceive with any

³⁵ See Mill's letter of 20–22 October 1831 to John Sterling (CW XII, p. 77), where he says, 'In the present age of transition, everything must be subordinate to *freedom of inquiry*; if your opinions, or mine, are right, they will in time be unanimously adopted by the instructed classes, and *then* it will be time to found the national creed upon the assumption of that truth'.

distinctiveness or vivacity'.³⁶ This re-emphasises Mill's stance against elitism in the realm of opinion. People have to contribute to what they learn from others, to put themselves in the intellectual position of the other, to use their minds actively rather than mimicking those whose ideas they have adopted.³⁷

In the two instalments of 'The Spirit of the Age' which became the conclusion of the series, Mill attempts to measure his theory of history against reality. He points to the role which the Roman Catholic clergy had played as intellectual guides during the medieval era, how the power they wielded – despite the poor backgrounds from which many of their number were drawn – could have been used to bring about greater equality at a social level ('the natural equality of mankind') but instead was used to restrain the expansion of intellect.³⁸ As soon as people began to question the status quo in the age of transition which inevitably followed this period, the clergy's place was taken by the wealthy and powerful, and intellectual pursuits became less and less dominant in the uncertainty of the age. The wealthy classes now became the opinion-forming class, and actively sought to protect *their* interests by preventing the spread of opinions which they deemed unacceptable. 'They must, therefore', Mill concludes 'be divested of the monopoly of worldly power, ere the most virtuous and best-instructed in the nation will acquire the ascendancy over the opinions and feelings of the rest, by which alone England can emerge from this crisis of transition, and enter once again into a natural state of society'.³⁹

³⁶ CW XXII, p. 293.

³⁷ C.L. Ten's otherwise excellent assessment of the issue in his 'Mill on Liberty' (*Journal of the History of Ideas*, vol. 30, 1969, pp. 47–68) overlooks this aspect of 'The Spirit of the Age', and instead dates Mill's ideal of 'knowing the truth' to his 1832 article 'On Genius'; Ten's article is reprinted in *John Stuart Mill: Critical Assessments*, ed. John Cunningham Wood (London, 1991) vol. 1.

³⁸ CW XXII, pp. 305–6.

‘The Spirit of the Age’, it has been suggested, ‘derives its peculiar interest from the fact that it shows Mill almost at the height of his reaction against his earlier views’.⁴⁰ This may well be the case. But the extent of that reaction may well have been exaggerated, not least by Mill himself. One thing is clear: there is no evidence of a change in Mill’s support for freedom of expression. What had changed, however, was his attitude towards the value of disputation between adversaries in the discovery of truth: a new appreciation of many-sidedness became evident, and the dogmatic edge of his younger voice became softened.⁴¹ He now saw that education of the rational faculties to the exclusion of others is but a questionable method of bringing about improvement, and occasionally expressed the opinion that it might be the least effective manner of proceeding.⁴² Mill sought approval of his vision of historical process from his Saint-Simonian correspondent.⁴³ However, nowhere did he suggest that freedom of discussion should be prohibited or even limited. Where discussion is restricted, the result would be stagnation.

In considering ‘The Spirit of the Age’, Himmelfarb raises the point that whereas in *On Liberty* Mill is critical of received opinion, in the earlier articles it ‘represented the best

³⁹ Ibid. p. 316.

⁴⁰ F.A. von Hayek, ‘John Stuart Mill at the Age of Twenty Five’, introductory essay to *John Stuart Mill, The Spirit of the Age* (Chicago, 1942), p. viii.

⁴¹ Letter to d’Eichthal, 9 February 1830 (CW XII, p. 46): ‘I will read the books of those from whom I differ, I will consider patiently and mature in my own mind the ideas of which they suggest, I will make up my own opinion, and set it forth with the reasons. When I see any person going wrong, I will try to find out the fragment of truth which is misleading him, & will analyse and expound that; I will suggest to his own mind not inculcate in him as from mine the idea which I think will save him.... In short, I do not insist upon making others give up their own point of view & adopt mine, but I endeavour myself to unite whatever is not optical illusion in both.’

⁴² Ibid. p. 47: ‘It appears to me utterly hopeless and chimerical to suppose that a regeneration of mankind can ever be wrought from working on their opinions. I think that mankind in general, and I am sure that my own countrymen, are in a state of mind which renders them incapable of receiving a true *doctrine generale*, or even of understanding it in a true sense if they did receive it’.

⁴³ Letter to d’Eichthal, 1 March 1831, CW XII, p. 71.

thought of the best minds, a consensus of truth which the educated could arrive at by a process of reasoning and the uneducated by accepting the authority of the educated'.⁴⁴ But this is surely to confuse Mill's theory. In society's natural state, those who have the time and ability to study and think upon the issues will inform and lead public opinion. In an age of transition, public opinion is formed by the whims of discussion and argument which tend to concentrate on the less important matters:

In turbulent times, knowledge of life and business are rapidly obtained; but a comprehensive knowledge of human nature is scarcely to be acquired, but by calm reflexion and observation, in times of political tranquillity; for when minds are excited, and one man is ranged against another, there are few who do not contract an invincible repugnance, not only to the errors of their opponents, but to the truths to which those errors are allied.⁴⁵

The obvious difference between informed public opinion and mere hearsay is a distinction retained in Mill's later writings, including *On Liberty*. The 'received opinion' differs from age to age and, moreover, Himmelfarb is not really comparing like with like: in *On Liberty* Mill is speaking of the *hidden pressure* to conform in a democracy; in the 1831 articles he is speaking of the *explicit ideas* which are dominant in society. Additionally, Himmelfarb's conclusion that 'The Spirit of the Age' was questioning and ambivalent in relation to freedom of discussion seems neither accurate nor fair. Thus discussion *does* have a downside, but that does not reduce its benefits nor deny the value of freedom of expression. That Mill did not republish the series may well be a reflection of the fact that his *Dissertations and Discussions* contained only longer writings from periodicals (not

⁴⁴ Himmelfarb, *op. cit.*, p. 42.

⁴⁵ 'The Spirit of the Age IV', CW XXII, p. 295.

newspapers), rather than because he felt embarrassment at ideas espoused in his youth, as Himmelfarb maintains.

2.3 *Growing individualism*

Mill spoke further about the necessity of fostering individual intellect in an 1832 article for William Johnson Fox's *Monthly Repository* in the form of a letter entitled 'On Genius'.⁴⁶ The importance of encouraging individuals to exercise their intelligence rather than to parrot someone else's opinions is to the fore: 'it is not given to one man to *answer* those questions for another. Each person's own reason must work upon the materials afforded by that same person's own experience. Knowing comes only from within; all that comes from without is but *questioning*, or else it is mere *authority*'.⁴⁷ It is not impossible that genius should be the possession of everybody: Mill suggests that if a culture were so suited, everyone could possess genius, but all cannot necessarily possess it in equal measure.⁴⁸ He praises the dialectic of the ancient Greeks precisely because it taught men to think for themselves rather than treating them as knowledge boxes, and condemns modern education as 'all *cram* – Latin cram, mathematical cram, literary cram, political cram, theological cram, moral cram'.⁴⁹ Genuine discussion has been displaced by the learning of lessons by rote, thinking for oneself has become a forgotten skill, and people aspire no higher than to possess the same opinions as those of their peers. The letter concludes with an appeal: 'Let the feelings of society cease to stigmatize independent thinking, and divide its censure between a lazy dereliction of the duty and privilege of thought, and the

⁴⁶ *Monthly Repository*, October 1832, CW I, pp. 327–39.

⁴⁷ *Ibid.* p. 332.

⁴⁸ *Ibid.* p. 334.

⁴⁹ *Ibid.* p. 337. In a letter to Thomas Carlyle dated 2 October 1832 (CW XII, p. 128) Mill says of his own education: 'Fortunately, however, I was not *crammed*; my own thinking faculties were called into strong though but partial play; and by their means I have been enabled to *remake* all my opinions'.

overweening self-conceit of a half-thinker, who rushes to his conclusions without taking the trouble to understand the thoughts of other men'.⁵⁰

'On Genius' is important for a number of reasons. In the first place, it contradicts entirely the thesis put forward by Himmelfarb concerning Mill's attitude to discussion during this period of his life (in her assessment of Mill on freedom of discussion, Himmelfarb does not refer to this work). Here are opinions very much in keeping with *On Liberty*. Genius is not confined to an intellectual elite but, given the right circumstances, is regarded as within the reach of all. Nor is discussion a mixed good or a necessary evil which hinder truth and wisdom.⁵¹ If anything, the work demonstrates the necessity of assessing arguments within the context of their creation, and of identifying the end which they are created to fulfil. 'The Spirit of the Age' puts forward a theory of history; 'On Genius' provides a retort to a letter on the same subject which had previously appeared in the *Monthly Repository*: neither was created primarily as an argument for freedom of discussion.

It was, perhaps, Mill's recognition of history as process – a theme which was popular, albeit after a different fashion, in German thought at the time, especially in the philosophy of Hegel – that prompted Carlyle to view 'The Spirit of the Age' as somewhat mystical.⁵²

⁵⁰ CW I, pp. 338–39.

⁵¹ See Himmelfarb *op. cit.*, p. 41. In an 1840 letter to G.H. Lewis (CW XIII, p. 449), Mill himself later described 'On Genius' as not a particular favourite of his, 'especially in its boyish style. It was written in the height of my Carlylism, a vice of style which I have since striven carefully to correct'.

⁵² In his *Autobiography* (CW I, p. 181) Mill relates that the sole effect he knew to have been produced by the series 'was that Carlyle... read them in his solitude, and saying to himself (as he afterwards told me) "here is a new Mystic", enquired on coming to London that autumn respecting their authorship, an enquiry which was the immediate cause of our becoming personally acquainted'. What Carlyle actually meant may be explained by a passage in his diary, which speaks of the mystic as a man who has 'a sense of the Invisible Existences of Nature, and be enabled as it were to read the

The subsequent correspondence between the two men offers valuable insight into Mill's thinking at the time, and occasionally provides glimpses into Mill's maturing ideas on freedom of expression. In one such letter he refers Carlyle to an article written in 1832 – 'Use and Abuse of Political Terms' – which, he says, 'paints exactly my mind & feelings at that time. It was the truest paper I have ever written, for it was the most completely an outgrowth of my own mind and character'.⁵³ That article unambiguously demonstrates Mill's continued support for liberty of the press and freedom of expression. But it also places truth at the moral centre of that issue. In its consideration of the ambiguous nature of moral rights, for instance, the article employs the issue of the publication of opinions by way of an example:

Thus a man will say he has a right to publish his opinions; which may be true in this sense, that it would be a breach of duty in any other person to interfere and prevent the publication: – but he assumes thereupon, that in publishing his opinions, he himself violates no duty; which may be either true or false, depending, as it does, upon his having taken due pains to satisfy himself, first, that the opinions are true, and next, that their publication in this manner, and at this particular juncture, will probably be beneficial to the interests of truth, on the whole.⁵⁴

Of importance here, apart from the fact that freedom of the press is accepted as absolute in itself (nobody has a right to prevent another from publishing anything), is the notion that there is a moral obligation on the part of the person who publicly expresses an opinion to

symbols of these in the visible' (quoted in F.L. van Holthoon, *The Road to Utopia: A Study in John Stuart Mill's Social Thought*, Assen, Netherlands, 1971, p. 64, n. 45).

⁵³ 12 January 1834, *CW* XII, p. 205. The essay, a review of Lewis' book of the same name, appeared in *Tait's Edinburgh Review*, May 1832 (*CW* XVIII, pp. 1–13).

⁵⁴ *CW* XVIII, p. 10. The passage was later repeated in his *System of Logic*, *CW* VIII, p. 818.

ensure not only its truth but also that the wider good is served in its publication. Thus, for example, it would seem morally reprehensible to publish true but private details of a person's life for no reason other than to satisfy a public appetite for gossip.

That such a public-private divide was close to Mill's heart at this stage of his life becomes more evident in 1834 when Mill argued *against* a Bill for the liberty of the press brought before the House of Commons. The Bill, introduced by Daniel O'Connell, aimed 'to give increased facilities to free and independent discussion' by changing the libel laws so that the truth of an allegation could be used as its justification, thus finally abolishing the long-standing legal tradition of 'the greater the truth, the greater the libel'.⁵⁵ Mill, contributing a series of 'Notes on the Newspapers' to the *Monthly Repository* of March 1834, agreed that where an act, although essentially private, is performed publicly, proof that the act occurred should be sufficient to justify the 'libel'.⁵⁶ (The example he uses in support of this claim is public indecency, the very example which he later used as a controversial exception to his liberty principle.) In cases of acts not publicly performed, however, any attempt to establish the truth of a charge would violate the private life of the accused, and he argues that a person's private immoralities are not the concern of the general public.⁵⁷ Further light is thrown on Mill's approach to this issue in a letter to William Johnson Fox, publisher of the journal, in relation to the appearance of the article.⁵⁸ Here he says that the reason he was against truth being introduced as a justification in some cases, rests on the notion that truth:

⁵⁵ *Parliamentary Debates*, 18 February 1834.

⁵⁶ *CW VI*, pp. 165–68.

⁵⁷ The distinction between a public and a private realm parallels almost exactly the famous distinction between self-regarding actions and those which affect others adversely.

⁵⁸ 22 February 1834, *CW XII*, p. 214.

in any rational sense of the term, *cannot* be *got at* by the public; that true charges cannot be distinguished from false ones by such a tribunal. I should expect one of two results; that the lives of all but the independent in fortune & brave in heart would be thoroughly artificialized, by becoming one continued struggle to save appearances & escape misinterpretation or else that... calumny and scandal [would be] carried to such a length that nobody believes anything which appears in print.⁵⁹

His justification for this stance, stated in the article itself, was that only those who are thoroughly familiar with all aspects of a person's character are sufficiently informed to judge them.⁶⁰

Mill's attitude here reflects a growing sophistication in his thought concerning the role of truth and the rights of the individual. O'Connell's speech introducing his Bill to the House of Commons used many of the stock phrases employed by Mill in his 1825 article concerning libel and liberty of the press. That article had held that 'There is one case, and only one, in which there might appear to be some doubt of the propriety of permitting the truth to be told without reserve. This is, when the truth, without being of any advantage to the public, is calculated to give annoyance to private individuals'.⁶¹ But Mill qualified this statement by juxtaposing such cases with those in which the public has a right to know, adding that 'the consequences of suppressing both would, beyond comparison, exceed in mischievousness the consequences of allowing both to be heard; the practical conclusion needs not to be stated'. In the nine intervening years, Mill had become firmer in his position, and the importance of individuality is beginning to take centre-stage. He now

⁵⁹ Ibid.

⁶⁰ However, in the next article of the same series, dated April 1834 (CW VI, p. 193), Mill admits that the published Bill was not as objectionable as he had originally supposed.

⁶¹ 'Law of Libel and Liberty of the Press', CW XXI, pp. 14–15.

considers the privacy of the individual to be a higher good.⁶² In this respect it is worth noting a letter to Fox from this time which contains the cryptic message ‘On the *truth* question she completely agrees with me’.⁶³ In the light of Mill’s later professed indebtedness to Harriet Taylor (as she then was), not least for her role in the composition of *On Liberty*, it is significant that his change of opinion on this topic can be directly associated with her at this stage of his development.⁶⁴

Hamburger’s assessment of Mill as a Philosophic Radical in the early 1830s regards him as identifying closely with the ideas of the Saint Simonians. Like Himmelfarb, Hamburger accuses Mill of an intellectual elitism incompatible with his upbringing which, in consequence, implicitly denies freedom of expression for all.⁶⁵ Hamburger regards this affiliation with Saint Simonianism as the reason behind Mill’s opposition to a campaign in the early 1830s to force pledges from MPs, a topic much debated in the wake of the Reform Bill and an issue supported by Francis Place and many others at the time.⁶⁶ An article by Mill outlining his opposition appeared in the *Examiner* on 1 July 1832.⁶⁷ It provoked an outcry, and a retort from the *Morning Chronicle* which held that if the writer opposed pledges, he therefore must feel his representatives to be above reproach and consequently not answerable to the electorate – in other words, that Mill was promoting a parliamentary elite. Mill’s reply to this charge demonstrates very clearly his support of freedom of discussion and his opposition to any form of intellectual despotism:

⁶² Ironically, by opposing the Bill Mill found himself in the same camp as Lord Althorp who believed that ‘*truth* ought not to be admitted as a justification of the offensive matter’ (quoted in *Tait’s Edinburgh Magazine*, April 1834, p. 152; the reviewer, ‘Richmond the Spy’ (Christian Johnstone), regarded O’Connell’s Bill as ‘remarkably brief, lucid, and simple’).

⁶³ 24 February 1834, *CW* XII, p. 215.

⁶⁴ The importance of their relationship is discussed in Chapter 4 below.

⁶⁵ Hamburger, *op. cit.*, pp. 85ff.

⁶⁶ *Ibid.* pp. 97–98.

Because we think another man wiser than ourselves, does it follow that we think ourselves fools, and deem that he can learn nothing by talking over the subject with us? Let him tell us his own opinions and hear ours.... By a free communication we may learn much from him, and he something from us.⁶⁸

Hamburger's thesis requires that such statements should at best be regarded as dissimulation on Mill's part, and at worst be ignored altogether. But there is a more telling argument against Hamburger. He holds that Mill began to formulate a solution to the problem of democracy and elitism under the influence of Tocqueville's *Democracy in America* and Bailey's *The Rationale of Political Reasoning* in 1835 (at the latest). The reconciliation he regards as based on an analogy between the physician and the parliamentarian – people should defer to both as experts in their particular field of interest – and Hamburger quotes approvingly from this analogy used in Mill's article 'Rationale of Representation' which appeared in the *London Review* in July 1835.⁶⁹ However, Hamburger appears to overlook the fact that this analogy was previously used by Mill three years earlier in his first article on pledges.⁷⁰ Mill had hit upon and was actively using the 'solution' to the problem of elitism and democracy much earlier than 1835, precisely at that time when Hamburger identifies him as being at the height of his enthusiasm for the

⁶⁷ CW XXIII, pp. 487–94. The response appeared in the *Morning Chronicle* on 10 July.

⁶⁸ 'Pledges (2)', *Examiner*, 15 July 1832, CW XXII, p. 500.

⁶⁹ CW XVIII, pp. 15–46. Mill was the first editor of this journal, set up with funding from William Molesworth as a rival to the *Westminster Review* and with which it subsequently merged.

⁷⁰ CW XXII, p. 491: 'But when the value of knowledge is adequately felt, a man will choose his legislator as he chooses his physician. No man pretends to instruct his physician. No man extracts a pledge from his physician that he shall prescribe him a particular treatment'.

elitism of the Saint Simonians.⁷¹ And so his support, if any, for such an idea appears not to have been unqualified. Mill himself claimed that he was an admirer of the Saint Simonians, but that his ideas differed strongly from theirs on several important points: freedom of discussion for all appears to have been one of these points.⁷²

In his attack on 'Corporation and Church Property' which appeared in the *Jurist* in February 1833, Mill argues in terms which further clarify his opinions regarding elitism, education and freedom of expression.⁷³ Here he identifies the source of all evil in society as ignorance and lack of culture, the very factors which can make people blind to their deficiencies and thereby render them incapable of rising above their condition. There is a moral obligation on the more instructed and cultivated, whether in government or in a private capacity, to awaken in the minds of the less fortunate a consciousness of what they lack, and to facilitate access to the means of achieving a better life. Moreover, Mill sees it as incumbent on enlightened individuals and governments to provide 'that good and wholesome food for the wants of the mind, for which the competition of the mere trading market affords in general so indifferent a substitute'.⁷⁴ But such education *cannot* be forced upon anybody against their will. Thus there can be no 'compulsory enlightenment' and no interference with individual liberty. Most telling of all against charges of elitism is Mill's contention that:

⁷¹ More surprising by far is the fact that Hamburger (*op. cit.*, p. 85) actually quotes from this earlier article on pledges in support of his own thesis.

⁷² See J.R. Hains 'John Stuart Mill and the Saint Simonians', *Journal of the History of Ideas*, vol. 7, January 1946, pp. 103–12. He lists Mill's many expressions of dissatisfaction with the sect during the 1830s and concludes that Mill defended them not as a supporter of their ideas but as a champion of liberty.

⁷³ *CW* IV, pp. 193–223.

⁷⁴ *Ibid.* p. 215.

No government is entitled... to make its own opinion the measure of everything that is useful and true. A perfect government would, no doubt, be always under the guidance of the wisest members of the community.... it must be a very conceited government which would shut the door in the teeth of all wisdom but its own. A nation ought not to place its entire stake upon one man or one body of men, and to deprive all other intellect and virtue of a fair field of usefulness unless they can be made to square exactly with the intellect and virtue of that man or body.⁷⁵

Mill then proceeds to defend the rights and opinions of minorities, arguing that it is in the interest of the majority that minority opinions should be heard because, even though they may occasionally be motivated by sinister interest, minorities also bring truth: 'All improvements, either in opinion or in practice, must be in a minority at first'.⁷⁶ This recognition of the importance of minority opinion is implicitly part of the argument that all opinions should be free if the fullest truth is to be gained and the widest possible improvement of mankind achieved. Considering that this article was written at the beginning of 1833, it further supports the case against the hypothesis that Mill at this stage was actively against the widest freedom of discussion. He here argued for a broad intellectual tolerance of all kinds of opinions, for education of the unenlightened (chosen freely by themselves), for recognition of the value of minorities, and generally prefigured many of the central notions of *On Liberty*.

In the early 1830s and afterwards, Mill was a regular contributor to the newspapers concerning the vagaries of French politics, and he was a constant commentator on the changing fortunes of the freedom of the press in that country. Such was his support for

⁷⁵ Ibid. p. 217.

⁷⁶ Ibid.

press freedom that at one stage he sought to rally support in England for an association in Paris formed for the explicit purpose of promoting the liberty of the press.⁷⁷ Yet, Mill generally held the press in low esteem, on one occasion describing journalism in London at the time as ‘the vilest and most degrading of all trades, because more affectation and hypocrisy, and more subservience to the baser feelings of others, are necessary for carrying it on, than that for any other trade, from that of brothelkeeper upwards’ (admittedly Mill had a higher opinion of its French counterpart).⁷⁸ This contempt for the popular press is a feature of Mill’s thought which stayed with him throughout his life, being equally evident in *On Liberty*.⁷⁹ Yet it appears to have in no way detracted from his support for press freedom generally – even a contemptible free press he regarded as a far less evil than a press which is not free at all.

As with ‘The Spirit of the Age’, Himmelfarb’s reading of Mill’s writings in the mid-1830s (‘De Tocqueville on Democracy in America’, and ‘Civilization’) is also selective and cursory, and an examination of these essays will complete the picture of his thinking at this time.⁸⁰ Mill believed that not every mind has adequate resources to grasp all the subtleties of legislation and the workings of political life, but he did not seek restrictions on the intellectual freedom of less intelligent people, nor does his position necessitate a permanent submission of one mind to another. For instance, in his review of Tocqueville’s work, Mill speaks of the importance of a leisured class to the intellectual well-being of society and to high mental culture insofar as:

⁷⁷ Letter to William Johnson Fox, 18 October 1832, *CW* XII, p. 122. Mill’s articles from this time refer to the press prosecutions in France on over twenty occasions.

⁷⁸ Letter to d’Eichthal, 7 November 1829, *CW* XII, p. 39.

⁷⁹ See, for example, *CW* XVIII pp. 269, 290.

⁸⁰ ‘De Tocqueville’ appeared in the *London Review*, October 1835 (*CW* XVIII, pp. 47–90), ‘Civilization’ in the *London and Westminster Review*, April 1836 (*CW* XVIII, pp. 117–47).

A leisured class would always possess a power sufficient not only to protect themselves, but to encourage in others, the enjoyment of individuality of thought; and would keep before the eyes of the many what is of much importance to them, the spectacle of a standard of mental cultivation superior to their own.⁸¹

In 'The Spirit of the Age' Mill expressed the belief that not everybody would have the time for education and contemplation due to the practical necessities of making a living. The idea of a leisured class is, in a sense, the antithesis of this working class, not so much an aristocracy designed to exclude others but a group to which all can aspire, which changes with the ebb and flow of culture and ideas; not so much an elite as the group which is obliged to provide guidance and leadership to the others. The spread of education would play a major part in this dynamic.⁸² Himmelfarb reads Mill's 1836 article 'Civilization' as an explicit return to the problems posed in his articles of five years earlier.⁸³ She focuses on what is said concerning the competition of ideas, contrasting it with what Mill was later to say in *On Liberty*, and suggests that Mill's notion of people needing intellectual guidance is in some way a claim that the masses should not be permitted to decide certain issues for themselves. But this reading does Mill less than justice. 'Civilization' identifies *intellectual power* and *property* as the two elements of importance in society. Mill holds that 'With respect to knowledge and intelligence, it is the truism of the age, that the masses, both of the middle and even of the working classes, are

⁸¹ CW XVIII, pp. 85–86. In a subsequent piece, 'State of Society in America' (*London Review*, January 1836, CW XVIII, pp. 91–115), Mill, by way of an addendum, says 'We do not affirm that wherever there is a leisured class there will be high mental culture. But we contend that the existence of such a class is a necessary condition of it'.

⁸² 'De Tocqueville on Democracy in America', CW XVIII, pp. 50–51.

⁸³ Himmelfarb, *op. cit.*, p. 43.

treading upon the heels of their superiors'.⁸⁴ He considers the growth of newspapers to be one of the important reasons for the spread of ideas which in turn caused the passing of the Reform Act, a demonstration of the collective will of the people. No rational person will oppose the rise of democracy, he believes, but where public opinion is paramount, individuality begins to get lost. Rational people will use all their powers to improve the level of collective public opinion, and to encourage others.

Thus far, Mill is maintaining in 'Civilization' the same position which we have seen him maintaining over the preceding years. And this is the vein in which he continues, pointing out that as individuals become lost in the crowd, they depend less and less on well-founded opinions. In this context Mill comments on the spread of ideas through reading, in a passage which, Himmelfarb suggests, demonstrates that 'the quantity and competition of ideas, which in *On Liberty* figured as part of the cure for the modern malady, appeared in "Civilization" as a cause and symptom of the malady itself'.⁸⁵ However, Mill's point is that not all ideas are equally well thought-through, and in an age where the publication of all kinds of ideas is a commonplace, it can be difficult to discern between that which is worthwhile and that which is not. This is because '[it is] not he who speaks most wisely but he who speaks most frequently [who] obtains the influence', and 'literature becomes more and more a reflection of the current sentiments, and has almost entirely abandoned its mission as an enlightener and improver of them'.⁸⁶ But when Mill asks the important question as to whether a solution can be wrought 'by checking the diffusion of knowledge' and other products of progress, he answers with an unambiguous 'Assuredly not'.⁸⁷

⁸⁴ 'Civilization', CW XVIII, p. 125.

⁸⁵ Himmelfarb, *op. cit.*, p. 44. The passage in 'Civilization', which originally appeared in Mill's review of Austin's lectures on jurisprudence in 1832, is at CW XVIII, p. 134.

⁸⁶ 'Civilization', CW XVIII, pp. 134, 135.

⁸⁷ Ibid.

‘Civilization’ subsequently suggests that rather than heeding advertisements and newspaper reviews concerning what is worth reading, an organisation of the leading intellects of the age could point the general public in the right direction by putting an *imprimatur* on texts they deem worthwhile, a practical suggestion which Himmelfarb attempts to hijack in support of her claims for Mill’s elitism.⁸⁸ But Himmelfarb’s reading is again too simplistic and selective. Mill’s analysis goes further still, condemning English Universities where ‘the object of education is, not to qualify the pupil for judging what is true or what is right, but to provide that he shall think true what we [the universities] think true, and right what we [the universities] think right’.⁸⁹ He asserts that great minds have been formed despite and not because of such a system, and condemns the sectarianism of the oaths required of candidates to universities as ‘the exclusion of all who will not sign away their freedom of thought’.⁹⁰ Dogma in education must be abolished in all its forms, to be replaced by a love of truth and intellectual power, ‘and this without a particle of regard to the results to which the exercise of that power may lead, even though it should conduct the pupil to opinions diametrically opposed to those of his teachers’.⁹¹ ‘Civilization’, then, is not an illiberal tract which contradicts freedom of speech and discussion, but one which encourages them in all their forms. People should be free to think and to draw their own conclusions in education and – Mill also insists – in religion. It is not until such liberties are established that England’s institutions will be ‘favourable instead of hostile to freedom of thought and the progress of the human mind’.⁹²

⁸⁸ CW XVIII, pp. 137–38; Himmelfarb, *op. cit.*, p. 45.

⁸⁹ CW XVIII, p. 140.

⁹⁰ *Ibid.* p. 142.

⁹¹ *Ibid.* p. 144. Thirty years later, these sentiments regarding freedom of thought and love of truth were at the heart of his *Inaugural Address* as Rector of the University of St Andrew’s – see CW XXI, pp. 215–57.

⁹² CW XVIII, p. 146.

2.4 Conclusion

When the writings of the post-crisis era are considered in their entirety, the Mill who emerges is very different from that presented by Himmelfarb. Far from being a committed elitist and an enemy to free discussion at this stage of his mental progress, Mill seems to have maintained his viewpoint regarding the necessity of the liberty of the press and freedom of thought and discussion. In fact, when outlining in the *Autobiography* the reason for the later breakdown of his relationship with Comte, it is their disagreement over precisely this issue to which Mill points.⁹³ Noting that they agreed on the necessity of ‘the moral and intellectual ascendancy’ passing into the hands of philosophers (once they became ‘worthy to possess it’), Mill adds ‘But when he exaggerated this line of thought into a practical system, in which philosophers were to be organized into a kind of corporate hierarchy... we could travel together no further’. He then describes Comte’s plans, outlined in his *Système de politique positive* (1851–54), as ‘the completest system of spiritual and temporal despotism, which ever yet emanated from a human brain... a system by which the yoke of general opinion, wielded by an organized body of spiritual teachers and rulers, would be supreme over every action... every thought, of every member of the community’. Mill could not find it within himself to support such a system. What he attempted to do following his mental crisis was to fuse the best of the ideas garnered from French thought with the best of the ideas of his own upbringing and education. He never abandoned his commitment to freedom of thought and discussion in the process, but attempted ever to weave his thought anew. The truth of such a claim is evident in the works examined here, where the theme of intellectual freedom plays a prominent role, implicitly if not explicitly.

⁹³ CWI, p. 219–21.

CHAPTER 3

COLERIDGIAN AGENDAS

In several places throughout the *Autobiography*, Mill acknowledges the influence of the thought of Samuel Taylor Coleridge. Not only does he quote from Coleridge's poetry to describe his state of mind during his mental crisis,¹ but he also names Coleridge as one of the important sources on which he built his 'new fabric of thought'.² That Coleridge was influential at this turning point in Mill's life has not gone unnoticed, but the extent of his influence on Mill's subsequent philosophy is a moot point, marked by a lack of serious scholarship examining the relationship between the two men.³ According to Mill in his essays on Bentham and Coleridge, the latter represented a school of thought opposite to that of Bentham.⁴ One point on which the two great 'teachers of the teachers' actually converged, albeit on very different grounds, was on the notion of intellectual freedom. For Bentham (as for James Mill and the young John Stuart Mill in his 1825 essay on the topic), freedom of expression is primarily a practical necessity for security against

¹ *Autobiography*, CW I, pp. 139, 143–45; Mill points out that he was not familiar with these particular poems at the time of his crisis.

² *Ibid.* p. 161.

³ Christopher Turk's *Coleridge and Mill: A Study of Influence* (Aldershot, 1988) is one exception. Most other studies are indirect: for example, R. Holmes, *Coleridge* (Oxford, 1982), pp. 51–52; John Colmer, Introduction, *Collected Works of Samuel Taylor Coleridge*, vol. 10, ed. Barbara E. Rooke (Princeton, 1969–), pp. lxii–lxiii (this collection will here be designated as *CWSTC*, followed by vol., part and page numbers). Shirley Letwin, however, in *The Pursuit of Certainty* (Cambridge, 1965) pp. 297–98, overlooks the Coleridgian influence entirely, attributing the origin of the notion of many-sidedness, for example, to Mill (p. 247). J. Viner in his 'Bentham and J.S. Mill: The Utilitarian Background' (*American Economic Review*, vol. 39, March 1949, pp. 360–82; repr. in John Cunningham Wood (ed.), *Critical Assessments* (London, 1991) pp. 155–56) expresses the view that any Coleridgian influence was minor and purely methodological.

⁴ 'Bentham', *London and Westminster Review*, August 1838, 'Coleridge', *ibid.* March 1840, both reproduced in *CWX*, pp. 75–163.

corruption in government.⁵ Coleridge, however, offered a metaphysical theory which centred on truth and individual integrity. Mill's later defence of freedom of thought and discussion would appear to owe as much if not more to Coleridge than to Bentham.

In his private correspondence from the early 1830s, especially in that addressed to John Sterling, Mill praises Coleridge's ideas over and above Liberalism.⁶ He appears to reject unambiguously the idea that individuals should be in control of their own lives and mental culture. Yet, Mill maintains a commitment to intellectual liberty, holding that in an age of transition 'everything must be subordinate to freedom of inquiry'.⁷ Coleridge he describes in an April 1834 letter to John Pringle Nichol as 'the most systematic thinker of our time, without excepting even Bentham, whose edifice is as well bound together, but is constructed on so much simpler a plan, holding covers so much less ground'.⁸ Coleridge's attitude to toleration and freedom of thought and expression provided a rich mine from which Mill drew to aid in the development of his later ideas on the subject. When considered in the context of his own life, Mill's opinions during the 1830s support the idea expressed at the beginning of his article 'Coleridge' that 'the knowledge of the speculative opinions of men between twenty and thirty years of age is the great source of political prophesy'.⁹

3.1 Coleridge on liberty

Mill's acquaintance with Coleridge's thought came about primarily through the debating society founded by the young Mill during the 1820s. In an early draft of the

⁵ *The Works of Jeremy Bentham*, ed. John Bowring (Edinburgh, 1843), vol. II, pp. 275–95; Mill's 1825 article, 'Law of Libel and Liberty of the Press', is at *CW XXI*, pp. 1–34.

⁶ See, for example, *CW XII*, p. 84.

⁷ *Ibid.* p. 77.

⁸ *Ibid.* p. 221.

Autobiography, he described how the ideas of Coleridge were introduced there through Frederick Maurice and John Sterling, young men who represented a 'second liberal and even Radical party, on totally different grounds from Benthamism and vehemently opposed to it'.¹⁰ Mill's own philosophy developed as his friendship with both men deepened. Unlike the 'narrow utilitarianism' of his upbringing, his new frame of mind was characterised by an openness to different ideas and 'a conviction, that the true system was much more complex and many-sided than I had previously had any idea of.... [which] came from various quarters: from the writings of Coleridge, which I had begun to read with interest even before the change in my opinions; from the Coleridgians, with whom I was in personal intercourse' and from others.¹¹ The change at this time was pronounced enough for at least one of Mill's contemporaries to regard him as having rejected Benthamism altogether in favour of the ideas of Coleridge.¹² Mill publicly denied all such charges, claiming that he embraced no system in place of the philosophy of his upbringing and insisting that he remained a utilitarian, albeit of a non-conventional kind.¹³

⁹ CW X, p. 119.

¹⁰ CW I, p. 160. This passage was omitted in the final version, although Mill does there describe Maurice as a disciple of Coleridge, and Sterling as disciple of both Maurice and Coleridge. Additionally, in a letter to Frederick Maurice's son Charles, dated 19 May 1872 (CW XVII, p. 1898), Mill admitted: 'Indeed, his conversation [i.e. Frederick Maurice's] and that of Sterling were almost my first introduction to a line of thought different from any I had previously known, and which, by itself and by its effects, contributed much to whatever mental progress I subsequently made'.

¹¹ *Autobiography*, CW I, p. 161.

¹² John Bowring, first editor of the *Westminster Review*, is recorded by Caroline Fox as one who 'spoke of Mill with evident contempt as a renegade in philosophy, *Anglicé* – a renouncer of Bentham's creed and an expositor of Coleridge's', quoted in George L. Nesbitt, *Benthamite Reviewing* (New York, 1934), p. 173. However, relations were never good between Bowring and the Mills (*ibid.* pp. 130ff.); Bowring, in turn, was portrayed in a less-than-flattering light in Mill's *Autobiography* (e.g. CW I, pp. 92–93, 134–35).

¹³ See, for example, Mill's letter of 12 January 1834 to Thomas Carlyle (CW XII, p. 207), where he claims 'I am still, & am likely to remain, a utilitarian; though not one of "the people called utilitarians"; indeed, having scarcely one of my secondary premisses

Coleridge's ideas concerning the liberty of the press and freedom of enquiry had been presented most completely in a series of articles written in 1809, published together in three volumes in 1818 as *The Friend*.¹⁴ Here, he champions 'free enquiry of the boldest kind', but with restrictions including that 'the enquiry be conducted with that seriousness, which naturally accompanies the love of Truth, and is evidently intended for the perusal of those only, who may be presumed to be capable of weighing the arguments'.¹⁵ He identifies four conditions which must be met if a correct (although by no means complete) notion of truth can be achieved through freedom of discussion: first, the speaker must not intend to mislead his audience; second, any error expressed must not be capable of perverting the truth of the matter under discussion; third, the value of the truth in question must outweigh the value of any possible error; and fourth, any error must not contain an impediment to the true doctrine which can replace it.¹⁶ Moreover, the speaker must act responsibly, looking to the matter, the manner and the time of expression. Coleridge believed that if these conditions are observed, there will not be any injurious results from the publication of truth; 'much less can I imagine a case in which Truth, as Truth, can be pernicious'.¹⁷ Freedom of expression should always be maintained where these circumstances prevail. Thus, for Coleridge the communication of truth should go totally unhindered as an exercise in reason by those who possess the intellectual ability and in circumstances where there is a conscientious observance of appropriate conditions.

in common with them; nor a utilitarian at all, unless in quite another sense from what perhaps any one except myself understands by the word'.

¹⁴ *CWSTC* 4 (I). *The Friend* was originally published as a periodical and privately circulated by Coleridge. *CWSTC* 4 (I) reproduces the 1818 edition, and Part II the serialised 1809 edition, which differed slightly.

¹⁵ *The Friend*, *CWSTC* 4 (I), p. 42.

¹⁶ *Ibid.* pp. 44ff.

In a case of libel, however, where a private individual is publicly accused of some immorality, Coleridge holds that most people are insufficiently familiar with the facts involved to judge the truth of any allegations made (most people are not personal witnesses and therefore either will not know or will know very little about the accused). More importantly, he believes that there is a higher moral issue involved: the person who publishes a libellous opinion is setting himself up as judge, jury and inflictor of punishment, but in reality lacks the authority to play such a role. The frame of mind and motive of the person who expresses a libellous opinion are therefore all-important, and the absence of a correct disposition can be regarded both in law and in morals as tantamount to a wrong disposition. 'Under such circumstances', Coleridge continues, 'the legal Paradox, that a libel may be the more a libel for being true, becomes strictly just, and as such ought to be acted upon'.¹⁸ For the Radicals, the notion that a libel might be considered even more libellous for being true was regarded as an example of the ridiculous nature of the law as it existed and a prime reason in favour of its reform.¹⁹

For Coleridge, the fact that mankind has progressed towards truth is due to 'the successive Few in every age (more indeed in one generation than in another, but relatively [*sic*] to the mass of mankind always few) who by the intensity and permanence of their action have compensated for the limited sphere, within which it is at any one time intelligible'.²⁰ As most people are incapable of judging the whole spectrum of possible truths, Coleridge maintains that they need the leadership of superior intellects to guide them. Yet, when

¹⁷ Ibid. p. 49.

¹⁸ Ibid. pp. 93–94.

¹⁹ James and John Stuart Mill's disagreement with the old maxim is outlined in Chapter 1. The phrase was also quoted by O'Connell during a speech in support of his February 1834 Bill for the liberty of the press discussed in Chapter 2 above. Mill's position against O'Connell at that time is practically identical to that held by Coleridge.

²⁰ *The Friend*, CWSTC 4 (I), p. 61.

truths become universally accepted, they tend simultaneously to become impotent and must therefore be kept lively if they are to retain their value: 'Truths, of all others the most awful and mysterious, yet being at the same time of universal interest, are too often considered so true that they lose all the powers of Truth, and lie bed-ridden in the Dormitory of the Soul, side by side with the most despised and exploded errors'.²¹ Genius alone can bring the novelty of approach needed to revive such dead truths, and meditation and serious discussion are the means by which mankind can be rescued from being the victims of pseudo-knowledge and of stagnation.²²

These are all ideas which any reader of *On Liberty*'s second chapter will automatically recognise. Other aspects of Coleridge's system are more explicit in Mill: the many-sidedness which Mill began to advocate in the wake of his crisis, for example, is an idea which not only demanded freedom of thought and discussion, but which was also necessary to the atmosphere in which the well-rounded individual grew and developed.²³ Coleridge professed a creed of the harmony of opposites, opposing no system but striving to find the truth that lay in every system 'and how that which was true in the particular, in each of them, became error *because* it was only half the truth'.²⁴ Imagination, the aspect which Mill fostered in the wake of his crisis, was also important – Coleridge referred to it

²¹ Ibid. p. 110.

²² As Turk points out (*op. cit.*, pp. 49–50), Mill's copy of the 1818 edition of *The Friend* at Somerville College, Oxford, is marked in pencil in over twenty places. These passages, all in volume I, relate to topics such as the bad effect of popular novels, arrogance, tolerance and other issues which are readily identifiable as close to Mill's heart. Turk acknowledges that Mill did not often mark his books, but suggests that if these markings were made by Mill, they 'would provide interesting evidence of what Mill found memorable in Coleridge'. However, for many years Mill's books formed part of the general collection at Somerville and were readily circulated among students. The origin of the marks is therefore very much open to question.

²³ *Autobiography*, CWI, p. 17.

as ‘the distinguishing characteristic of man as a progressive being’ which ‘ought to be carefully guided and strengthened as the indispensable means and instrument of continued amelioration and refinement’.²⁵ The similarities between these passages and much of what Mill had to say on the topic is striking. However, Mill made little reference to *The Friend* in his writings. Rather, he believed the 1830 work *On the Constitution of Church and State* to be the best of Coleridge’s writings, and enthusiastically encouraged others to read it.²⁶

There are two central ideas in *Church and State* which Mill embraced, explicitly acknowledging their Coleridgian origin. The first is the notion that society subsists on the tension which flows between its conservative and liberal elements – that, in effect, the dynamic of progress and permanence is the mechanism which keeps society from stagnating. On this point, Mill wrote to Sterling in October 1839 regarding Coleridge’s political philosophy:

he stands almost alone in having seen that the foundation of the philosophy of the subject is a perception what are those interests [*sic*] (comprehending all others) each of which must have somebody bound and induced to stand up for it in particular, &

²⁴ ‘Table Talk’ 136, quoted in Holmes, *op. cit.*, pp. 51–52. Holmes directly connects this with Mill who, he continues, ‘later considered the idea of reconciling “the noisy conflict of half-truths” one of Coleridge’s greatest contributions to progressive thought in England’.

²⁵ Lecture X, ‘General Course on Literature’, quoted in Holmes, *op. cit.*, p. 61.

²⁶ That he thought *Church and State* the best is mentioned in an October 1839 letter to Sterling (CW XIII, p. 409). For an example of his encouragement to others, see his letter to John Pringle Nichol of April 1835 (CW XII, p. 221) as well as the article ‘Coleridge’, CW X, pp. 117–63.

between which a balance must be maintained – & I think with him that those great interests are two, permanence and progression.²⁷

Mill subsequently developed Coleridge's ideas, broadening them to allow for a much wider base from which society can progress further towards civilisation and intellectual pursuits. Coleridge had envisioned the two elements embodied in a bicameral legislature, the first house consisting of a conservative hereditary peerage, the second, larger, progressive house being elected from among the landed community and commercial classes. He even refers to the first as the force of law and the second as that of liberty, the dynamic of government being the reconciliation of these two forces.²⁸ However, by 1839, Mill had come to disagree with Coleridge's identification of permanence with land and the gentry, and progress with the commercial classes, instead maintaining a broader view of the possibility of progress: 'The land has something to do with permanence, but the antithesis, I think is rather between the contented classes and the aspiring, wealth & hopeful poverty – age & youth – hereditary importance and personal endowments'.²⁹

For Coleridge, progress had to be grounded in 'cultivation', in the harmonious development of those qualities and faculties that characterise humanity.³⁰ Freedom of expression can therefore be regarded as a catalyst which keeps society on the road to progress and cultivation. However, for Coleridge it is not enough simply to leave the way open for progress to happen – cultivation must be actively encouraged if humanity is to avoid the stagnation which follows when ideas become widely accepted. Thus he

²⁷ CW XIII, pp. 408–9. The notion is described in *On Liberty* (CW XVIII, p. 252) as 'almost a commonplace' in politics, and is used in support of the argument for freedom of thought and discussion, although it is not explicitly attributed to Coleridge.

²⁸ CWSTC 10, pp. 29, 44.

²⁹ CW XIII, pp. 408–9.

employed the notion of a national church or clerisy, whose role was to secure the improvement of civilisation. This group would be composed of the learned of all the liberal arts and sciences whose knowledge constituted and contributed to civilisation. Mill in an 1831 letter to Sterling had expressed the view that he thought Coleridge would agree with him that the clerisy should be drawn from *all* ranks of people capable of improving others by their example and exhortations, and that such people are found in *all* walks of life, both Christian and non-Christian.³¹ For Coleridge, the clerisy exists to educate all people in 'civility', defined as those qualities which enable a people to conserve its 'essential interests', which in turn leads to the progressive civilising of the entire community.³²

3.2 *Mill as Coleridgian*

Mill's encounter with Coleridge's thought, and with it the wider influences of German metaphysics, romanticism and the possibility of a much broader creed, had a profound effect that lasted for the remainder of Mill's life.³³ At least one recent critic has claimed that Mill attempted to fuse the thought of Coleridge and Bentham into a single creed.³⁴ However, such an interpretation was vehemently denied by Mill at every stage of his 'post-crisis' career, maintaining that he was ultimately a disciple of no-one (and, if

³⁰ *CWSTC* 10, pp. 42–43.

³¹ *CW* XII, p. 76.

³² *CWSTC* 10, pp. 54–81.

³³ Mill's earliest acknowledgement of Coleridge as a believer in the progressive ability of mankind – and as one of the wisest men of political and religious opinion – occurs in a speech on 'Perfectibility' to the Debating Society in May 1828 (*CW* XXVI, pp. 428–33). The date of this compliment, coming so soon after Mill's crisis, supports his statement in the *Autobiography* which dates his admiration for Coleridge from this time.

³⁴ John Colmer, introduction to *CWSTC* 10, pp. lxii–lxiii. He also allows that Mill gained a wider audience for Coleridge's ideas, adding that 'they were transformed almost beyond recognition as they passed through the mechanical utilitarian mind'.

anything, inclined more to Bentham than to Coleridge).³⁵ His essays on the two men, written in the late 1830s after the death of his father and at a time of his life when he felt that he could begin to push forward with his own intellectual agenda, express his admiration for both men, yet simultaneously intimate his independence of both. His enthusiasm for Coleridge can be seen to have peaked in the 1830s, easing off thereafter to the extent that Coleridge does not figure as a prominent character in the *Autobiography*.

Mill's notion of truth as a harmony between opposing opinions or systems, an idea central to his defence of freedom of thought and discussion in 1859, is regarded by many commentators as especially demonstrating the influence of Coleridge.³⁶ An 1831 letter to Sterling in which he sides with Coleridge against Liberalism in the belief that it is best that people should be ruled, is one such example.³⁷ The letter describes the impression which Wordsworth had made on Mill when they had met two months previously: Wordsworth's 'catholic character' and outlook made him receptive to a wide variety of new and different ideas, and Mill regarded him as grasping 'the pros and cons of every question'.³⁸ In contrast, the radicals and utilitarians cared to see 'only one side of the subject, & in order to convince them, you must put some entirely new idea into their heads'. Similarly, 'practical Toryism' – that frame of mind which selfishly guards its own needs – is 'essentially incompatible with any large and generous aspirations'. This is the mindset of the 'sluggish and enervated higher classes' who lack a broader concept of virtue. Adherents of this brand of Toryism must be *forced* into accepting any kind of reform,

³⁵ See note 13 above.

³⁶ Most of the commentary, however, comes from a Coleridgean perspective, so the emphasis often lacks a complete appreciation of the Millian viewpoint.

³⁷ CW XII, p. 84.

³⁸ Ibid., p. 81. Mill kept a journal of his summer walking excursion in Yorkshire and the Lake District in July and August 1831, which briefly mentions time spent with Wordsworth – see CW XXVII, pp. 501–56.

lacking faith as they do in improvement and progress in the larger sense. But ‘speculative’ Tories such as Wordsworth and Coleridge believe that people should be guided by an intelligence and virtue higher than their own mere likes and dislikes. Liberalism, in holding that *all* people must be their own sovereign guides and masters, is in this regard ignorant of man’s nature and ‘of what is necessary for his happiness or what degree of happiness and virtue he is capable of attaining’. In this ostensive attack on Liberalism, Mill is primarily expressing his contempt for the ruling classes and their inability to embrace change: like those without education, such a mentality cannot provide its own guidance. In order to progress, people must be educated and enlightened; they need culture and cultivation of mental activities. Lacking these, people cannot be said to be the best judges of their own interests – and this especially applies to the higher classes and practical Tories. Read in this manner, the criticism is not exclusively or even primarily an attack on Liberalism: it is first and foremost an attack on Toryism as practised in parliament. To follow Letwin’s interpretation that the passage concerns ‘Mill’s indignation about liberalism’ is to miss a more subtle aspect of the passage.³⁹ If the Liberals have the wrong idea of mankind, Mill is saying here that it is because they are overlooking the selfishness of practical Toryism.

That Mill was identifying with Coleridge – perhaps even over-identifying with him – at this stage of his life is undeniable. But Mill soon recognised himself as being in a transitional phase. In fact, a letter written in January 1834 to Carlyle describes his state of mind during October 1831 (when the two had first met) as ‘an intermediate stage – a state of *reaction* from logical-utilitarian narrowness of the very narrowest kind, out of which after much unhappiness and inward struggling I had emerged, and had taken temporary

³⁹ Letwin, *op. cit.*, p. 249.

refuge in its extreme opposite'.⁴⁰ In the same letter Mill also outlines his attitude towards ethics as follows:

I have never, at least since I had any convictions of my own, belonged to the benevolentiary, soup-kitchen school. Though I hold the good of the species (or rather of its several units) to be the *ultimate* end, (which is the alpha & omega of my utilitarianism) I believe with the fullest Belief that this end can in no other way be forwarded but by the means you speak of, namely by each taking for his exclusive aim the developement of what is best in himself.⁴¹

Such comments demonstrate that Mill had begun to formulate his mature views on politics and morality. That their refined form owed much to Coleridge is demonstrated in a letter to John Pringle Nichol, written on 15 April 1834. Describing Coleridge as a systematic thinker, Mill notes his own agreement with parts of *Church and State*. He continues:

Few persons have exercised more influence over my thoughts and character than Coleridge has; not much by personal knowledge of him, though I have seen and conversed with him several times, but by his works, and by the fact that several persons with whom I have been very intimate were completely trained in his school.

Through them, too, I have had opportunities of reading various unpublished

⁴⁰ CW XII, p. 204. This explicit acknowledgement of his temporary change of heart softens the impact of Letwin's comments as it demonstrates that Mill was fully unaware of his fluctuating attitude. A letter to Sterling actually mentions Mill's first meeting with Carlyle (CW XII, p. 85), saying of Carlyle that 'He has by far the largest & widest liberality & tolerance (not in the sense which Coleridge justly disavows but in the good sense) that I have met with in any one'.

⁴¹ CW XII, pp. 207–8.

manuscripts of his.... On the whole, there is more food for thought – and the best kind of thought – in Coleridge than in all other contemporary writers.⁴²

Given that three months previously in his letter to Carlyle he had declared himself recovered from his reaction against utilitarian narrowness, this expression of indebtedness to Coleridge cannot be understood in the same context as his earlier criticism of Liberalism or other writings from the years immediately following his crisis. Turk has attempted to address the implications of the passage by suggesting that Mill was doing ‘posthumous justice to a misjudged man’.⁴³ But this interpretation is chronologically unsound. Mill’s letter to John Pringle Nichol was written in April 1834: Coleridge died on 25 July of that year. Coleridge was quite alive in Highgate at the time of Mill’s writing. On the other hand, if Turk’s argument that Coleridge was an unhappy name with which to be publicly associated is accepted, it should be noted that Mill had not necessarily made a secret of his admiration for Coleridge up until this time: he had, for instance, endorsed him in his 1828 speech on perfectibility. Neither does Turk’s argument entirely explain why Mill’s ardour seems to have cooled by the time of writing the *Autobiography* some years later. Closest to the truth seems to be that Mill’s admiration for Coleridge was at its peak in the 1830s, and that, in 1834, Coleridge, whose works had afforded solace and consolation, was the person who had the single greatest influence on Mill’s life of just twenty-eight years. But other influences would eclipse that of Coleridge.

Mill’s writings dating from the 1830s provide a basis on which Coleridge’s influence can be assessed. His ‘Remarks on Bentham’s Philosophy’, written in 1833 and which appeared as an appendix to Edward Bulwer Lytton’s *England and the English*, was later

⁴² CW XII, pp. 220–23 [emphasis added].

⁴³ Turk, *op. cit.*, p. 47.

acknowledged by him as his first public criticism of Bentham.⁴⁴ At this time, Mill regarded Coleridge as a superior thinker to Bentham, and the points of reference he uses to criticise Bentham are often explicitly Coleridgian. While praising the logical consistency of Bentham's work,⁴⁵ he identifies Bentham's greatest shortcoming as 'his insufficient knowledge and apprehension of the thoughts of other men'. If it was this lack of intellectual well-roundedness on a personal level which Mill regarded as Bentham's greatest drawback. Bentham's inadequacies as a legislator lay in his insistence on viewing the consequences of an action without taking into account the wider social obligations on government 'of carrying forward the members of the community towards perfection, or preserving them from degeneracy'.⁴⁶ This lack of vision towards developing a 'national character' Mill found unacceptable in Bentham – a lack of vision he also saw as a problem with Liberalism in general (and which also partly explains the antipathy expressed towards Liberalism in the 1831 letter to Sterling, discussed above). The broader notion of character was derived directly from Coleridge, who believed that the clerisy should inform and imbue such a character in the populace at large. So Mill is evidently criticising Bentham on Coleridge's terms in this passage. And, indeed, he continues throughout the essay to use essentially Coleridgian arguments – that political institutions were not regarded by Bentham as being obliged to provide the principal means of social education; that habit and imagination, as well as history, have a role to play in the preservation of institutions; and, above all, that Bentham would not participate in the dynamic exchange of ideas which might have brought him to see the narrowness of his ways.

⁴⁴ CW X, pp. 3–18. At the time of publication, Mill did not want his identity as author to be known (CW XII, pp. 172, 236), but the *Autobiography* acknowledges the criticism of Bentham (CWI, pp. 206–7).

⁴⁵ 'In the writings of no philosopher, probably, are to be detected so few contradictions – so few instances of even momentary deviations from the principles he himself has laid down' (CW X, pp. 6–7).

Such an exchange of ideas is central to Mill's notion of the progress of intellect. That he insisted on the development of character, imagination and individuality in an informed and socially dynamic way can be explained as a natural reaction against what Mill regarded as his narrow education, inspired by Benthamism. In 1834 he held Coleridge in high esteem precisely because of characteristics which Mill regarded as the antithesis of those characteristics acquired during his own upbringing. Coleridge completed what was for Mill the more important part of the picture of humanity. This is not to say that what Bentham had provided was without value: Mill continued to hold Bentham in high esteem, albeit with a more critical eye than previously. His *London and Westminster Review* essays on both men outline his reasoning: moreover, these celebrated essays say as much about Mill's own development as they do about either Bentham or Coleridge.⁴⁷

3.3 'Bentham' and 'Coleridge'

Ideas which play a central role in Mill's later exposition of freedom of thought and discussion in *On Liberty* also play a central role in these articles which assess 'the two great seminal minds of England in their age'.⁴⁸ The qualities which Mill admires in Bentham from the outset of his 1838 essay, for instance, are those same qualities which he was to hold up as important in his defence of freedom of thought and expression:

Bentham has been in this age and country the great questioner of things established.

It is by the influence of the modes of thought with which his writings inoculated a considerable number of thinking men, that the yoke of authority has been broken,

⁴⁶ Ibid. p. 9.

⁴⁷ It is difficult, however, to agree with Letwin's assessment that the essays are among Mill's least distinguished work (Letwin, *op. cit.* p. 236). Most commentators take the opposite viewpoint, including (most obviously) F.R. Leavis in his introduction to the texts in *Mill on Bentham and Coleridge* (London, 1950), pp. 1–38.

⁴⁸ 'Bentham', *London and Westminster Review*, August 1838 (CW X, p. 77).

and innumerable opinions, formerly received on tradition as incontestable, are put upon their defence, and required to give an account of themselves.⁴⁹

Prior to Bentham, political and legal institutions in England went largely unquestioned, even by the wisest men. It is due in no small part to the work of Bentham, Mill argues, that mankind has been able to improve and progress intellectually. An interesting point made at this juncture of the 1838 version of the essay (but deleted in later reprints) concerns a criticism of the notion of the relativity of truth.⁵⁰ In the context of discussing Hume's scepticism, Mill holds that if every answer to every question is just as valid as any other, people will be inclined to believe whatever it is that suits their own needs and comforts them most of all, and they will therefore use religious and political belief merely to benefit themselves. According to Mill, this is Toryism in practice, the very notion criticised in his 1831 letter to Sterling, which stands in contrast to Bentham's method. Rather than destructively employing negative arguments to bring down the establishment, Bentham aimed to put a new and better truth in place of that which he was attacking. Bentham introduced precision and accuracy, and his method 'has formed the intellects of many thinkers, who either never adopted, or who have abandoned most of his peculiar opinions'.⁵¹ It appears true to say that Mill, at this stage of his life, included himself in this latter group of intellects who had found their own voice, having begun their search under the influence of Bentham.

On the negative side, by not being open to broader ideas and diverse intellectual systems, Bentham 'failed in deriving light from other minds'. His dismissal of what he termed

⁴⁹ Ibid. p. 78.

⁵⁰ Ibid. p. 80, *q-q*. The issue of the relativity of truth is also addressed by Coleridge in *The Friend*, CWSTC 4 (I), p. 97.

⁵¹ CWX, p. 87.

‘vague generalities’ was seen by Mill as lamentable in that ‘the nature of his mind prevented it from occurring to him, that these generalities contained the whole unanalysed experience of the human race’.⁵² In lacking regard for other intellects he was depriving himself of the experience of others and the light which their ideas could bring to his own way of thinking. But Bentham did not appreciate this, denying himself a glimpse of ‘the remainder of the truth of which he sees but half – the truths of which the errors he detects are commonly but the exaggerations’. Such a situation was a consequence of Bentham’s lack of imagination – the power to put oneself in the place of the other and take on their point of view – ‘His writings contain few traces of the knowledge of any school of thinking but his own; and many proofs of his entire conviction that they could teach him nothing worth knowing’. Bentham, to some extent, exemplified the type of toleration which Coleridge in *The Friend* regarded as the worst type, that of indifference to the opinions of others. Abstracted from the possibility of progress and the life of the imagination, contrary opinions can actually reinforce narrowness of conviction and purpose.⁵³

Considering the themes of toleration and cultivation and their important role in Coleridge’s thinking, the central place these themes occupy in ‘Bentham’ is surely significant. Mill also considers other important, familiar themes such as the role of authority, the despotism of public opinion and the importance of diversity.⁵⁴ Bentham’s system emerges not as useless but, on the contrary, ‘His writings will long form an

⁵² Ibid. p. 90.

⁵³ Cf. *On Liberty*, CW XVIII, p. 257: ‘I acknowledge that the tendency of all opinions to become sectarian is not cured by the freest discussion, but is often heightened and exacerbated thereby; the truth which ought to have been, but was not, seen, being rejected all the more violently because proclaimed by persons regarded as opponents’.

⁵⁴ CW X, pp. 106–9.

indispensable part of the education of the highest order of practical thinkers'.⁵⁵ But toleration alone cannot get rid of narrowness – after all, Bentham himself had advocated freedom of expression of all opinions. More was necessary if the ideals of progress and improvement were to be attained in society. Mill considered himself to be deficient in character and imagination, and the desire to achieve these traits seems to have been central to his turning to other thinkers such as Coleridge and, for a time, to embrace ideas which were opposed to those of his father and Bentham.⁵⁶

That Mill intended his essay 'Coleridge' to be the opposite side of the coin to his 'Bentham' is evident from correspondence written when he was composing the second essay. Thus, he wrote to Sterling in September 1839 that if he were to continue to publish the *London and Westminster Review* 'it will be partly in order to publish in it an article on Coleridge which I have always thought desirable as a counter-pole to the one on Bentham'. He added that he had begun to re-read the works of Coleridge in preparation for writing the essay, which eventually appeared in March 1840 in the last number of the journal edited by Mill.⁵⁷ In November, he was in the process of writing 'Coleridge' and expressed in a letter to Sterling the hope that the forthcoming essay would dispel any false views concerning his mode of thought. This letter to Sterling continues: 'I sometimes think that if there is anything which I am under a special obligation to preach, it is the meaning and necessity of a catholic spirit in philosophy, & I have a better opportunity of

⁵⁵ Ibid. p. 115.

⁵⁶ See Mill's letter to Thomas Carlyle of 12 January 1834, CW XII, p. 204. In this letter Mill also speaks of his chief difference with Carlyle being Mill's own lack of religious belief, something which would have also proved a difference with those in Coleridgian circles.

⁵⁷ CW XIII, pp. 405–6. He also declared the *Church and State* to be the best and the *Lay Sermons* to be the worst of Coleridge's writings (ibid. p. 409). Mill's library in Somerville College has an 1839 edition which contains both works, probably acquired in the context of writing the essay.

shewing what this is, in writing about Coleridge, than I have ever had before'.⁵⁸ Here, the connection between Coleridge and Mill on tolerance, many-sidedness and (consequently) freedom of expression is made explicit by Mill himself.

John Colmer believes that Mill was attempting in his lifetime to unite the philosophies of Bentham and Coleridge into a single school of thought, and concludes that Mill failed to accomplish this end.⁵⁹ Yet, Mill nowhere states that this is his aim. Colmer's idea may be derived from a passage at the beginning of 'Coleridge' where Mill says that whoever could combine the methods of Bentham and Coleridge would possess the entire English philosophy of their age. He unambiguously presents both schools as being different, and it is clear that they are both necessary opposites in the dynamic of society, representing poles of the forces of progression in a dynamic relationship. Mill was not averse to embracing aspects of ideas from outside the utilitarian framework of his upbringing, but this approach is far from an attempt to create a single philosophy from two schools of thought. It is best to accept Mill at his word that he remained convinced that philosophy must be a multi-faceted discipline drawing from varied sources if it is to achieve truth.

Freedom of expression plays an underlying yet central role in 'Bentham' and 'Coleridge'. Both essays begin by contrasting the two men: Bentham as narrow and even arrogant about the truth of his doctrines; Coleridge as open to the larger issues.⁶⁰ In the latter essay, Mill chides English philosophy for its one-sidedness and sectarian outlook, and for its attitude that intellectual opponents contribute little or nothing of value to philosophy. Continental philosophers, conversely, realise the importance 'in the present imperfect state of mental and social science, of having antagonist modes of thought, which, it will one day

⁵⁸ Ibid. p. 411.

⁵⁹ *CWSTC* 10, lxii–lxiii, n. 5.

be felt, are as necessary to each other in speculation, as mutually checking powers in a political constitution'. He continues:

A clear insight, indeed, into this necessity is the only rational and enduring basis for philosophical tolerance; the only condition under which liberality in matters of opinion can be anything better than a polite synonym for indifference between one opinion and another.⁶¹

The primary danger inherent in freedom of expression is not that a falsehood may be mistaken for a true doctrine but that a partial truth may be taken to be the whole truth – a mistake evident in the philosophy of Bentham. Mill uses the idea of the necessity of tolerance as the basis of 'Coleridge': a catholic mentality and freedom of thought and discussion are therefore central themes of the essay. Mill identifies the history of thought as a series of reactions to the doctrines which had gone before, each generation regarding the ideas of the previous generation as worthless. Thus, history swings between the extremes of those who invest too much weight on some particular aspect of a truth and those who invest too little. Progress is achieved only as the true elements of both come to be appreciated. Such an approach to toleration draws heavily on what Mill calls the 'Germano-Coleridgian School'. Yet, Mill explicitly places himself in the school of Bentham and Locke as an empiricist, thereby professing himself to be at issue with Coleridge on the central themes of philosophy.⁶²

⁶⁰ CW X, pp. 77, 119–20.

⁶¹ CW X, p. 122. The contrast between tolerance and indifference was also a favourite theme of Coleridge. See note 40 above; see also *The Friend*, Essay XIII, p. 160 (CWSTC 4 (I), p. 97).

⁶² CW X, pp. 128–29. In passing, Mill makes the comment that mysticism in common parlance means nothing but unintelligibility: one is reminded, ironically, that, ten years previously, Carlyle had referred to the writer of 'The Spirit of the Age' as a new mystic (*Autobiography*, CW I, p. 181).

The progress of intellect on the continent (where 'scarcely one person was left who retained any allegiance to the opinions or the institutions of ancient times') Mill regards as vast when compared to England, where a national tendency towards compromise with tradition has halted any progress towards new truth. Thus, rather than trying to gain any real understanding of continental thought (i.e. Coleridge's thought) the tendency in England has been away from innovation and towards narrowness. Indeed, Mill feared this trait in his own audience.⁶³ Radicals and liberals would have been sympathetic to the notion of freedom of expression, but Coleridge wanted more than simply the possibility of improvement through such liberty. He *demand*ed that improvement should be its result, for otherwise the concept remained empty in practice. English thinkers, by closing their minds to other ideas, were in danger of believing their own modes of thought to be the sole way to proceed. And this, Mill felt, was tantamount to denying the progressive tendency itself.

That intellectual freedom is one of the first principles of any progressive society is not an explicit conclusion reached by Mill, but it *is* implicit. However, perhaps the most famous passage of 'Coleridge' is one that has been used in an attempt to undermine Mill's own notion of freedom of expression.⁶⁴ Mill lists the conditions under which, historically, societies have come to embrace civilisation and the restraining influence of government. The first condition is the necessity of education and discipline, the very basic conditions

⁶³ Mill had expected that 'Coleridge' would be unpopular (CW XIII, p. 411). He was 'writing for Radicals and Liberals, and it was my business to dwell most on that in writers of a different school, from the knowledge of which they might derive most improvement'. In the *Autobiography* (CW I, p. 227), Mill admits that he 'might be thought to have erred by giving undue prominence to the favourable side [of Coleridge] as I had done in the case of Bentham to the unfavourable'. However, the earlier essay had been quite popular: the edition of the *Review* in which it appeared went into a second print run, Robson suggests, primarily because of 'Bentham' – CW X, p. 76, Editor's Note.

for the possibility of progress. The second condition, a feeling of loyalty and allegiance to something at the heart of society, is discussed by Mill as follows:

This feeling may vary in its objects, and is not confined to any particular form of government; but whether in a democracy or in a monarchy, its essence is always the same; viz. that there be in the constitution of the State *something* which is settled, something permanent, and not to be called into question; something which, by general agreement, has a right to be where it is, and to be secure against disturbance, whatever else may change.... But in all political societies which have had a durable existence, there has been a fixed point; something which men agreed in holding sacred; which it might or might not be lawful to contest in theory, but which no one could either fear or hope to see shaken in practice; which, in short (except perhaps during some temporary crisis), was in the common estimation placed *above* discussion.... But when the questioning of these fundamental principles is (not an occasional disease but) the habitual condition of the body politic, and when all the violent animosities are called forth which spring naturally from such a situation, the State is virtually in a position of civil war; and can never remain free from it in act and in fact.⁶⁵

Gertrude Himmelfarb has seized upon this last sentence which, she says, could have been written by a critic of Mill's *On Liberty* as it seems to argue *against* absolute freedom of expression on the basis of state security. Additionally, Himmelfarb believes that changes

⁶⁴ See Gertrude Himmelfarb, *On Liberty and Liberalism* (New York, 1974), pp. 46–47.

⁶⁵ CW X, pp. 133–34. The passage later appeared in Book VI of the *Logic*. Cited here is the 1840 version of the passage, without the amendments Mill introduced in his later republication of the essay in *Dissertations and Discussions*.

introduced in later editions of the essay specifically relating to freedom of expression were brought in to soften the illiberal effect of the above paragraph.⁶⁶

The first point to note here, overlooked by Himmelfarb, is that Mill is speaking historically, not normatively; that is to say, he is speaking of what *has* happened, not making an argument about what *should* happen.⁶⁷ Thus, unlike *On Liberty*, in this passage he is not making recommendations regarding freedom of expression and the freedom to question doctrines. Mill's account of history here echoes that put forward in 'The Spirit of the Age' in 1831, and owes much to Comte and the Saint Simonians – the cyclic notion of organic and transitional phases in society, which involves received opinions being alternatively accepted, then questioned, then replaced with another set of opinions and so on.⁶⁸ Freedom of expression plays an active role in bringing about change, progression and improvement. Mill believes that doctrines are questioned and replaced as a matter of historic inevitability. It seems strange that he would simultaneously attempt to defend the notion that such doctrines should *not* be questioned.

In the second place, Mill is speaking about an object which attracts loyalty to the point that it is placed '*above* discussion' in the common estimation. He is not speaking about something that *must* be barred from discussion by force of law. It may or may not be open

⁶⁶ The additions include, among others, substituting for the original 'which it might or might not be lawful to contest in theory' the phrase 'which, wherever freedom of discussion was a recognised principle, it was of course lawful to contest in theory'; and after the parenthetical phrase 'not an occasional disease' the words 'or salutary medicine'.

⁶⁷ Cf. 'Professor Sedgwick's Discourse' (1835), *CW* X, p. 45: 'History is not the foundation, but the verification, of the social science; it corroborates, and often suggests, political truths, but cannot prove them'.

⁶⁸ Discussed in Chapter 2 of this thesis.

to discussion, depending on the regulations and laws of a society.⁶⁹ What Mill means is that the object of loyalty goes unquestioned because its acceptance is an integral part of the beliefs people naturally share as a social group: it is accepted as totally self-evident, without need for questioning, and consequently forms a part of the identity of a community. When that object is questioned on a regular basis, to the extent that its weaknesses are exposed and people's loyalty begins to falter, acceptance of it dissolves. But because society is partially built on such an object of loyalty, when it is destroyed it must be replaced by some other object if society itself is not to dissolve. This questioning and replacement process can take the form of a civil war, either real or metaphorical. The result, however, is that another point of allegiance takes the place of the previous object and the cycle starts all over again. This is at the heart of Mill's interpretation of culture and history. He is abstracting from what has historically happened to any permanent society which has existed, not making a plea against the onset of civil war. In fact, it seems that stagnation can result if the cycle is impeded, as in the case where nothing is open to question.

The changes introduced in later versions of the essay serve to support this interpretation – Mill also added that in future, the object of allegiance or loyalty is likely to focus on the ideals of personal freedom and equality, and that in the past people have been free in theory to question the object of allegiance, but that point was something 'which no one could either fear or hope to see shaken in practice'. This is surely because the object of allegiance is deeply rooted in the psyche of the national identity, it is part of the ties that bind people together culturally and spiritually. This idea directly connects with Mill's third

⁶⁹ This point is made more explicit by Mill himself in the first of the amendments cited in note 66 above. Moreover, whereas the word 'above' was used (in italics) in the original, in subsequent versions the phrase was changed to 'beyond discussion', which makes clearer Mill's intended meaning.

condition – that of cohesion among the people – demonstrating that all three conditions of a permanent society are inter-related. ‘When society requires to be rebuilt, there is no use in attempting to build it on the old plan.... better institutions and better doctrines must be elaborated’.⁷⁰ Himmelfarb, it seems, has again missed the subtlety of Mill’s point. There is no argument to be found here that tells against Mill’s commitment to freedom of thought and discussion. Mill is demonstrating the intransigent nature of society’s loyalties, not making a case for their permanent and unquestioned status.

Mill credits Coleridge, among others, with expounding a philosophy which had coloured all interpretations of history since the beginning of the nineteenth century.⁷¹ The study of history leads to the identification of the notions of permanence and progression which lie at the heart of historical process. This observation, Mill maintains, along with the conditions for the existence of a permanent society, have been the discoveries of continental philosophy, a philosophy reviled and, worse still, ignored by English thinkers.⁷² Thus, Bentham and Coleridge are, in a sense, archetypes – the former calling for the abolition of the old system, the latter seeking its renewal from within.

Coleridge sought to effect progress through the leadership of a national church, established ‘for the advancement of knowledge, and the civilisation and cultivation of the

⁷⁰ ‘Coleridge’, CW X, pp. 137–38.

⁷¹ Speaking of Coleridge and European thinkers in the *Autobiography* (CW I, p.169) Mill says ‘From these sources... I derived.... [the idea] that any general theory of philosophy or politics supposes a previous theory of human progress, and that is the same thing with a philosophy of history’.

⁷² That Coleridge made the same complaint is evident from Holmes, *op. cit.*, pp. 50–51, who comments that Coleridge ‘recognised that in the very richness and particularity of the English mind... there was something narrow and opaque – something that shut out the larger questions, the vast drafty perspectives of philosophic theory and ultimate knowledge’.

community'.⁷³ This idea of a 'clerisy' is often associated with Mill's appropriation of Coleridge.⁷⁴ Mill quotes approvingly and at length from Coleridge's *Church and State* on the issue, and makes two points for which Coleridge deserves recognition: for clarifying the role of the national church, but also 'for having vindicated against Bentham and Adam Smith and the whole eighteenth century, the principle of an endowed class, for the cultivating of learning and for the diffusing of its results among the community'.⁷⁵ The bad image which has historically been the fate of any endowed class Mill believes to be the result of the abuse of the endowments, and ultimately of the poor administration which led to that abuse. Coleridge believed this too – he sought the *renewal* of the national church, not its abolition. When properly used, not only does a national clergy contribute to the progress of the community, but it also plays a central part in intellectual and cultural well-being. Mill does not expand on these ideas, but lets the passages from Coleridge speak for themselves, expressing his total agreement with the Coleridgian notion of a national church. Additionally, he quotes passages concerning the constitution and the necessity of permanence and progressiveness, before finally evaluating Coleridge's theory as 'but a mere commencement, not amounting to the first lines of a political philosophy' (in contrast to political economy where Coleridge 'writes like an arrant driveller').⁷⁶

Mill's approval of a clerisy may initially appear, once again, to support elitism. Letwin goes further than Himmelfarb in this regard, believing Mill to be putting forward a claim

⁷³ CW X, p. 147.

⁷⁴ Turk, *op. cit.*, p. 246, for example, says that 'Mill's clearest debt to Coleridge lies in his acceptance of an endowed class for the cultivation of the nation'. Robson, *op. cit.*, pp. 75–76, speaks of Mill continuing 'what he took to be Coleridge's attack on the abused functions of the national church'.

⁷⁵ CW X, p. 150.

⁷⁶ *Ibid.* p. 155.

for his own membership, if not leadership, of that elite.⁷⁷ For Letwin elitism seems to mean the right of the few to rule over the many and the subservience of the many to the few. But this reading does Mill less than justice. He explicitly points out in both ‘Coleridge’ and ‘Bentham’ that progress – understood as intellectual and cultural improvement – should be actively encouraged for the good of all, not just for the few. The English attitude that government should leave people alone, leads to the diminution of the possibility of widespread improvement: left alone, people are for the most part inclined to compromise and stagnate, to remain safe from innovation within the security of their own limited experience. People with imagination and foresight are needed to discover the ever-renewing paths of progress and improvement, and to encourage and lead others to follow them on those same paths. Thus, the role of the clerisy is, of necessity, a socially active one: it is not a self-perpetuating elite which exists for its own sake. It must, from its very foundation, lead mankind and bring all to the highest possible level of intellectual and moral excellence: its role is, in Coleridge’s words, one of ‘raising the vulgar to the best’.⁷⁸ If intellectual and moral improvement are to be achieved, toleration should prevail. In adapting Coleridge’s notion, therefore, Mill’s intention is what Turk calls ‘the benevolent aim of extending the privilege of education, rather than the conservative wish to restrict privilege’.⁷⁹ Mill believes, like Coleridge, that intellectual progress for everybody can be achieved only if those who are better endowed intellectually lead those who are less so; he also believes that such leadership must be open to all denominations and classes.⁸⁰ This is the elitism of truth and diversity over the tyranny of falsehood and narrow-mindedness,

⁷⁷ Letwin, *op. cit.*, p. 248: ‘But John Stuart Mill... had discovered as a matter of historical science, that there were more lasting and higher duties for him than the reform of parliament’. She regards Mill as thinking ‘of some classes as inherently qualified to rule, and made so by the inevitable course of history’. Himmelfarb, *op. cit.*, p. 45, follows this same line of thought.

⁷⁸ Coleridge, *Notebooks*, quoted in Turk, *op. cit.*, p. 17.

⁷⁹ Turk, *op. cit.*, p. 148.

rather than the elitism of any particular class of people considered to have a natural entitlement to rule others. While the notion of a clerisy may conjure up images of elitism, any such charges can find little solid basis in Mill's writings on the subject.

Mill makes his most explicit statement on the subject of freedom of thought and discussion towards the end of 'Coleridge', in the context of discussing his subject as a moral and religious philosopher:

Almost all errors he holds to be 'truths misunderstood', 'half truths taken as the whole', though not the less but the more dangerous on that account. Both the theory and the practice of enlightened tolerance in matters of opinion, might be exhibited in extracts from his writing more copiously than in those of any other we know; though there are a few (and but a few) exceptions to his own practice of it.⁸¹

Shortly afterwards, Mill refers to the conditions which make philosophy and the search for truth possible, and comments that the foremost condition is unrestricted freedom of thought. Here, Coleridge is not only associated with identifying the danger of accepting half-truths as the complete truth – a prominent theme of *On Liberty* – but Coleridge's writings are named as those containing more on the topic of freedom of expression than any other writer. This latter assertion demonstrates that Mill was quite aware of the extent and prominence, and (it is not unreasonable to surmise) the influence upon his own thinking, of Coleridge's writings on the topic of freedom of expression. Here, the full extent of the connection between Mill and Coleridge on freedom of expression comes to light.

⁸⁰ Letter to John Sterling, 20–22 October 1831, CW XII, p. 76.

⁸¹ CW X, pp. 158–59.

Turk concedes that Mill's belief in half-truths and toleration was gained from Coleridge, but additionally believes that Mill's interpretation is badly formulated and poorly thought out: Mill is overly optimistic about truth (regarded by Turk as an essentially Platonic construct in Coleridge, *adopted* by Mill) and naive in his belief that truth can somehow be a 'transplant operation'.⁸² Yet, in the *Autobiography*, for example, Mill mentions that he was convinced that even if there were errors in opposing opinions, they might equally contain something of value:

and that in any case the discovery of what it was that made them plausible, would be a benefit to truth. I had, in consequence, marked out this as a sphere of usefulness in which I was under a special obligation to make myself active: the more so, as the acquaintance I had formed with the Coleridgians... all of them fiercely opposed to the mode of thought in which I had been brought up, had convinced me that along with much error they possessed much truth... and I did not despair of separating the truth from the error and expressing it in terms which would be intelligible... to those on my side in philosophy.⁸³

Mill did not regard truth as something transplantable, but as something made intelligible through argument and discussion. Toleration of all opinions is a practical matter, necessary to facilitate the discovery of truth. As for Coleridge, toleration was far from being a passive indifference; rather, it is an active seeking after truth, part of a larger process by which truth is distinguished from error. Mill's reasoning on the issues of half-truths and toleration is straightforward and simple, practical rather than metaphysical. Mill explicitly

⁸² Turk, *op. cit.*, pp. 222, 230.

committed himself to empiricism in 'Coleridge', and if he had tried to reconcile this position with the acceptance of a Platonic ideal of truth then it would be fair to say that he had not thought his position through very thoroughly. But Mill did not regard truth as a Platonic ideal, nor is it necessary to adopt a Platonic notion of truth in order to accept Coleridge's notion of half-truths. Mill's position can be understood as embracing a pragmatic theory of truth, whereby truth is conceived as that on which rational beings agree. For Mill, the notions of tolerance and half-truths were practical rather than metaphysical, whose usefulness to progress on a practical level could not be overstated.

3.4 Conclusion

That Coleridge exerted *some* influence on the thought of Mill has been long recognised; but that influence is often considered to be limited to a few ideas on methodology and imagination, and is therefore treated as minor in comparison with, for instance, the influence of Comte and the Saint Simonians. However, it can reasonably be accepted that on issues of toleration and freedom of expression, Coleridge exerted a far greater influence than has been appreciated. Many of Coleridge's arguments – the notion of half-truths, the necessity of keeping truths alive to avoid stagnation, the concept of an active pursuit of progress and, indeed, the acceptance of truth as the chief criterion (although not the sole criterion, as can be seen in the case of libel) for establishing the grounds on which the expression of opinions can be free – are evident in Mill, who was aware of their origins in Coleridge's writings.

That Mill links Coleridge and toleration is significant in the development of his ideas regarding freedom of thought and discussion. In 1825, Mill had offered a defence of

⁸³ *CW X*, p. 253. This passage was not in the early draft. Mill does not here ascribe the traits of toleration and half-truths as something learned from the Coleridgians.

freedom of expression that strongly echoed his father's and Bentham's treatments of the subject, centred on the notion of government, the prevention of corruption and the idea that to choose ideas for anyone is to act despotically. Yet by the end of the 1830s, Mill's account of toleration was centred on truth and the individual. This was due in no small way to the influence of Coleridge, and stands as an exception to Robson's contention that 'What remained with Mill... is less the specific content of Coleridge's argument than the general perspective'.⁸⁴ That Mill progressed from this point and made those arguments his own cannot take from their origin in the rich soil that Coleridge provided for so many young minds at the time.

⁸⁴ Robson, *op. cit.*, p. 75. Robson, in fact, argues that apart from Harriet Taylor, Tocqueville was 'the most influential of all those with whom Mill came in contact during his great developmental decade' (*ibid.* p. 114). The foregoing arguments would seem to indicate that Coleridge can rival Tocqueville for that position.

CHAPTER 4

JOINT PRODUCTIONS?

Among the many people credited by John Stuart Mill for their role in his life and work, scholars traditionally have taken least seriously his professed indebtedness to Harriet Taylor, the woman who became his wife in 1851.¹ Despite Mill's lavish praise in the *Autobiography* and his deference to her in almost all things during their marriage, her intellectual abilities have been deemed worthy of consideration by few others.² Yet, Mill insisted not only that Harriet was the inspiration for 'all that is best' in his writings, but also that many of those writings were actually joint productions with her, not least of which was *On Liberty*.³ Published in February 1859 just three months after her death, Mill claimed that it 'was more directly and literally our joint production' than anything else which appeared under his name.⁴ Either Mill was severely deluded or the world has

¹ His deference to her is most evident from their correspondence: see, for example, a letter written in January 1849 where Mill submits to her judgement concerning a revision to his *Principles of Political Economy*: 'I think... that the objections as now stated to Communism are valid; but if *you* do not think so, I certainly will not print it, even if there were no other reason than the certainty I feel that I never should long continue of an opinion different from yours on a subject which you have fully considered' (CW XIV, p. 11). Gertrude Himmelfarb lists such instances – see her *On Liberty and Liberalism* (New York, 1974), pp. 230–31. During her lifetime Harriet had three different surnames – Hardy (her birth name), Taylor, and Mill. Most scholars persist in referring to her as Taylor. To avoid the negative overtones inherent in this appellation, I have opted to refer to her simply as 'Harriet'.

² *Autobiography*, CW I, pp. 197ff.; see also the rejected leaves, reprinted in CW I, Appendix G, p. 617ff. There is evidence of late that Mill's claims are being taken more seriously – *The Complete Works of Harriet Taylor Mill*, ed. Jo Ellen Jacobs (Bloomington, Indiana, 1998), has recently been published (the 'introduction' gives a good overview of Harriet's life and writings); moreover, the *Routledge Encyclopedia of Philosophy* (London and New York, 1998) includes an entry on Harriet Taylor.

³ See his dedication in *On Liberty*, CW XVIII, p. 216. A similarly eulogistic dedication in the first edition of Mill's *Principles of Political Economy* (1848) appeared only in gift copies of the work because John Taylor, Harriet's first husband, thought it in poor taste.

⁴ *Autobiography*, CW I, p. 257ff. The early draft of the *Autobiography* (CW I, p. 246) finishes with the comment that 'so long as any of my writings subsequent to the *Logic*

not properly appreciated this woman whom Carlyle described as ‘full of unwise intellect, asking and re-asking stupid questions’.⁵ Whatever one may think, there can be no doubt that her influence over Mill was profound both on an intellectual level (at one stage she selected the topics on which he was to produce essays) and in his personal life (relationships with Mill’s family and friends suffered almost from the beginning of his friendship with Harriet). Her writings do not readily reveal the genius which her husband perceived, but any study of Mill which ignores her influence cannot be considered complete. Given that her writings include an essay on toleration dating from the early 1830s, just after they had first met, any investigation of Mill on freedom of expression will be poorer if it does not take Harriet’s contribution into account.

4.1 Harriet on toleration

In the *Autobiography* Mill confesses that ‘There was a moment in my mental progress when I might easily have fallen into a tendency towards over-government... as there was also a moment when... I might have become a less thorough radical and democrat than I am’.⁶ That he maintained a balance between extremes he credits to Harriet’s influence. In an early draft he had described her effects on his mental development as gradual, holding that ‘During the first years of our acquaintance the principal effect of her nature upon mine was to enlarge and exalt my conceptions of the highest worth of a human being’.⁷ The importance of the individual had become an issue for Mill during the 1830s – he had, for example, emphasised the individual’s right to privacy in an article about

are read or remembered, I hope it will be borne in mind that to her intellect and character they are mainly indebted for whatever in them deserves remembrance’.

⁵ D. Wilson, *Life of Thomas Carlyle*, quoted in Himmelfarb, *op. cit.*, p. 225.

⁶ *Autobiography*, CW I, p. 259.

⁷ *Ibid.*, early draft, CW I, p. 198. This passage was omitted in the final version where Mill states (p. 199) that ‘this influence was only one among many which were helping to shape the character of my future development: and even after it became... the presiding

libel written in 1834.⁸ This emphasis on individuality was to become a central feature of his argument for freedom of thought and expression, and Harriet's views in the early 1830s to some extent foreshadow the direction of Mill's intellectual progress: her essay on tolerance contains many of the sentiments later expressed in their 'joint productions'.⁹ These similarities have not gone unnoticed. Himmelfarb, for instance, points out that, in both theme and detail, Harriet's essay bears a striking resemblance to *On Liberty*.¹⁰ And although there is no evidence that Mill was actually familiar with this particular piece of writing, it is clear from the various essays of Harriet which survive that the theme of toleration was a recurring favourite of hers, making it highly unlikely that she would not have discussed it with her intellectual confidant.¹¹ Moreover, if we take Mill's claims of joint authorship seriously, the similarities between this early essay and later works should come as no surprise. A brief examination of Harriet's essay on tolerance, therefore, will provide a basis with which to compare Mill's subsequent writings on the same subject.

principle of my mental progress, it did not alter the path, but made me move forward more boldly and at the same time more cautiously in the same course'.

⁸ 'Notes on the Newspapers: Mr O'Connell's Bill for the Liberty of the Press', *Monthly Repository*, March 1834 (CW VI, pp. 165–68), discussed in Chapter 2 above. William Johnson Fox, editor of the journal, may have been instrumental in bringing Mill and Harriet together: see Michael St. John Packe's *The Life of John Stuart Mill* (London, 1954), pp. 127–28.

⁹ The essay (some 1750 words) is in the British Library of Political and Economic Science at LSE, Mill-Taylor Collection, Box III, No. 78, reproduced (with omissions) as Appendix II in F.A. Hayek's *John Stuart Mill and Harriet Taylor: Their Correspondence and Subsequent Marriage* (London, 1951), pp. 275–79. The manuscript is not dated, but the paper is watermarked 1832.

¹⁰ Himmelfarb, *op. cit.*, pp. 261–62.

¹¹ Other (shorter) writings of Harriet's (on topics ranging from the use of proverbs, selfishness and customs to the education of women) are preserved in the Mill-Taylor Collection, Box III, and all are now more widely available in *The Complete Works of Harriet Taylor-Mill*.

The diminution in importance of individuality in the face of social pressure to conform with the ideas of others is a thread which runs throughout Harriet's essays. In the essay on toleration, she contends that the issue is problematic because the prevalence of intolerance forms the basis of envy, hatred and uncharitableness; it is not until conformity is destroyed that these traits can be destroyed also. However, her analysis here is open to question in many ways, and it cannot be said to be conclusive. Envy, hatred and uncharitableness, it could equally be argued, are human traits on a par with intolerance rather than qualities derivative from it. This possibility, however, is not addressed in the essay. Neither does Harriet explicitly attempt to provide a justification as to why individuals are somehow valid in themselves or for their own sake. Rather, she immediately identifies the origin of intolerance with the urge to conform, holding that:

individual character if it exists at all, can rarely declare itself openly while there is, on all topics of importance a standard of conformity raised by the indolent minded many and guarded by a fasces of opinion which, though composed individually of the weakest twigs, yet makes up collectively a mass which is not to be resisted with impunity.¹²

The collective opinion of society wields a power over the minds of the unthinking masses, and individuality of thought is not only discouraged but actively punished by those people who themselves lack the power of independent thought. The only way to overcome such pressure is to encourage each to think for him- or herself, thereby granting to each the ability to see plainly the power which conformity wields. The only useful meaning of the word 'principle', she believes, is an 'accordance of the

individual's conduct with the individual's self-formed opinion. Grant this to be the definition of principle, then eccentricity should be *prima facie* evidence for the existence of principle'.¹³ The essay encourages people to 'think for yourself, and act for yourself, but whether you have strength to do one or the other, attempt not to impede, much less to resent the genuine expression of the others'.¹⁴ To encourage this freedom is important because 'what is truth to one mind is often not truth to another.... no human being ever did or ever will comprehend the whole mind of any other human being'.¹⁵ Because society abhors individuality and asks for the sacrifice of everything to conformity, the individual who stands out and declares this situation to be an evil is providing a valuable service to mankind.

As a piece of philosophical writing, Harriet's essay lacks cohesion and consistency (a charge, one should add, regularly brought against *On Liberty*). But the themes which run through it are readily identifiable as favourite topics of Mill's in the aftermath of his mental crisis. Himmelfarb connects the essay with *On Liberty* 'not only in its general theme... but also in many of its details', concluding that 'Above all it resembles *On Liberty* in its posture – that of the romantic rebel standing alone against the overwhelming pressures of society, deriving his strength from his inner resources, and confident of his intellectual and moral (although not physical) superiority'.¹⁶ Most striking, however, from the perspective of freedom of expression, is the essay's commitment to intellectual liberty and to the notion of people being encouraged to follow their own line of thought to its consequences rather than following the opinions

¹² Hayek, *op. cit.*, Appendix II, p. 275 (the word 'fasces' is unidentified by Hayek).

¹³ *Ibid.* p. 276.

¹⁴ *Ibid.*

¹⁵ *Ibid.* p. 277.

¹⁶ Himmelfarb, *op. cit.*, p. 262.

of the majority. In the 1830s, Mill began to argue for freedom of thought and discussion because it is somehow valuable to individuals themselves, in addition to being a safeguard against corruption in government. Harriet's essay, inadequate as it might be as reasoned argument, is interesting as it offers the thoughts of an intellectual intimate from this time, she of whom he later said 'What I owe, even intellectually, to her, is, in its detail, almost infinite'.¹⁷ There can be little doubt but that Harriet played a large part in the development of Mill's thought concerning tolerance and individuality, and the existence of this early essay can be seen to lend support to his claims that her opinions indeed had a major influence at least in this one area.¹⁸

4.2 Joint progress

In the *Autobiography*, Mill pinpoints the year 1840 as a watershed in his intellectual development: 'From this time, what is worth relating of my life will come into a very small compass; for I have no further mental changes to tell of, but only, as I hope, a continued mental progress'.¹⁹ In that year he published his important essay 'Coleridge', discontinued his ownership of and interest in the *London and Westminster Review*, and began a decade of his life of which little is known, but during which he increased his intimacy with and reliance on Harriet for moral and intellectual kinship.²⁰ In October of

¹⁷ *Autobiography*, CWI, p. 197.

¹⁸ Eugenio Biagini appears to separate Harriet from the notion of individuality in Mill's intellectual development during the 1830s, claiming that the latter came about under the influence of Romanticism – see his 'Liberalism and Direct Democracy', in E.F. Biagini (ed.) *Citizenship and Community* (Cambridge, 1996), p. 27. However, given the evidence of Harriet's interests at this time, and Mill's expression of indebtedness to her on this very issue, such a separation seems unwise.

¹⁹ *Autobiography*, CWI, p. 229.

²⁰ Hayek, *op. cit.*, p. 110, points out that 'The years from 1840 to 1847 are an almost complete blank in our knowledge of Mill's private life and the character of his connexion with Mrs. Taylor. We have scarcely any documents belonging to this period and few other contemporary sources of interest. It is probable that it was at the

that year the *Edinburgh Review* published Mill's second assessment of Tocqueville on democracy in America, an article which Mill regarded as a personal milestone.²¹ From the perspective of freedom of thought and expression, especially in the light of Harriet's essay, the significance of the article is paramount, as it provides yet a further insight into the development of Mill's mature views on the subject. Before writing the review, Mill wrote to Tocqueville congratulating him on the accomplishment of producing a work without equal in importance, and telling him that:

Among so many ideas which are more or less new to me I have found... that one of your conclusions is exactly that which I have been almost alone in up to here, and have not as far as I know made a single disciple – namely that the real danger in democracy, the real evil to be struggled against... is not anarchy or love of change, but Chinese stagnation & immobility.... I shall henceforth regard it as the truth scientifically established, and shall defend it *envers et contre tous* with tenfold pertinacity.²²

The theme of conformity and resistance to change is the main theme of Harriet's essay, predating Tocqueville by up to eight years. That Mill was already familiar with these ideas is clear (that he says he was 'almost alone' in holding them is probably a reference to Harriet). However, in reviewing the work, Mill demonstrates a much deeper sophistication and understanding of the problem than is found in Harriet's essay. He does not attempt to subvert the power of public opinion – which, he believes, *must* be

beginning of this time that they had become aware of the scandalous talk about them, had learnt to exercise caution, and that they withdrew almost completely from society'.

²¹ 'De Tocqueville on Democracy in America [II]', *CW* XVIII, pp. 154–204. That Mill considered this essay significant is evident from the *Autobiography* (*CW* I, p. 201) where he says that the changes in his political thought could be traced by comparing it with his 1835 review of Tocqueville and with his later *Considerations on Representative Government* (1861).

the ruling power – but to control it: ‘in order to [*sic*] the formation of the best public opinion, there should exist somewhere a great social support for opinions and sentiments different from those of the mass’.²³ This achievement can be facilitated by diversity in society or by what he more often at this stage referred to as a ‘leisured class’ whose role is one of providing intellectual reflection and considered guidance to those whose daily preoccupations do not allow the time for such reflection. Mill’s conception of truth differs from that of Harriet (who maintains in her essay on tolerance that all truths are relative to the individual). He praises Tocqueville for his comprehensiveness and impartiality, not least for arriving at a decided opinion rather than having fallen ‘into the common infirmity of those who have seen too many sides to a question – that of thinking them all equally important’.²⁴ However, in common with Harriet, the main tyranny which both Mill and Tocqueville dread is ‘a tyranny not over the body, but over the mind’.²⁵ Thus, one of the ultimate themes of the article, yet again, is intellectual liberty.

Mill believed that a proper democracy could not be established unless a certain level of education was achieved by the voting population, and he approved of the fact that education was becoming less and less the preserve of the higher classes. In the 1840 article on Tocqueville, he maintains that although much of the education and knowledge being obtained by the lower classes may not be of the highest order, ‘The knowledge

²² 11 May 1840, *CW* XIII, p. 434.

²³ ‘De Tocqueville on Democracy in America [II]’, *CW* XVIII, p. 198.

²⁴ *Ibid.* p. 158. Cf. Mill’s diary entry of 13 January 1854 (*CW* XXVII, p. 642) where he complains that ‘Those who should be the guides of the rest, see too many sides to every question. They hear so much said, or find that so much can be said, about everything, that they feel no assurance of the truth of anything’. This criticism is similar to one made by William Thomas in *Mill* (Oxford, 1985), p. 100, where he accuses *On Liberty* of confusing wisdom and open-mindedness.

²⁵ ‘De Tocqueville on Democracy in America [II]’, *CW* XVIII, p. 178.

which is power, is not the highest description of knowledge only: any knowledge which gives the habit of forming an opinion, and the capacity of expressing that opinion, constitutes a political power; and if combined with the capacity and habit of acting in concert, a formidable one'.²⁶ Thus people must be educated and made capable of forming their own opinions if they are to participate actively in democracy; Tocqueville is opposed to that type of 'democratic radicalism' which would extend the franchise to the 'untaught masses' who have not shown that they possess the intellectual training for the task.²⁷ Mill notes that in England it is the newspapers that inform people how others are thinking, helping them to make up their own minds about the political issues of the day and thereby enabling the spread of democracy. Freedom of the press therefore forms the basis of a democratic society. Opinions inform further opinions, and political truths can be arrived at in the process. Tocqueville sees that democracy facilitates the spread of intelligence and education in this manner.

The other side of this coin, however, is that democracy can also introduce the despotism of the majority: 'It is the complaint of M. de Tocqueville, as well as of other travellers in America, that in no other country does there exist less independence of thought'.²⁸ This is partially explained, Mill thinks, by the fact that Americans tend to regard the wisdom of the ages and traditions of the past with less respect, preferring to form their own opinions based on their own experience and common-sense. But, the article quotes approvingly from Tocqueville:

²⁶ Ibid. pp. 164–65.

²⁷ Ibid. p. 159. Cf. *On Liberty*, CW XVIII, p. 224: 'Liberty, as a principle, has no application to any state of things anterior to the time when mankind have become capable of being improved by free and equal discussion'.

²⁸ Ibid. p. 178.

It is impossible... that mankind in general should form all their opinions for themselves; an authority from which they mostly derive them may be rejected in theory, but it always exists in fact. That law above them, which older societies have found in the traditions of antiquity, or in the dogmas of priests and philosophers, the Americans find in the opinions of one another.²⁹

Here, the notion of an authority as a necessity (albeit often unconscious) in the intellectual life of most is uncompromisingly put forward, and juxtaposed with the notion of the importance of independence of thought.³⁰ Most people, lacking intellectual resources in some area, need leadership and guidance; to arrive at informed opinions it is not wise that such people should follow their own independent instincts without aid (one is reminded of the parallel Mill liked to draw in the 1830s between politicians and doctors as authorities in their respective fields).³¹ This is a natural phenomenon, an empirical, psychological fact which becomes most evident where education is not widespread. Even when left entirely to their own devices, most people will seek guidance and advice from an authority of some description. Mill thinks it better that the need for intellectual leadership should be recognised, thereby allowing the despotism of the majority to be controlled. Society provides a variety of roles to be fulfilled by its members. Some are natural leaders and teachers, others are not. As a practical solution, Mill therefore proposes that a commercial society should be composed of three classes: the agricultural, the leisured and the learned, all educated, and with each class playing a

²⁹ Ibid. p. 179.

³⁰ Cf. 'Coleridge', which had appeared in March 1840 (CW X, p. 133–34), where Mill speaks of the conditions of permanent political societies (discussed in Chapter 3 of this thesis).

³¹ See his 1832 articles on 'Pledges' (CW XXIII, p. 491), discussed in Chapter 2 of this thesis.

complementary role in progress.³² Intellectual freedom, however, is fundamental to the progress of all.

As education and the products of intellect become more widely diffused, there is a tendency for them to lose their potency: 'In the multiplication of their quantity he [Tocqueville] sees the deterioration of their quality'.³³ The wider diffusion of opinions and superficial information means that these become the staple intellectual diet of those who lack the ability to understand thoroughly all the opinions they hear. As a consequence, the quality of the writings produced is in danger of becoming steadily poorer. Ultimately, therefore, total equality in society brings an inherent danger of deterioration in intellectual and moral life, discouraging speculation and change, ushering in an age of stagnation and lack of independence. The proposed solution is to introduce more widespread education and, above all, to encourage not less but more liberty through the extension of political rights. 'Democratic institutions, therefore, are his remedy for the worst mischiefs to which a democratic state of society is exposed'.³⁴ As a democratic institution, therefore, intellectual freedom has the ability to rectify itself of any imbalances it may cause.³⁵ If democracy is to be optimised, and all its inherent dangers overcome, reason must be given free rein, the 'moral freedom of the individual' must be upheld and protected, and intellectual activity should be actively encouraged

³² 'De Tocqueville on Democracy in America [II]', *CW XVIII*, pp. 198–99. Mill later changed his mind about this make-up of society, in part because of a growing commitment to socialism. In a letter to John Austin dated 13 May 1847 (*CW XIII*, p. 713), he advocates the extension of education and adds 'I have even ceased to think that a leisured class, in the ordinary sense of the term, is an essential constituent of the best form of society. What does seem to me essential is that society at large should not be overworked, nor over-anxious about the means of subsistence'.

³³ 'De Tocqueville on Democracy in America [II]', *CW XVIII*, p. 180.

³⁴ *Ibid.* pp. 188–89.

³⁵ Mill, following his father, had long maintained that freedom of speech tends to remedy any evils which it may cause – see Chapter 1 above.

and promoted by government. Mill also goes a few steps further, admitting that democracy and democratic institutions are in their infancy and that their consequences may be far-reaching and beyond the imagination of anyone.³⁶

In terms of freedom of expression, the importance of this second review of Tocqueville cannot be over-stated. Whether consciously or not, Mill finalises the agenda for much if not all of his subsequent writings on the subject. Basic to these is the necessity of education – freedom of thought and expression does not have a role where a certain standard of education has not been reached, and it seems almost redundant where it is not used to encourage progress through intellectual and moral improvement.³⁷ Thus, in an article in the *Morning Chronicle* of 17 June 1841, Mill maintains that ‘whatever makes the poor poorer, tends in the same proportion to make them ignorant and vicious, by depriving them of the opportunity and means of good education, while it strengthens and multiplies the temptations to which their condition exposes them’.³⁸ But improvement begins in the individual mind: ‘the mental regeneration of Europe must precede its social regeneration’.³⁹ Education is the key to progress, equipping people for and pointing them in the direction of their personal quest for the truth in unresolved issues, a quest which ideally involves assessing various opinions and incorporating what is best from all.⁴⁰ Like all social activities, however, education needs leadership, and

³⁶ Ibid. pp. 190–91: ‘It is thus with all other really great historical facts – the invention of gunpowder for instance, or of the printing-press; even when their direct operation is as exactly measurable, because as strictly mechanical, as these were, the mere scale on which they operate gives birth to endless consequences, of a kind which would have appeared visionary to the most far-seeing contemporary wisdom’.

³⁷ See note 27 above.

³⁸ ‘Petition for Free Trade’, *CW XXIV*, p. 804.

³⁹ Letter to Robert Barclay Fox, 19 December 1842, *CW XIII*, p. 563.

⁴⁰ See, for example, Mill’s first letter on Newman and Puseyism in the *Morning Chronicle* of 1 January 1842 (*CW XXIV*, p. 812) where he says ‘We not only esteem it a more healthful exercise of the mind to employ itself in learning from any enemy, than in

this, logically, can only be provided by those who are already educated. Without an orientation towards progress and improvement, education will not necessarily produce original or great thinkers, and in fact can lead to what he elsewhere called a 'pedantocracy'.⁴¹ At this stage of his career, Mill was uncertain as to how the best kind of education could and should be pursued.⁴²

4.3 Education and liberty

In *A System of Logic*, which first appeared in 1843, Mill's commitment to freedom of thought and discussion is evident, as are his notions of the related fields of education and progress. This well-received work was written at intervals over the preceding years, with apparently no initial input from Harriet.⁴³ Although the work highly prizes individuality, its less exuberant tone in relation to the topic may well be a direct consequence of Harriet's lack of involvement in its original composition. If this is indeed the case, the *Logic* may well be much more significant than has hitherto been appreciated in understanding Mill's developing attitude to individuality. Mill's claims regarding Harriet's role as the starting point for the development of his most important ideas (as opposed to his sounding-board or echo) may warrant much more consideration in the context of the *Logic*.⁴⁴ The work contrasts society's laws of progress (which it

inveighing against him; but, we believe, that the extirpation of what is erroneous in any system of belief is in no way so much promoted as by extricating from it, and incorporating into our own systems, whatever in it is true'.

⁴¹ Letter to Comte, 25 February 1842, *CW XIII*, p. 502. The phrase also occurs in *On Liberty* (*CW XVIII*, p. 308).

⁴² Letter to Robert Barclay Fox, 19 December 1842, *CW XIII*, pp. 563–64.

⁴³ The *Autobiography* (*CW I* pp. 229 ff.) gives an account of the development of this work. Harriet's lack of involvement is evident from the comment at the end of the early draft (p. 246) that her influence is widespread on all works subsequent to the *Logic*.

⁴⁴ This potential importance of the *Logic* is not noted by commentators such as Mark Francis and John Morrow in *A History of English Political Thought in the Nineteenth Century* (London, 1994) pp. 140–41, nor is it by critics of Harriet such as H.O. Pappe in *John Stuart Mill and the Harriet Taylor Myth* (Victoria, 1960).

regards as so numerous and changeable as to be beyond calculation) with the scientific laws of astronomy, and identifies the laws of the nature of the individual with the properties ascribed collectively to human beings in society.⁴⁵ Concerning the nature of the individual he later says:

It would be a great error, and one very little likely to be committed, to assert that speculation, intellectual activity, the pursuit of truth, is among the more powerful propensities of human nature, or fills a large place in the lives of any, save decidedly exceptional, individuals. But... its influence is the main determining cause of social progress; all the other dispositions of our nature which contributed to that progress, being dependent on it for the means of accomplishing their share of the work.⁴⁶

This passage re-affirms Mill's idea that human progress is ultimately driven by intellect, and thus the necessity of education and intellectual speculation to direct moral, political and social advances. (It also indicates that he was not unaware of possible charges that his work placed too much emphasis on the human propensity to seek truth, or that he possessed an exalted view of human nature.)⁴⁷ Mill points out that all advances in industry and commerce, in politics and social policy, have (historically) been preceded by intellectual advances, and 'From this accumulated evidence, we are justified in concluding, that the order of human progression in all respects will be a corollary

⁴⁵ *A System of Logic*, Bk VI, chs vii §1, vi §2 (CW VIII, pp. 879, 878). In the British Library manuscript, a deleted version of the passage reads more optimistically: 'and the laws of the changes of many of them will probably if ever known be among the very last stage which human sagacity will proceed in discovering' (Add Ms 41627, folio 203).

⁴⁶ Ibid. VI, x (CW VIII, p. 926).

⁴⁷ Mill is accused of these very faults by, among others, Francis Canavan in his article 'J.S. Mill on Freedom of Expression', *Modern Age*, Fall 1979, p. 369.

deductible from the order of progression in the intellectual convictions of mankind'.⁴⁸ It is a short step to the conclusion that all opinions ought to be freely expressed if human progress is to be uninhibited and widespread. Mill does not take such a step in the *Logic*, but that he most certainly believed this becomes evident from an article which appeared shortly afterwards.⁴⁹ Here he approvingly quotes from Guizot who credits ancient Greece and Rome with the origins of liberty of thought, defined as reason providing its own starting point and guide, which is 'the most precious legacy which antiquity left to the modern world'.⁵⁰

Meanwhile, in their private life, Mill and Harriet continued to spend much time together and to influence one another's opinions. In February 1846 the first of their many 'joint productions' appeared. Perhaps not surprisingly, the main subject of this article echoes the theme of Harriet's essay of over ten years previously in lamenting the disappearance of individuality in society ('Time was when it was not thought incredible and miraculous not to be commonplace. But the modern type of civilisation has destroyed even the remembrance, even the idea of individuality, that to the vulgar everything which shows character is a proof of madness').⁵¹ The themes of equality and equal rights for all run through the series of articles, Harriet being the primary author.

⁴⁸ *A System of Logic*, VI, x, §7 (CW VIII, p. 927).

⁴⁹ 'Guizot's Essays and Lectures on History', *Edinburgh Review*, vol. 82, October 1845, CW XX, pp. 271–72.

⁵⁰ Biagini, *op. cit.*, gives an interesting account of the importance of classical Greek civilisation to Mill's notions of liberalism and democracy, which includes the notion of freedom of thought.

⁵¹ 'The Acquittal of Captain Johnstone', *Morning Chronicle*, 10 February 1846, CW XXIV, p. 866. In his bibliography of his works, Mill comments that although this was a joint production, very little of it was his (CW XXXIII, p. 45). Articles with similar and related themes appeared on 13 June, 6 October, 28 October, 17 November and 29

Mill's main preoccupation just then lay with his second magnum opus, *The Principles of Political Economy*, but he took some time off to address his attention to the condition of tenant farmers in famine-struck Ireland.⁵² In the course of these speculations, the themes of individuality and the need for education and rational improvement constantly hover below the surface, occasionally breaking through in the form of pleas to replace short-term solutions with long-term plans to ameliorate the condition of Ireland and its people. Any such solution 'must be something operating upon the minds of the people.... They must have something to strive for, some object of rational ambition'. To ensure moral improvement, education of the peasants must go further than the provision of merely practical items such as schools and books – it must extend into provoking interest in such topics as social relations, industry and even law. Similarly, to treat everybody the same in the distribution of land allotments would be unhealthy because 'Complete equality is only a school of improvement where there is already a strong habitual sentiment of emulation. A multitude of persons occupied exactly alike, all equally well off, and having nobody near who is superior or dissimilar to them, do not improve. Each is confirmed in his own habits by seeing precisely the same habits prevailing all around him'.⁵³ Such an explanation further demonstrates Mill's concern about the dangers for individuality in a democracy, and the necessity of diversity in society to ward off stagnation and to encourage improvement and progress. Commenting on the proposed Poor Law for the Irish, he simply states that 'nothing can improve their condition permanently that does not improve their opinions and

December 1946. This point of identifying individuality with madness was later reiterated in *On Liberty* (CW XVIII, p. 271 n.).

⁵² The *Autobiography* (CW I, p. 243) says that the *Principles* was started in 1845 and finished two years later, during which time he took a break of six months to write the articles for the *Morning Chronicle*, 'urging the formation of peasant properties on the waste lands of Ireland'. This series of forty-three articles, which ran from October 1846 to January 1847, is reproduced in CW XXIV, pp. 879–1035.

conduct'.⁵⁴ The priority of the intellect for the benefit of progress was now explicitly and thoroughly established in Mill's repertoire of ideas. However, the issue of freedom of expression was not explicitly addressed again by Mill until the appearance of the *Principles of Political Economy* in 1848.

A dominant theme running through the *Principles* is the idea of progress and its importance to the ongoing development of society, and thus to individual human beings. Nowhere is that idea more evident than in Book IV, in the section concerning the future of the labouring classes, which was extensively rewritten under Harriet's influence in subsequent editions.⁵⁵ Mill advises that these classes will henceforth have to be treated as equal to other classes as 'The prospect of the future depends on the degree in which they can be made rational beings'; and although newspapers – the main source which such people use to hear a variety of opinions expressed – may not provide the most desirable kind of education, what they provide is better than no education whatsoever. Skills of thought and reflection must be encouraged, and these will eventually lead to a desire for self-government. But this form of government will never entirely exclude the need for people to refer to an authority whose intelligence and judgement they respect:

⁵³ 'The Condition of Ireland', CW XXIV, p. 1025 – see also pp. 912, 955. Again, the point is reiterated in *On Liberty* (CW XVIII, p. 275).

⁵⁴ *Morning Chronicle*, 17 March 1847, CW XXIV, p. 1067. Two months later, on 17 May, he wrote to Comte '*Aujourd'hui il n'est question que de donner aux pauvres; non seulement de l'argent, mais aussi, il est juste de le dire tout ce qu'on croit leur être utile, comme le raccourcissement des heurs de travail, une meilleure police sanitaire, de l'éducation même, chrétienne et protestante surtout, mais sans exclusion de quelques connaissances terrestres*' (CW XIII, p. 717).

⁵⁵ Mill's deference to Harriet in re-writing this section is rather intriguing – see, for example, the series of letters written in early 1849 (CW XIV, pp. 4–23) concerning revisions to the second edition, one of which is given as an example in note 1 above.

‘Such deference is deeply grounded in human nature; but they will judge for themselves of the persons who are and are not entitled to it’.⁵⁶

In the *Autobiography* Mill discusses the composition and development of this section of the work during what he calls the third period of his mental progress when he ‘had now completely turned back from what there had been of excess in my reaction against Benthamism’.⁵⁷ (In an earlier draft of the *Autobiography*, his changes of opinion from this time forward are attributed to Harriet, and indeed most of his letters to her which survive from this period bear witness to his constant submission to her in most intellectual matters.)⁵⁸ He describes how he and Harriet feared the control which an uneducated mass could wield in a democracy, and saw that to alter that possibility ‘an equivalent change of character must take place both in the uncultivated herd who now compose the labouring masses, and in the immense majority of their employers’. Such ideas, he believed, grew and developed in successive editions of the *Principles*, and Harriet’s input and influence on these opinions, especially those relating to socialism, are well documented.⁵⁹

⁵⁶ *Principles of Political Economy*, IV, vii, §2 (CW III, pp. 763–65).

⁵⁷ *Autobiography*, CW I, p. 237.

⁵⁸ The cancelled text is reproduced at CW I, pp. 234–35: ‘Up to this time I have spoken of my writings and opinions in the first person singular because the writings... were not, like the subsequent ones, largely and in their most important features the direct product of her own mind: and the opinions, though in a state of continued growth, were not generically different from those which I had gradually wrought out on emerging from the narrowness of my original Benthamism. But in the great advance which I have since made in opinion I was wholly her pupil’.

⁵⁹ Much debate was generated around this topic in the 1960s – John Robson’s *The Improvement of Mankind* (London, 1968, pp. 53ff.) provides a good summary.

The *Principles* contain many important ideas which anticipate *On Liberty*, even going so far as to anticipate the central theme of the later work.⁶⁰ (This latter point is overlooked by Gertrude Himmelfarb in her argument against Mill that ‘What he did not have, before or afterwards, was a commitment to liberty in the form and degree he gave it in *On Liberty*’.)⁶¹ It is evident that Mill takes freedom of thought and discussion for granted as a necessary part of society. Echoing the joint articles of 1846, he speaks of the idea of equality and its progress among the people, pointing out that nothing short of the abolition ‘of printed discussion and even of freedom of speech’ will stop the progress of ideas and change.⁶² Yet, he also feared that the individual could be swallowed by the masses, and advocated ‘independence of thought, speech and conduct... in order to maintain that originality of mind and individuality of character, which are the only source of any real progress, and of most of the qualities which make the human race much superior to any herd of animals’.⁶³ Here, freedom of expression is advocated as a necessity to the individual’s progress, as well as to the progress of society at large. But that is not all. Education and training in the use of reason are also necessary, and this education is unambiguously advocated for the benefit of all. Mill’s belief that human nature seeks guidance and that, when in doubt, people naturally defer to those they think more capable than themselves, is an inextricable part of this programme.

⁶⁰ The 1848 manuscript, Book II, chapter I, §3, reproduced in Appendix F of *CW II*, p. 1023, contains the following: ‘The perfection of social arrangements would be to secure to all persons complete independence and freedom of action, subject to no restriction but that of not doing injury to others’. This passage was amended in the published versions. In turn, it has a precedent in another early essay by Harriet (on ‘The Nature of the Marriage Contract’, Mill-Taylor Collection, Box III, No. 77): ‘No government has a right to interfere with personal freedom’, which is crossed-out and replaced by ‘Every human being has a right to all *personal* freedom which does not interfere with the happiness of some other’.

⁶¹ Himmelfarb, *op. cit.*, p. 272.

⁶² *Principles of Political Economy*, IV, vii, §4 (*CW III*, pp. 766–67).

In the *Principles*, an entire section addresses the question of freedom of discussion.⁶⁴ This is the first time in some years that Mill had considered explicitly the topic at any length. Entitled 'Restraints on opinion or on its publication', the section harks back to Mill's 1825 essay on the law of libel, and thus to his father's writings on freedom of the press, by discussing the notion of a government choosing opinions for the people.⁶⁵ Yet it also anticipates the arguments which were subsequently developed in *On Liberty*, thus providing a link between the earlier and the later works. By the 1840s, the government no longer sought to control opinions on politics, morals, law or religion, and Mill says that such a notion had been abandoned as a general thesis because:

a régime of this sort is fatal to all prosperity, even of an economical kind: that the human mind when prevented either by fear of the law or of fear of opinion from exercising its faculties freely on the most important subjects, acquires a general torpidity and imbecility, by which, when they reach a certain point, it is disqualified from making any considerable advances even in the common affairs of life, and which, when greater still, make it gradually lose even its previous attainments.⁶⁶

The prevalence of freedom of thought is regarded by Mill as both a direct consequence of progress and a wellspring from which further progress can be made as the human

⁶³ Ibid. V, xi, §3 (CW III, pp. 939–40).

⁶⁴ Ibid. V, x, §6 (CW III, pp. 934–35).

⁶⁵ This early essay, discussed in Chapter 1 above, is reproduced at CW XXI, pp. 1–34.

⁶⁶ The example he used was that of Spain and Portugal 'from the Reformation to the present time'. In contradiction to this, a letter of February 1855 to Harriet attributes the intellectual superiority of the Portuguese over the Sicilians to the fact that they 'had now had for many years free institutions and a free press' (CW XIV, p. 353). Subsequently in the 1862 and later editions of the *Principles*, the text was amended to read 'for two centuries after the Reformation'.

mind achieves its manifold potentials, economic as well as intellectual. Yet, Mill perceived that persecution was not entirely at an end in the England of the nineteenth century. People still suffered imprisonment for professing 'infidel opinions',⁶⁷ and Mill thinks it likely that similar measures would be used against communism. In place of explicit government restrictions, however, the growing danger now was seen to be the social pressure of custom and conformity preventing people from asserting their individuality. To combat the stagnation which can result from this situation, people ought to be free to express and to hear all opinions – although Mill sees that his opinions were widely recognised as valid, freedom of expression was rarely accepted with the force of a principle. This is partially because, when it comes to those things which tend to elevate the human character, 'Those who most need to be made wiser and better, usually desire it least, and if they desired it, would be incapable of finding the way to it by their own lights'.⁶⁸

It is incumbent on government, therefore, to ensure that people are educated; but this duty also extends to not attempting to interfere in the education process in a manner which will benefit the government itself.⁶⁹ Thus, in July 1848, writing in the *Daily News*, Mill praises the new democratic government in France for its bill proposing free education for all, claiming that it is a matter of necessity in a democracy that everybody should be educated 'to the highest point attainable'.⁷⁰ One month later, however, he was denouncing the same government for attempting to restrict the press, claiming their measure to be 'one of the most monstrous outrages on the idea of freedom of discussion'.

⁶⁷ This point is also made, with examples, in *On Liberty*, CW XVIII, p. 239.

⁶⁸ *Principles of Political Economy*, V, xi, §8 (CW III, p. 947).

⁶⁹ Ibid.

⁷⁰ 'On Reform', *Daily News*, 19 July 1848, CW XXV, p. 1105.

ever committed by the legislature of a country pretending to be free'.⁷¹ Mill's commentary on the French press bill offers some important insights into his (now) mature attitude to freedom of expression. He argues that if only one side of a set of opinions is heard, discussion is impossible and the opposite opinions do not have the opportunity 'of triumphing in a fair field'; consequently, truth and error alike are apt to perish. He admits that a government has a right to protect itself, but will not allow that its right to protection can extend to suppressing the opinions of opponents: 'If it does so, it actually justifies insurrection in those to whom it denies the use of peaceful means to make their opinions prevail' because 'When their mouths are gagged, can they be reproached for using their arms'.⁷²

Mill's argument here is radical and implies radical consequences. In a democracy, a government cannot deny the right to freedom of expression, to silence those who oppose it in measures relating to property, the family, republicanism, universal suffrage and the constitution (the examples are Mill's). To do so is to undermine the consensus on which democracy is based. Freedom of thought and expression is therefore a fundamental condition of democracy and a primary democratic right. Denial of the right to think and to speak out freely is therefore a violation of democracy, and people have a right to defend themselves against such violations.⁷³ This is a radical stance, echoing the younger Mill, as well as the thought of his father and of Bentham (Mill again mentions that freedom of expression exists in England only as a consequence of the non-

⁷¹ 'The French Law Against the Press', *Spectator*, 19 August 1848, CW XXV, pp. 1116–18.

⁷² *Ibid.* p. 1118.

⁷³ John Skorupski's assessment of freedom of expression in his *John Stuart Mill* (London, 1991), p. 388 does not make explicit this (surely very radical) point in his conclusion that for rational discussion in democratic politics 'unrestricted liberty of thought and discussion is indeed the most vital of preconditions'. For Mill, freedom of thought and discussion forms the basis of democracy itself.

enforcement of the law).⁷⁴ Whatever his intellectual wanderings in the meantime, Mill's radical credentials are once again evident here. Freedom of expression is unambiguously identified as essential to the improvement of the individual and the progress of society at large.

4.4 Towards On Liberty

By 1850, Mill's mature arguments in favour of freedom of thought and discussion were firmly established, very much in conjunction with Harriet, along the lines which he was famously to use in *On Liberty*. His belief in progress and education,⁷⁵ his fear of the power of public opinion and conformity,⁷⁶ his belief in the importance of individuality,⁷⁷ and his firm conviction that freedom of expression and equality were among the most basic traits of democracy⁷⁸ had all been unambiguously stated. It is therefore difficult to

⁷⁴ In 1849, discussing 'The Attempt to Exclude Unbelievers from Parliament' (*Daily News*, 26 March; CW XXV, pp. 1135–38) he further upbraids England because 'As long as the laws keep up nominal persecution on account of opinion, whether practically operative or not, the seal of bigotry will be upon us'.

⁷⁵ See, for example, his letter of 22 January 1850 to Edward Hereford (CW XIV, p. 45, letter 24) where he says: 'We have come, I think, to a period, when progress, even of a political kind, is coming to a halt by reason of the low intellectual & moral state of all classes: of the rich as much as of the poorer classes. Great improvements in education... are the only thing to which I should look for permanent good'.

⁷⁶ See, for example, his letter 'Constraints of Communism' to the *Leader*, 3 August 1850 (CW XXV p. 1179) where he says 'When the rich are ennuyés it is not because they are "above the fear of want," it is generally because they are not "above the fear" of other people's opinions. They do not cultivate and follow opinions, preferences, or tastes of their own, nor live otherwise than in the manner appointed by the world for persons of their class'.

⁷⁷ Ibid. p. 1180, where he expresses the fear that with communism 'there would be no escape, no independence of action left to any one'.

⁷⁸ See, for example, his review of Grote's history of Greece in the *Spectator*, 16 March 1850 (CW XXV, p. 1161) where he points out that Athens was not a democracy in the full sense of the term as it excluded women, slaves and others from citizenship, but praises it for being 'a government of unlimited publicity, and freedom of censure and discussion', adding 'That the Athenian institutions on the whole were eminently favourable to progress, is shown by the splendid development of individual intellect during the three or four generations that this form of society lasted'. Similarly, a letter of 7 January 1852 to Henry William Carr (CW XIV, pp. 80–81) says that the poor and the

see how Himmelfarb distinguishes a Mill of *On Liberty* who was different from the 'real' Mill. From 1854 Himmelfarb selects two passages – one from Mill's diary of 13 January, a second from a private letter dated 23 April – which she believes show him contradicting the notion that the widest circulation of opinions is necessary if truth is to be discovered.⁷⁹ Mill complains in his diary that those who should be guiding the rest of society lack character because they themselves are victims of uncertainty. Himmelfarb therefore regards him as expressing 'a radical discontinuity between truth and opinion, the very variety and accessibility of opinions undermining any certainty of truth'. But such an interpretation can only be the result of a highly selective and incomplete reading of the text. The point being made by Mill is that because there is much confusion relating to the most important social issues (making the age very like that which, in his 1831 articles on 'The Spirit of the Age', he called a period of transition), therefore 'It requires in these times much more intellect to marshal so much greater a stock of ideas and observations'. He is complaining about the lack of intellectuals capable of discerning the truth, and thus of pointing out the way to others. That Mill regarded the inability to decide between conflicting opinions as an intellectual weakness has already been noted.⁸⁰ It is that very weakness he is here criticising. Rather than making a claim about the nature of truth, he is making a statement about the ability to distinguish truth from falsehood, and lamenting the lack of that ability in society. It is not that the availability of a wide variety of opinions causes confusion and is therefore undesirable; it is the inability of people to judge and discern what is right and good in opinions that Mill laments.

rich alike require 'not to be taught other people's opinions, but to be induced and enabled to think for themselves'; and, speaking of the working classes, that 'Free discussion with them as equals, in speech and in writing, seems the best instruction that can be given them, especially on social subjects'.

⁷⁹ Himmelfarb, *op. cit.*, pp. 48–49. The passages from Mill are at *CW XXVII*, pp. 642–43, and *CW XIV*, p. 205.

The diary additionally contains other thoughts of relevance to Himmelfarb's arguments (Mill's intention in keeping the diary, as the first entry says, was to write down at least one worthwhile thought per day while separated from Harriet). The entry for 18 January, for example, complains once again that 'In the present age the writers of reputation and influence are those who take something from both sides of the great controversies, and make out that neither extreme is right, nor wholly wrong'.⁸¹ This frame of mind seems to be behind the second passage which Himmelfarb cites. In the letter – which Himmelfarb quotes at length – Mill refuses membership of the Neophyte Writers' Society whose publications were designed to put forward conflicting opinions on an equal basis and whose aim he understood was not to decide between those opinions but to promote writing for its own sake. As is evident from the entries in his diary, Mill felt that the age called for the exact opposite. Thus on 6 February 1854 he wrote:

Not symmetry, but bold, free expansion in all directions is demanded by the needs of modern life and the instincts of the modern mind. Great and strong and varied faculties are more wanted than faculties well proportioned to one another.... Nay, at bottom are your well-balanced minds *ever* much wanted but to hold and occasionally turn the balance between the others?⁸²

Mill felt that people with strong characters and opinions were needed to lead others, and writers – who provide food for the public intellect – should presumably be among those leaders of opinion. His reasons for refusing membership of the Neophyte Society appear

⁸⁰ See note 24 above.

⁸¹ *Diary*, CW XXVII, p. 644. See also the entry for 22 January where he posits universal education as the key which can open the doors to progress in society, but asks 'who will educate the educators?' (ibid. p. 645); and 23 January where he again laments the widespread uncertainty about the great questions of the day (ibid. pp. 645–46).

to have little to do with anti-liberalism and much to do with the practical issue of the necessity of encouraging progress and truth, the very things which Himmelfarb intimates he was shying away from in not accepting the invitation. As in previous instances, it seems as if Himmelfarb has not seen the entire picture.

Shortly before this time, fearing that neither he nor Harriet had long to live, Mill had decided on the necessity of publishing the best of *her* ideas for the benefit of posterity.⁸³ Together they planned a series of essays on important topics – Harriet later choosing those topics as ‘assignments’ in which Mill would produce articles and essays which she would then amend and correct as she saw fit.⁸⁴ One of these topics was liberty.⁸⁵ This is Mill’s first mention of a work on liberty, and he composed a short paper at some stage during 1854 which may have formed the basis of the most famous ‘joint production’ which was not published until 1859, after Harriet’s death.⁸⁶

4.5 Conclusion

Harriet gave Mill a vision of the highest worth of a human being.⁸⁷ Under this influence, combined with the ideas of James Mill, Coleridge and others, Mill’s theory of freedom

⁸² Ibid. p. 651.

⁸³ Letter to Harriet, 30 August 1853, CW XIV, p. 112: ‘We must finish the best we have to say, & not only that, but publish it while we are still alive – I do not see what living depository there is likely to be of *our* thoughts, or who in this weak generation that is growing up will be capable of thoroughly mastering and assimilating *your* ideas, much less of reoriginating them – so we must write them & print them, & they can wait till there are again thinkers’ [emphasis added].

⁸⁴ Stuart Justman in his *The Hidden Text of Mill’s Liberty* (Savage, Maryland, 1991), p. 135 comments that ‘In reality, Harriet seems to have been not only Mill’s muse but his censor’.

⁸⁵ The list is in a letter to Harriet of 7 February 1854 (CW XIV, p. 152), the day after the diary entry cited at note 82 above.

⁸⁶ Mill had initially hoped to publish the essay in 1856. His letter of 15 January 1855 (CW XIV, p. 294) mentions this, as well mentioning the earlier paper on the topic and the need for a volume on liberty. This account of events is also given in the *Autobiography* (CWI, p. 249).

⁸⁷ See note 7 above.

of thought and expression developed to the point where individuality became its main justification and focus. That focus was already evident in Harriet's earliest known writings. Mill credited Harriet with outstanding genius on many occasions, the more interesting of which compare her abilities to Bentham's originality and place her as the sole intellectual equal of James Mill.⁸⁸ That this should have provoked disbelief and amusement is not surprising.⁸⁹ However, that Mill's ideas developed and grew in parallel to his relationship with Harriet – not least his ideas on equality and individuality, and ultimately on freedom of expression – appears evident from the development of his actual writings in the period. From the 1830s and into the 1840s, the intensity of their friendship was such as to be considered scandalous by their peers. Their withdrawal from society gave them the opportunity to consider their fate and to develop their ideas in tandem, and in approaching *On Liberty*, Harriet's role should be fully appreciated. That role appears to go further than mere 'influence', and the evidence points to the importance of her role in the composition of that work. Mill's mature ideas about freedom of thought and discussion can be seen to have developed over the time of his relationship with Harriet, and her input appears very significant. That those ideas and arguments were neither new to Mill at the time of writing *On Liberty*, nor alien to his mode of thinking in general, seems indisputable.

⁸⁸ The comparison with Bentham is in a letter of 30 August 1853 (CW XIV, p. 112), with James Mill in the *Autobiography* (CWI, p. 213).

⁸⁹ S.E. Henshaw's 1874 article, 'John Stuart Mill and Mrs. Taylor', *Overland Monthly*, San Francisco, December 1874, is particularly unkind to Harriet.

SECTION II

CHAPTER 5

ON LIBERTY: THE 1859 RESPONSE

From the time that *On Liberty* received its first notices shortly after publication, the second chapter – ‘Of the Liberty of Thought and Discussion’ – has been singled out for special attention. From the *London Review* in 1859 which described it as the best defence of the right to free discussion since that offered by Milton’s *Areopagitica*, to more recent commentators who have referred to it as ‘the classic version of the classic defence’ of free speech, the chapter has been regarded as something akin to the final word on the topic.¹ Yet the essay and its argument for freedom of thought and discussion have never been without critics. Indeed, the very same arguments have been brought against the work time and again.² With works such as the *System of Logic* and the *Principles of Political Economy*, a chronology of Mill’s developing ideas is evident in the revisions introduced and acknowledged in successive editions.³ However, Mill did not follow the same course with *On Liberty*. This later work was to remain as published, a tribute to Harriet’s genius.⁴

¹ The comment from the 1859, vol. 13, edition of the *London Review* is reprinted in John Rees, *John Stuart Mill’s On Liberty*, ed. G.L. Williams (Oxford, 1985), p. 98. The second statement comes from Alan Haworth, *Free Speech* (London, 1998), p. 3.

² While John Rees’ 1956 article ‘On Liberty and its Early Critics’ proved influential in asserting that ‘Mill’s essay was more critically received in the journals of the time than we usually tend to allow’ (repr. in G.L. Williams, *op. cit.*, p. 79), the fact that most of the arguments which continue to be used today ‘were anticipated in the reviews within two or three years of the essay’s appearance’ (ibid. p. 80) is not so widely appreciated.

³ Mill’s willingness to amend his ideas in response to intelligent criticism is documented in the prefaces to the various editions of the two earlier works. Harriet’s influence on this process has been discussed in Chapter 4 of this thesis.

⁴ See Mill’s dedication of *On Liberty* to Harriet (CW XVIII, p. 216), and the *Autobiography* (CW I, pp. 259–61), which states ‘I have made no alteration or addition to, nor shall I ever’. However, variants were introduced in the 1865 People’s Edition of *On Liberty* – a full list of these is given at CW XIX, Appendix D, p. 657.

This lack of revision leaves the historian of ideas at a disadvantage: the extent of Mill's awareness of and reaction to criticisms of *On Liberty* is an issue not much explored. But that Mill was aware of some criticisms levelled against *On Liberty* is evident from his correspondence. (His reaction to James Fitzjames Stephen's *Liberty, Equality, Fraternity*, recorded by Alexander Bain, is discussed in Chapter 6 of this thesis.) That he did not deem it necessary to defend himself against such criticisms, even in private, is telling. Yet many of those same ideas continue to be used even today as standard criticisms of Mill's defence of freedom of thought and discussion. Here, the arguments of *On Liberty*'s second chapter will be examined in light of interpretations of the two critics whose comments were known to Mill. This approach is designed as an attempt to get to the heart of the famous argument for freedom of expression in *On Liberty*, and the process should shed some light on the principle of liberty itself.

5.1 *Setting the scene*

On Liberty had been many years in the making when it was finally published in February 1859, and even then further revisions had been planned. If Harriet had lived, the work might not have reached the public for some time, judging by the track record of the Mills in their attempts to finalise the manuscript.⁵ There is, therefore, a sense in

⁵ Harriet had died on 3 November 1858 at Avignon, and Mill offered the manuscript to Parker, his publisher, in a letter dated 30 November of that year (CW XV, p. 578). Mill had originally planned to publish the volume in 1856 (Letter to Harriet, 15 January 1855, CW XIV, p. 213). By December 1856 he hoped to have the manuscript ready for publication in May 1857 (CW XV, p. 519), and by June of that year he says confidently in a letter to Pasquale Villari that the work would appear the following winter (ibid., p. 534). The following October he wrote to Theodor Gomperz that 'I have nearly finished an essay "on Liberty" which I hope to publish next winter' (CW XXXII, p. 108); in March 1858 he told Villari that 'plusiers raisons m'ont décidé à ne pas le faire imprimer

which *On Liberty* is an incomplete work. The re-writing of 'some of the more important portions', if extensive, might have clarified some of the many points on which scholars have debated since the work first appeared. However, one aspect of the work is clear: in the process of writing and revising, Mill insisted over and over again in his correspondence that the focus of the work is not *political* liberty but 'moral, social and intellectual liberty, asserted against the despotism of society whether exercised by governments or by public opinion'.⁶

The very first sentence of the first chapter of *On Liberty* states that the work is seeking to describe 'the nature and limits of the power which can be legitimately exercised by society over the individual' which, in the stage of progress at which humankind had arrived, 'presents itself under new conditions, and requires a different and more fundamental treatment'.⁷ In the newly evolved democracies – and not least in Victorian England – the tastes and preferences of the majority were being given an absolute status. Those in a majority 'may desire to oppress a part of their number; and precautions are as much needed against this, as against any other abuse of power'.⁸ Here, at the very

cet hiver' (CW XV, p. 550). The dedication makes it clear that, even at the time of her death, 'some of the most important portions' had been reserved for a later revisions by Harriet 'which they are now never destined to receive' (CW XVIII, p. 216). Similar claims are made in the *Autobiography* (CW I, pp. 249, 261). Gertrude Himmelfarb in *On Liberty and Liberalism* (New York, 1974), pp. 252–53, describes this constant revision of the work before publication as 'the ultimate in intellectual narcissism'. Here and throughout, I refer to Mill as the author of *On Liberty* – this is for convenience and is not intended to detract from Harriet's role in the composition, detailed by Mill in the *Autobiography* (CW I, pp. 257–59).

⁶ CW XV, p. 581. This comment was made in a letter to Theodor Gomperz, dated 4 December 1858. Additionally, Mill described the viewpoint of the reviewer (R.H. Hutton) in the *National Review* of April 1859 as proceeding 'from an erroneous point of thought' (letter to Alexander Bain, 6 August 1859, CW XV, p. 631). Much of his reason for saying this seems to spring from the writer's claim that Mill is putting forward a political philosophy – see the reprint of the article in Andrew Pyle (ed.), *Liberty: Contemporary Responses to John Stuart Mill* (Bristol, 1994), p. 81.

⁷ *On Liberty*, CW XVIII, p. 217.

⁸ *Ibid.* p. 219.

beginning of *On Liberty*, Mill is opposing any system where minority interests can be sacrificed for the sake of a majority, a situation often regarded as the inevitable consequence of utilitarianism. Yet, Mill proceeds to declare that his argument is ultimately utilitarian in character. However, this is not the narrow utility against which he had reacted during his youthful mental crisis. Rather, it is a broad utilitarianism, 'utility in the largest sense, grounded on the permanent interests of man as a progressive being'.⁹ The primary theme of *On Liberty* is the free development of individuality among members of society for the sake of both the individual and for benefits which can be reaped on a wider scale. The freedom defended consists in allowing people to pursue their own good in their own way so long as, in the process, they do not prevent others from doing the same. 'Mankind [i.e. society] are greater gainers by suffering each other to live as seems good to themselves, than by compelling each to live as seems good to the rest'.¹⁰

The central role of intellectual liberty in the overall schema is announced by the statement that 'Liberty, as a principle, has no application to any state of things anterior to the time when mankind have become capable of being improved by free and equal discussion'.¹¹ That freedom of thought and discussion should act as a first principle in the sphere of liberty is no accident. Mill had long supported the idea that intellectual progress is anterior to all other forms of progress in society.¹² The principle of liberty applies only to those whose minds have been developed to the point that they are capable of being improved by argument and discussion with others, a situation which he

⁹ Ibid. p. 224.

¹⁰ Ibid. p. 226. See also the quotation from Von Humboldt's *Sphere and Duties of Government* which serves as a prologue to *On Liberty* (CW XVIII, p. 215).

¹¹ *On Liberty*, CW XVIII, p. 224.

¹² See, for example, this idea in his *A System of Logic* VI, x, §7 (CW VIII, p. 927), discussed in Chapter 4 of this thesis.

believed had been achieved by most countries 'with whom we need here concern ourselves'. However, this limitation did not satisfy some critics, one of whom detects here a fallacy which he regards as pervading Mill's whole argument:

Whether any nation has arrived at the enviable condition of being capable of improvement by free and equal discussion, is simply a matter of opinion. It cannot be otherwise, for the facts are disputable in every conceivable case. Now Mr. Mill says, the only nations with which we need concern ourselves in this discussion have long since reached this condition. But the whole controversy turns on this very point. Have any nations, and what nations, arrived as a matter of fact at the condition contemplated? and if they have, who knows the fact, and how is it known?¹³

The apparent obviousness of such a point may appear devastating, but there is an answer within the confines of *On Liberty* itself. The overall argument concerns the tyranny of the majority in evolving democracies, so it is evident that societies which have not arrived at a point of maturity where 'self-government' can be successfully achieved have not evolved to the requisite stage. In speaking of those who are capable of improvement through free and equal discussion, Mill explicitly excludes children and those legally considered below the age of adulthood on the grounds that these require protection both from themselves and from others. Similarly he excludes 'those backward states of society in which the race itself may be considered as in its nonage'. *On Liberty* holds that:

¹³ Edward Lucas, *Dublin Review*, vol. 13 (n.s.), 1869; repr. in Pyle *op. cit.* p. 265; the same point is made, for example, in the *English Churchman*, 6 October 1859, p. 963.

as soon as mankind have attained the capacity of being guided to their own improvement *by conviction or persuasion* (a period long since reached in all nations with whom we need here concern ourselves), compulsion, either in the direct form or in that of pains and penalties for non-compliance, is no longer admissible *as a means to their own good*.¹⁴

The very first place given to liberty, therefore, is ‘the inward domain of consciousness; demanding liberty of conscience, in the most comprehensive sense; liberty of thought and feeling; absolute freedom of opinion and sentiment on all subjects, practical or speculative, scientific, moral, or theological’. However, this obviously self-regarding sphere is inextricably bound to actions which concern other people:

The liberty of expressing and publishing opinions may seem to fall under a different principle, since it belongs to that part of the conduct of an individual which concerns other people; but, being almost of as much importance as the liberty of thought itself, and resting in great part on the same reasons, is *practically* inseparable from it.¹⁵

The freedom to think as one chooses is unquestionably self-regarding. It is also that from which individuality follows. Without intellectual independence, which can be achieved primarily through education and by encouraging individuals to think for themselves, people cannot be said to be in a position to make an informed choice

¹⁴ *On Liberty*, CW XVIII, p. 224, emphasis added.

¹⁵ *Ibid.*, pp. 225–26, emphasis added. A few paragraphs later, Mill goes further when he says (p. 227) that opinion and its expression are, in fact, ‘impossible to separate’. This is overlooked by the modern commentator David Spitz in his article ‘Freedom and Individuality’, in Carl J. Friedrich (ed.), *Liberty*, Nomos IV, (NY, 1962), p. 192: ‘He

concerning what constitutes their own good.¹⁶ But people are unable to make an informed choice unless they can consider all sides of a question: freedom of thought is of little or no value if people are not at liberty to hear the private opinions of others. To be deprived of the opportunity to compare and contrast ideas is to be deprived of education and the opportunity to expand one's intellect. Thus freedom of thought is of paramount importance and cannot be separated from discussion on a practical level. In this manner, the self-regarding sphere of liberty is inextricably bound to the expression of opinion.

Mill acknowledges that freedom of thought and its expression are generally recognised in societies 'which profess religious toleration and free institutions'; however, 'the grounds, both philosophical and practical, on which they rest, are perhaps not so familiar to the general mind'. Because these grounds 'when rightly understood, are of much wider application than to only one division of the subject... a thorough consideration of this part of the question will be found the best introduction to the remainder'.¹⁷

5.2 The right to hear: understanding infallibility

Over the thirty years preceding *On Liberty*'s appearance, the political climate in Britain had gradually changed (the newspaper stamp – originally introduced as a means to

[i.e. Mill] does not say that freedom of expression is identical to or inseparable from freedom of thought; he says only that it is *practically* inseparable from it'.

¹⁶ Ibid. p. 262: 'The human faculties of perception, judgment, discriminative feeling, mental activity, and even moral preference, are exercised only in making a choice. He who does anything because it is the custom, makes no choice. He gains no practice either in discerning or in desiring what is best. The mental and moral, like the muscular powers, are improved only by being used. The faculties are called into no exercise by doing a thing merely because others do it, no more than by believing a thing only because others believe it'.

control the press – had been quietly abolished in 1855).¹⁸ Yet, Mill maintained that such freedom as had been achieved was the result more of inertia than of a widespread commitment to liberty: ‘the law of England, on the subject of the press, is as servile to this day as it was in the time of the Tudors, there is little danger of its being actually put in force against political discussion’.¹⁹ Mill then repeats one of the main arguments of *On Liberty* – that a majority has no right to suppress a minority (or, indeed, vice versa) – this time in relation to the expression of an opinion. The reason he offers in support of this contention has less to do with the value of an opinion to the individual who possesses it, and more with its wider value to all members of society:

Were an opinion a personal possession of no value except to the owner; if to be obstructed in the enjoyment of it were simply a private injury, it would make some difference whether the injury was inflicted only on a few persons or on many. But the peculiar evil of silencing the expression of an opinion is, that it is robbing the human race; posterity as well as the existing generation; those who dissent from the opinion, still more than those who hold it.²⁰

Mill later asserts that ‘a person’s taste is as much his own peculiar concern as his opinion or his purse’, demonstrating that opinions are primarily personal possessions.²¹

¹⁷ Ibid. p. 227. Mill is here explicitly identifying his target audience: not specialists but the ‘general mind’.

¹⁸ Mill comments on the abolition in a letter to Harriet, written in Naples on 16 February 1855 (CW XIV, pp. 331–32). The *Autobiography* mentions the change in attitude which had taken place regarding freedom of discussion during his own lifetime (CW I, pp. 46–47).

¹⁹ *On Liberty*, CW XVIII, p. 228. See *British Quarterly Review*, 1860 (in Pyle, *op. cit.* pp. 186): ‘We cannot agree with him. As far as legal penalties go, we are as free as any people can well be’.

²⁰ *On Liberty*, CW XVIII, p. 229.

²¹ Ibid. p. 283.

But when the wider community is deprived of an opportunity to hear any opinion, people are being deprived of an opportunity to compare ideas and exercise their intellects. And it is on this deprivation that Mill bases his argument for freedom of thought and discussion.²² Throughout *On Liberty* the emphasis is not on the unequivocal right of individuals to express their opinions without regard for others. Rather, the emphasis is on the fact that people must be free to *hear* all that has to be said on a topic if they are to develop and grow in their individuality. Freedom of thought is therefore ultimately justified not on the individual's right to *express* opinions but on the right of individuals to *hear* opinions expressed. The right to express all opinions exists solely for the sake of the hearer. The difference is subtle but important, and is significant for the interpretation of the ensuing arguments. The title of Chapter 2 – 'Of the Liberty of Thought and Discussion', rather than simply 'Liberty of Expression' – was undoubtedly chosen with care.

Mill regarded Chapter 2 as constituting the core of the essay – he holds that 'a thorough consideration of this part of the question will be found the best introduction to the remainder'.²³ That his arguments for freedom of thought and discussion are not new is something openly admitted at the outset of that work – he is adding 'one discussion more' to the debate of the three preceding centuries.²⁴ What did strike many critics, however,

²² Cf. James Mill's *Encyclopaedia Britannica* article on the liberty of the press (repr. in *Political Writings*, ed. Terence Ball (Cambridge, 1992), p. 129): 'it is not safe for the people to let any body choose opinions for them.... if the people choose before discussion, before information, they cannot choose for themselves. They must follow blindly the impulse of certain individuals, who, therefore, choose for them'.

²³ Ibid. p. 227. At over one-third of the essay, Chapter 2 is also the longest of the five chapters.

²⁴ Ibid. Yet, some of his contemporaries made much of the fact that *On Liberty* introduced nothing new to the topic of freedom of expression. This criticism is made by Edward Lucas in the *Dublin Review* (vol. 13, 1869) and by R.W. Church in *Bentley's Quarterly Review* (vol. 2, 1860), both repr. in Pyle, *op. cit.*, pp. 258–59; 222–23. See also G.H. Blakesley, *A Review of Mr. Mill's Essay on Liberty* (Cambridge, 1867), p. 13.

was Mill's use of religion and religious belief to illustrate his principles. According to Rees, 'Many of Mill's readers were antagonised by his citing of Christianity as an example of a creed which had become little more than a formal profession of faith due to the lack of free and vigorous discussion of its tenets'.²⁵ However, Rees does not appear aware of the fact that, in a letter to Alexander Bain, Mill had discussed in passing his intentions regarding religion in *On Liberty*.²⁶ Neither does Rees note that Mill similarly commented in his private correspondence on specific reviews in the *Dublin University Magazine* and in the *English Churchman*.²⁷ The *Dublin* and the *Churchman* reviews have not received much scholarly attention. Yet they are uniquely valuable insofar as we know that Mill was familiar with their criticisms of his arguments, and did not regard them as devastating.²⁸

Mill's mentioning of the *Dublin* and the *Churchman* demonstrates that his examples were drawn deliberately from the religious sphere in order to provoke debate on religious topics. In his 15 October 1859 letter to Alexander Bain, Mill directly asks:

²⁵ Rees, *op. cit.*, p. 101. Other religious examples used by Mill include the freedom to dispute belief in a god and an afterlife, what he calls 'the cases which are least favourable to me – in which the argument against freedom of opinion, both on the score of truth and on that of utility, is considered the strongest' (*On Liberty*, CW XVIII, p. 234).

²⁶ 6 August 1859, CW XV, p. 631.

²⁷ Mill's comments were made in a letter to Bain, dated 15 October 1859 (CW XV, p. 640). The *Dublin University Magazine* article mentioned was 'Christian Ethics and John Stuart Mill', *Dublin University Magazine*, vol. 54, October 1859, pp. 387–410 (hereafter called the *Dublin*). The *English Churchman* review (hereafter called the *Churchman*) consists of a series of eleven letters to the editor, signed 'R.P.', published as 'Mr. John Stuart Mill's Work On Liberty' on 15 September 1859, pp. 887–88; 22 September 1859, pp. 915–16; 29 September 1859, pp. 934–35; 6 October 1859, pp. 963–64; 13 October 1859, pp. 986–87; 20 October 1859, pp. 1007–8; 27 October 1859, pp. 1031–32; 3 November 1859, pp. 1059–60; 10 November 1859, pp. 1078–79; 24 November 1859, pp. 1130–31; 1 December 1859, pp. 1154–55.

²⁸ Rees makes some use of the *Dublin* piece; however, Pyle's edited collection of reviews omits it on the grounds that it 'is essentially a defence of Christian ethics against Mill's criticisms' (*op. cit.* p. viii, n. 3). Neither Rees nor Pyle mentions the *Churchman* articles.

Have you seen any of the recent reviews of the liberty? That in the Dublin Univ[ersity] Mag[azine], for instance, & the series of letters in the Engl.[ish] Churchman? People are beginning to find out that that the doctrines of the book are more opposed to their old opinions & feelings than they at first saw, & are taking the alarm accordingly & rallying for a fight. But they have in general dealt candidly with me, & not too violently. As was to be expected they claim for Xtian morality all the things which I say are not in it, which is just what I wanted to provoke them to do.²⁹

That Mill regarded the criticism meted out by the *Dublin* and the *Churchman* as fair and even-handed is significant, for both reviewers directly attack his arguments in defence of freedom of thought and discussion. The points raised by the two reviewers, therefore, provide a path through the arguments in *On Liberty* of which Mill was aware.

Both the *Dublin* and the *Churchman* are unhappy with the declaration that all silencing of discussion is an assumption of infallibility. Mill argues that to silence discussion is to assume infallibility because it is equivalent to deciding that one knows definitively what is best for others to hear – in other words, that one's own certainty is equivalent to absolute certainty. If an opinion is correct and people are not allowed to hear it they 'are deprived of the opportunity of exchanging error for truth'; similarly if an opinion is wrong, 'they lose, what is almost as great a benefit, the clearer perception and livelier impression of truth, produced by its collision with error'. The *Churchman* comments

²⁹ CW XV, p. 640. See also the *Autobiography* (CW I, p. 47) 'On religion in particular the time appears to me to have come, when it is the duty of all who being qualified in point of knowledge, have on mature consideration satisfied themselves that the current

that 'This miserable argument... is supported by his notion, happily as absurd as it is dismal and destructive, that there is no certainty in opinion'.³⁰ The commentator believes that Mill's conclusions 'are not always deducible from his premises' and regards 'the error of his whole system' as arising from the idea 'that because mankind has often been mistaken, there can be no moral certainty, no certain rule of conduct'.³¹

What the *Churchman* ultimately finds unacceptable in *On Liberty* is the implication of these ideas for belief in God and Christian morality. For Mill, because theology does not deal with empirical, verifiable facts, it is concerned with issues of opinion. Because any of these opinions can possibly be true, people should be encouraged to use intellect to decide which opinions to accept and which to reject. Those who try to prevent an opinion from being heard by others, therefore, 'have no authority to decide the question for all mankind, and exclude every other person from the means of judging'.³² To claim such authority is to claim infallibility for oneself. Later in *On Liberty* Mill clarifies the concept thus: 'it is not the feeling sure of a doctrine (be it what it may) which I call an assumption of infallibility. It is the undertaking to decide that question for others, without allowing them to hear what can be said on the contrary side'.³³ Here once again, the emphasis is not on the deprivation to the person silenced but on the value of an opinion to those who are prevented from hearing that expression. The infallibility argument is itself based on this significant but subtle distinction.

opinions are not only false but hurtful, to make their dissent known'. (This portion was added to the early draft some time after the early 1850s.)

³⁰ *Churchman*, 13 October 1859, p. 987. See *On Liberty*, CW XVIII, p. 229: 'We can never be sure that the opinion we are endeavouring to stifle is a false opinion; and if we were sure, stifling it would be an evil still'.

³¹ *Churchman*, 15 September 1859, p. 887 and 22 September 1859, p. 915.

³² *On Liberty*, CW XVIII, p. 229.

³³ *Ibid.* p. 234.

The *Churchman* concedes that ‘without revelation we should be as uncertain as Mr. Mill supposes us to be now’.³⁴ However, it attempts to demonstrate that if there is no certainty in opinions, then *On Liberty* undermines its own doctrine. The reviewer reasons as follows:

Now if I accept the implied proposition of Mr. Mill’s work, namely the utter uncertainty of any ethical rule, I cannot see how I can accept his principle [of liberty].... If all principles be uncertain, upon what grounds can this principle be made the exception. Is this the one great infallible maxim, the one self-evident axiom?³⁵

Although Mill did not reply to this question in his brief comments on the *Churchman*, one can be confident that his answer would be ‘yes’.

The *Churchman* goes further still and declares Mill’s whole argument for freedom of thought and discussion as essentially contradictory. In expressing and publishing an opinion, a person is undoubtedly attempting to influence society. When others agree with an expressed opinion, their collective influence becomes stronger; the more in earnest they are about its truth, the greater will be their desire to make this opinion widely known. This, in essence, amounts to the force of public opinion, the very force which Mill is arguing against.³⁶ But this criticism is missing the point. Mill does not deny the right of groups of people to publish or express opinions, or indeed to influence others. What he does deny is that any group has a right to stop others from hearing

³⁴ *Churchman*, 22 September 1859, p. 916.

³⁵ *Ibid.* 22 September 1859, p. 916.

opinions contrary to that of the majority, or to suppress an opinion held only by a minority. Nor does Mill believe that public opinion must be stripped of its power – a large part of his argument rests on the idea that public opinion can be used to coerce deviance where legal means are not appropriate.³⁷ Ignoring this, the *Churchman* proceeds to look at Mill's specific arguments for freedom of expression and states without hesitation that:

I really think that a fair and candid reader of Mr. Mill's work might, without any injustice to the author, dispose of the arguments of his second chapter in a very few words, by merely stating that it is all based upon a fallacy – namely the confusion between the exercise of thought, investigation, and deliberation, and the promulgation of opinions, conclusions, presumptions, speculations, and, above all, of doubts.³⁸

Mill's problem is now stated to lie in his 'wide and undefined use of terms'. He is accused of fighting with shadows in an age and country where freedom of conscience is respected and granted in all areas of inquiry. His defence of freedom of thought is deemed unnecessary because 'There is hardly an old woman in England who does not know that *thought is free*'.³⁹ But the reviewer is again overlooking certain subtleties of *On Liberty*: the defence of freedom of discussion is said to rest on the same grounds as

³⁶ Ibid. 29 September 1859, p. 935: 'Mr. Mill tells us, that every single man may say and publish just what he likes, and yet that an aggregate of men may exercise no such power. I cannot see how he can escape from his contradiction'.

³⁷ See, for example, *On Liberty* CW XVIII, p. 276: 'The acts of an individual may be hurtful to others, or wanting in due consideration for their welfare, without going the length of violating any of their constituted rights. The offender may then be justly punished by opinion, though not by law'.

³⁸ *Churchman*, 13 October 1859, p. 986. This instalment is the last of the series which Mill could have seen before writing his letter of 15 October to Bain.

³⁹ Ibid. p. 987.

freedom of thought itself. Because people accept that thought *should* be free, Mill argues that expression of thought should also be free because one needs to hear a variety of opinions in order to have genuine freedom of thought. Instead of conceding this, the *Churchman* points out that none of Mill's arguments are new but are 'sophistries which have been a hundred times refuted', adding that 'the meshes of Mr. Mill's net are so wide as to admit of the largest fish slipping through it'.⁴⁰ By using opinion and religious belief as if they were the same thing, and by claiming that there is no certainty in opinion, Mill is overlooking the fact that 'There are many particulars of moral and political science, which like the results of mathematical science, now attained, have become certain; not matters of opinion but of conviction'. Religious faith is one such particular, as is the power given to society 'by God's Providence, of preventing, controlling, coercing, suppressing, or silencing, according as the force of government, the force of law, or the influence of society may severally and in its proper place require'.

Mill's 'confusion' results from his non-acceptance of the certainty of revealed divine truths. Throughout *On Liberty* he maintains that theological beliefs cannot be treated on a par with the certainty of mathematical truths. This is essentially the point at which he parts company with most of his nineteenth-century critics on the issue of freedom of expression. The *Churchman* and others, believing that most people are incapable of sound judgement and therefore in need of constant direction and guidance, disagree with Mill regarding the extent to which society should influence the life of the individual. They are ultimately in disagreement with Mill's actual principle of liberty. The *Churchman*, for example, believes that leaders of society:

⁴⁰ Ibid. *loc. cit.* As mentioned above, Mill acknowledged at the end of Chapter 1 that none of his arguments was new (CW XVIII, p. 227).

ought to repress the mischievous surmises of those who, without absolutely propagating falsehood, yet would insinuate the notion that what society has received as axioms are really open questions, and thus set the weak and the ignorant upon the melancholy and hopeless task of investigating for themselves that which has been already demonstrated, even to redundancy.⁴¹

Ordinary people need not know the arguments of opponents, but 'the guardians of the faith and morals of the people must indeed of necessity be acquainted to a certain degree with the trash and poison which infidels, free-thinkers and sciolists have propagated'.⁴² If belief in God is to be considered mere opinion and open to discussion, 'is life sufficiently long to allow such discussions... and... do our universities assume infallibility because they believe and teach that the world is globular, or that the planets move around the sun?'. Mill's doctrine of liberty is 'the harbinger of the coming age of Reason' and Christians should beware.⁴³ His promotion of intellectual freedom is not a stance to be encouraged from a Christian viewpoint.

Like his counterpart in the *Churchman*, the reviewer in the *Dublin* believes that freedom of thought and discussion should not be extended to all people, arguing that a Christian can feel certain enough about theological doctrines to be justified in silencing any opposition. In the opinion of both reviewers, most people lack the intellectual ability to discern truth and it is therefore best that they should not be exposed to all sides of a question. Contrary to such paternalism, Mill holds that nobody has a right to attempt to control the lives and intellects of mature individuals, who ultimately can benefit from

⁴¹ *Churchman*, 27 October 1859, p. 1031.

⁴² *Ibid.* 3 November 1859, p. 1060.

hearing what can be said on all sides of a question. But supporters of Mill did not necessarily do his arguments justice. On the issue of infallibility, for example, Henry Thomas Buckle writing in defence of *On Liberty* in *Fraser's Magazine* in May 1859 identifies certainty with infallibility.⁴⁴ Noting this inconsistency, the *Dublin* quotes the following passage from Buckle:

If an age or a people assume that *any notion they entertain is certainly right*, they assume their own infallibility, and arrogantly claim for themselves a prerogative which even the wisest of men never possess.⁴⁵

This is *not* what Mill meant in saying that all silencing of discussion is an assumption of infallibility, although it appears to have been understood in this manner by his contemporaries. (The popularising of such a misinterpretation may have been a direct consequence of the controversy provoked by Buckle's article in relation to Mill's discussion of blasphemy.)⁴⁶ Because human ideas and rationality can cumulatively improve, Mill holds that 'complete liberty of contradicting and disproving our opinion,

⁴³ Ibid. 29 September 1859, p. 935.

⁴⁴ *Fraser's Magazine*, May 1859, vol. 59; repr. in Pyle, *op. cit.*, pp. 25–80.

⁴⁵ *Dublin*, October 1859, p. 395 (the italics are added by the *Dublin*; the first clause should read 'If any age of people assume...'). The original continues, quoted in part by the *Dublin*: 'To affirm that a doctrine is unquestionably revealed from above, is equally to affirm their own infallibility, since they affirm that they cannot be mistaken in believing it to be revealed'.

⁴⁶ The controversy centred on the 'Pooley case' cited by Mill (*CW* XVIII, p. 239) as an example of penalties used to silence opinions. Details of this case were described by Buckle (in Pyle, *op. cit.*, pp. 66–71). According to the *British Quarterly Review* of 1860 (repr. in Pyle, *op. cit.*, pp. 186–87), the judge involved (Mr. J. Coleridge) publicly defended himself against unflattering remarks made by Buckle, and the reviewer comments 'we flatter ourselves that if Mr. Mill had known all the circumstances of the great "Pooley" affair, as afterwards detailed by Mr. Coleridge, he would not have made that luckless allusion that led to so sad an escapade on his disciple's part, who assuredly had a "zeal" for liberty, "but not according to knowledge".' For a full discussion of the controversy, see Timothy J. Toohey, 'Blasphemy in Nineteenth Century England: The Pooley Case and its Background', *Victorian Studies*, Spring 1987, pp. 315–33.

is the very condition which justifies us in assuming its truth for purposes of action'.⁴⁷ In the absence of opposing voices, people may feel totally certain about what they believe, but they are not therefore claiming infallibility. However, to silence an opponent's view *is* to claim infallibility. The censor claims to know what is best for others, either because certain opinions are deemed to be incorrect, or because it is thought expedient at the time that people should not be allowed to hear those opinions. Thus, Mill's argument here is essentially anti-paternalistic. In democratic societies, according to Mill, either argument amounts to a claim of infallible knowledge, not concerning oneself but concerning others. For Mill, the individual's intellect must be engaged if true improvement is to be achieved. Certainly, people can improve by observing and learning, but experience alone is not adequate for improvement: 'There must be discussion, to show how experience is to be interpreted. Wrong opinions and practices gradually yield to fact and argument: but facts and arguments, to produce any effect on the mind, must be brought before it'.⁴⁸ Mill thus continues in the tradition of his father, and indeed of his own early writings on the subject of freedom of the press where he insisted that the peculiarity of discussion is that it is capable of rectifying its own mistakes, actively enlightening those who participate in it, and thereby allowing them to rectify whatever mistaken opinions they may have held before discussion.⁴⁹

⁴⁷ *On Liberty*, CW XVIII, p. 231. The *Churchman* (3 November 1859, p. 1060) explicitly disagrees with this 'old and often exploded notion', claiming that it is 'by no means necessary, in order to the education of the mind [*sic*], to study the opposing arguments'.

⁴⁸ *On Liberty*, CW XVIII, p. 231. The *Churchman* (October 27, p. 1031) regards this as a tautology, claiming that opinions themselves 'are the result of man's reason and observation – that is to say, of discussion and experience. Otherwise, man would have intuition, like the Divinity, or mere instinct, like the lower animals.... So far as this statement of Mr. Mill's goes, it does not enhance the question in hand one tittle'.

⁴⁹ See Chapter 1 above.

Discussion is the positive point where individuality and society meet. If people are deprived of hearing alternative viewpoints, however immoral such opinions may be considered, society ultimately becomes intellectually stunted. People need to compare and discuss ideas in order to pursue their own individuality and to recognise fully their own best interests:

The steady habit of correcting and completing his own opinion by collating it with those of others, so far from causing doubt and hesitation in carrying it into practice, is the only stable foundation for a just reliance on it: for, being cognizant of all that can, at least obviously, be said against him, and having taken up his position against all gainsayers knowing that he has sought for objections and difficulties, instead of avoiding them, and has shut out no light which can be thrown upon the subject from any quarter – he has a right to think his judgment better than that of any person, or any multitude, who have not gone through a similar process.⁵⁰

At the conclusion of the first section of his argument, Mill directly relates the cultural and mental improvements of Europe to periods when intellectual freedom prevailed in the aftermath of the Reformation, during the Enlightenment and the period of German Romanticism when ‘an old mental despotism had been thrown off, and no new one had yet taken its place’.⁵¹ Where the shackles of control are thrown off, therefore, people grow freely. No new impetus towards improvement can be expected, Mill believes, until

⁵⁰ *On Liberty*, CW XVIII, p. 232. This idea of acquaintance and choice is also central to Mill’s notion of higher and lower pleasures in his utilitarianism – c.f. *Utilitarianism*, CW X, p. 212: ‘It is better to be a human being dissatisfied than a pig satisfied; better to be Socrates dissatisfied than a fool satisfied. And if the fool, or the pig, is of a different opinion, it is because they know only their own side of the question. The other party to the comparison knows both sides’.

intellectual freedom prevails yet again.⁵² Such freedom can be achieved only when intellectual paternalism is overthrown. Yet for the *Churchman* and the *Dublin*, such paternalism is essential to the stability of society. Their stance is therefore fundamentally at odds with Mill's basic argument for liberty.

5.3 The necessity of intellectual challenge

Having examined the notion that it is wrong to prevent any opinion from receiving publicity, because every opinion holds the promise of truth, Mill next outlines the reasons why society or government has no right to suppress an opinion even if such an opinion were known to be false.⁵³ At first glance, this second part of his argument may seem pointless – if he has argued successfully that every opinion can possibly be true, there can be nothing more to say on the topic. That Mill continues to argue the other side is both an example of the thesis he is putting forward ('he who knows only his own side of the case, knows little of that') and also that the acquisition of truth is not his primary aim. Moreover, this second part of the argument further serves to demonstrate that his justification for freedom of expression lies primarily with the rights of the hearer rather than those of the speaker. Mill holds that if the accepted opinions are not regularly contested, people lose 'the clearer perception and livelier impression of truth, produced by its collision with error'. In consequence, the received opinions become

⁵¹ *On Liberty*, CW XVIII, p. 243.

⁵² Cf. *A System of Logic* VI, x, §7, CW VIII, p. 927: 'From this accumulated evidence, we are justified in concluding, that the order of human progression in all respects will be a corollary deductible from the order of progression in the intellectual convictions of mankind...'. Mill here takes the step which he had not taken in 1843, now declaring that all opinions ought to be freely expressed if human progress is to be uninhibited and widespread.

⁵³ *On Liberty*, CW XVIII, p. 229. Mill puts it thus: 'We can never be sure that the opinion we are endeavouring to stifle is a false opinion; and if we were sure, stifling it would be an evil still'.

‘dead dogma’ as opposed to ‘living truth’.⁵⁴ People must cultivate their own individual intellects and know the grounds on which generally accepted truths stand, rather than carelessly assenting to what is generally believed. To hold beliefs in this latter manner is to hold mere prejudices, which are without rational foundation: ‘This is not knowing the truth. Truth, thus held, is but one superstition the more, accidentally clinging to the words which enunciate a truth’.⁵⁵ Here, rather than truth in the abstract, the focus is on the worth of the individual intellect possessing truths which it has itself discovered. Knowledge is valuable to people not only because they thereby possess truth, but also because they develop their intellectual faculty in knowing *why* the opinions they hold are true, putting people into a position which contributes to their individuality.

The commentators in the *Dublin* and the *Churchman* again took exception to Mill’s use of Christianity as an example of something which, through lack of opposition, can become a ‘dead dogma, not a living truth’. The defence which *On Liberty* makes is concerned with matters of opinion, illustrated by an objection introduced by way of mathematics. In mathematics one does not need to hear what can be said on the opposite side in order to be certain of truth. In mathematics, truth is indisputable, so there are no possible counter-arguments. But this is not the case in most areas of investigation:

when we turn to subjects infinitely more complicated, to morals, religion, politics, social relations, and the business of life, three-fourths of the arguments for every

⁵⁴ Ibid. p. 243. As discussed in Chapter 3 above, some credit for the origin of this idea as an argument for freedom of thought and discussion should be given to Coleridge.

⁵⁵ Ibid. p. 244.

disputed opinion consist in dispelling the appearances which favour some opinion different from it.⁵⁶

Here, the areas of opinion where free and open discussion is necessary for the discovery of truth are unambiguously identified. The theme of morals and religion continues into the examples used by Mill to illustrate his wider point and, as with his discussion of blasphemy, it appears to have been Mill's examples rather than his argument proper which provoked the most response from his contemporaries. Drawing on the example of Cicero, Mill proceeds to show that if people do not know what can be said against them, then they do not really have any reason for preferring the opinions they hold.⁵⁷ Mill claims that ninety-nine out of a hundred educated people do not ultimately know the grounds on which their own opinions rest, a consequence of not having considered seriously what can be said on the contrary side.⁵⁸ Thus they do not utilise their faculties of intellect and judgement in a way that promotes their individuality.⁵⁹ Without

⁵⁶ Ibid. p. 244–45. The *Dublin* (p. 389) believes the opposite, however, claiming that 'No man is to be condemned for assuming himself to be infallible in asserting the existence of God, any more than for assuming himself to be so in asserting that the three angles of any rectilinear triangles are in sum equal to two right angles. There are... truths other than mathematical, which are not merely relatively but *absolutely* certain'.

⁵⁷ See *On Liberty*, CW XVIII, p. 232. Mill's use of Socrates, Jesus and Marcus Aurelius as examples is a technique to give weight to his argument through the respect commanded by these historical figures. The fact that he does not here and subsequently also invoke Plato, however, is surprising in the light of his attribution of these very ideas to Plato less than a decade later. In his 1866 review of Grote's *Plato* (CW XI, p. 411) Mill comments that 'truth, in everything but mathematics, is not a single but a double question; not what can be said for an opinion, but whether more can be said for it than against it. There is no knowledge, and no assurance of right belief, but with him who can both confute the opposite opinion, and successfully defend his own against confutation. But this, *the principal lesson of Plato's writings*, the world and many of its admired teachers have very imperfectly learned' [emphasis added].

⁵⁸ That so many people are in such a poor intellectual state was later regarded by the *Dublin Review* (1869, repr. in Pyle *op. cit.*, p. 266) as proof that Mill's estimate of human nature was quite low, adding that Mill 'takes for granted, perhaps, that the ninety-nine cannot discover his sophisms, and that the hundredth will not expose them'.

⁵⁹ In a letter to Henry Samuel Chapman dated 8 July 1858 (CW XV, p. 559) Mill suggests that the main advantage of public opinion is 'not in compelling or inducing

discussion, 'the shell and husk only of the meaning is retained, the finer essence being lost', a fact illustrated most of all by the evolution of morality and religious creeds. In this context *On Liberty* suggests that, should no real opponents exist, arguments against the prevailing opinion should be sought out in order to achieve a balanced and fair view of any subject. Mill contrasts the Roman Catholic church's attitude with that prevalent in Protestant countries. The former permits the clergy but not the laity to familiarise themselves with heresy, thereby creating an intellectual elite (which, he stresses, is itself ultimately without liberty). Protestantism, on the other hand, holds 'at least in theory, that the responsibility for the choice of a religion must be borne by each for himself, and cannot be thrown off upon teachers'.⁶⁰ But no explicit argument against elitism is made here. Instead, Mill points to the practical impossibility of keeping writings intended for the instructed away from the rest of the populace, adding simply that 'If the teachers of mankind are to be cognisant of all that they ought to know, everything must be free to be written and published without restraint'.⁶¹

The example of Roman Catholicism is incidental to Mill's point, which ultimately is that to allow clergymen to familiarise themselves with the arguments of an opposing religion is to recognise that knowledge of the opposite case is indispensable. But the lack of argument against elitism is somewhat disappointing. Moreover, Mill's phrasing at this stage – the 'teachers of mankind' rather than the whole of mankind – does not help to clarify the issue. That hints of elitism can be gleaned from *On Liberty*, however, has not gone unnoticed: Maurice Cowling and Joseph Hamburger have both claimed

people to act as public opinion dictates, but in making it necessary for them, if they do not, to have a firm ground in their conviction to stand on, and to be capable of maintaining it against attack'.

⁶⁰ *On Liberty*, CW XVIII, p. 246.

⁶¹ *Ibid.* p. 247.

that the aim of the work is essentially to promote privilege for the few.⁶² Mill himself dismissed such a charge in a letter to Alexander Bain dated 11 July 1859, five months after *On Liberty* was first published. Bain appears to have put forward the idea that the doctrine of liberty was intended only for a few exceptional individuals. In reply, Mill explained his position unambiguously:

The 'Liberty' has produced an effect on you which it was never intended to produce if it has made you think that we ought not to convert the world. I meant nothing of the kind, & hold that we ought to convert all we can. We *must* be satisfied with keeping alive the sacred fire in a few minds when we are unable to do more – but the notion of an intellectual aristocracy of *lumières* while the rest of the world remains in darkness fulfils none of my aspirations – & the effect I aim at by the book is, on the contrary, to make the many more accessible to all truth by making them more open minded.⁶³

This assertion is unambiguous in its claim that the primary aim of *On Liberty* is for the good of all, not for any elite intellectual group. This response to Bain – Mill's intellectual confidant following Harriet's death the previous November⁶⁴ – certainly puts a very large question over those theories which hold that *On Liberty* is at heart

⁶² See, for example, Maurice Cowling, *Mill and Liberalism* (Cambridge, 1963, p. 104), which holds that '*On Liberty*... is designed to propagate the individuality of the elevated by protecting *them* against the mediocrity of opinion as a whole'. More recently, Joseph Hamburger has promoted a similar thesis in the context of the Religion of Humanity, in his *How Liberal was John Stuart Mill?* (Austin, Texas, 1991), and his 'Individuality and Moral Reform', *Political Science Reviewer*, vol. 24, 1995.

⁶³ Letter to Alexander Bain, 6 August 1859, CW XV p. 631. Draft manuscript in the Mill-Taylor Collection, vol. XLVIII, at the British Library of Economic and Political Science, LSE. However, Bain's letter of 11 July, to which Mill's was a reply, appears to be no longer extant.

⁶⁴ This period of Mill's life and the correspondence between the two men is recalled by Bain in his own *Autobiography* (London, 1904), p. 251.

exclusivist or elitist in design. Had Bain's original letter survived, it would help to clarify exactly what points had been raised to provoke this response. However, yet again Mill's reply specifically addresses the issue of religion:

But perhaps you were only thinking of the question of religion. On that, certainly, I am not anxious to bring over any but really superior intellects & characters to the whole of my own opinions – in the case of all others I would much rather, as things now are, to improve their religion than destroy it.⁶⁵

On Liberty is at all times respectful of religion, and betrays no indication of the author's religious affinity. That 'the whole of my own opinions' was essentially atheist in character was not publicly acknowledged by Mill until the posthumous publication of his *Autobiography*.⁶⁶ Fears that his aim was to subvert Christian faith, expressed in the *Churchman* and the *Dublin* (later echoed by Cowling and Hamburger), were somewhat overstated.⁶⁷

Both the *Churchman* and the *Dublin* are quick to dismiss the idea that opponents should be invented in the manner of a 'devil's advocate' used in the canonisation of Roman Catholic saints.⁶⁸ However, the example of Christian morality used in this context

⁶⁵ Letter to Alexander Bain, 6 August 1859, *CW XV* p. 631.

⁶⁶ See the *Autobiography*, *CW I*, pp. 41ff. Mill constantly refused to answer questions regarding his religious beliefs during his parliamentary campaigns.

⁶⁷ The *Churchman*, 29 September 1859, p. 934, expresses 'regret and indignation, that so many professing Christians of our day have spoken of this book... without a suspicion that the independence from controul that Mr. Mill seeks to assert may be rebellion against the highest Power that exists, and anarchy in its widest and most deplorable sense'. In the *Dublin*, the reviewer takes a different tack, believing that Mill is essentially confused and lacks a thorough grasp of Biblical knowledge.

⁶⁸ That others were similarly ill-disposed towards this idea is evident from Caroline Fox's comments in a letter of 25 November 1859 that 'I am reading that terrible book of John Mill's on Liberty, so clear, and calm, and cold: He lays it on one as a tremendous

provided a starting point for the commentator in the *Dublin*. While agreeing that it is wrong to silence an opinion even when it is known to be false (this part of the argument is described as ‘Happily... very powerful’, ‘stated with singular force and perspicuity by the Essayist’, and ‘compactly and closely written and reasoned’),⁶⁹ the *Dublin* is nonetheless critical of individual points and arguments. Thus, Mill’s notion that, in the absence of opposition, opponents should be imagined is regarded as ‘a rhetorical overstatement, scarcely justifiable in a severe didactical essay’. The *Dublin* continues:

Contradiction, pure and simple, does not naturally and inevitably fortify the convictions of average minds. Hardy plants be all the hardier for the nip of frost; but there be plants, not worthless, which the nip of frost kills outright.⁷⁰

Here, the intellectual paternalism which drives the *Dublin*’s criticism comes to the fore. Essentially, it holds that because not all minds are capable of properly assessing every topic, only those deemed capable of weighing up a particular argument should receive the information. That Mill certainly recognised the different intellectual capacities of individuals is clear throughout *On Liberty*. However, the ‘one very simple principle’ holds that mature adults should be allowed to pursue their own good in their own way, so long as they do not attempt to prevent others from doing the same. To grow

duty to get one’s self well contradicted, and admit always a devil’s advocate into the presence of your dearest, most sacred truths, as they are apt to grow windy and worthless without such tests, if indeed they can stand the shock of argument at all’ (*Memories of Old Friends*, 2nd edn, London, 1882, vol. II, p. 269).

⁶⁹ *Dublin*, p. 396. ‘Happily’, in comparison with Mill’s notion of infallibility and Buckle’s subsequent defence of Mill in *Fraser’s Magazine*.

⁷⁰ *Ibid.* pp. 396–97. The commentator also asks whether Mill ‘would conceive it to be advantageous to the formation of his maid-servant’s enlightened opinion upon the excellence of chastity, that she should be invited to spend her Sunday afternoon in earnest controversy upon the matter with a profligate dragoon from Kensington barracks’, whose opinion on chastity, on Mill’s own account, cannot be regarded as impious or immoral’. Both passages are quoted in part by Rees, *op. cit.*, pp. 99 and 101.

intellectually and to recognise their own good in the broadest possible manner, people must become more open-minded. This condition is achieved precisely by being exposed to a wide variety of arguments. Mill had long held that such a method was among the best forms of education.⁷¹ So while a person may lack the ability to judge a particular topic, exposure to the arguments which surround it plays a valuable part in that person's education and development. The *Dublin* believes that contradiction alone does not work in such a manner, and certainly has not played that role with regard to the evolution of Christian morality: discussion does not affect whether people adhere to Christian principles, and contradiction will not kindle faith in religious matters.⁷²

In contrasting the zeal and enthusiasm of the early Christians with the manner in which Christianity was held as a belief in the nineteenth century, Mill explicitly concedes that there are *many* reasons contributing to the prevailing situation. But he maintains that 'one reason certainly is, that the peculiar doctrines are more questioned, and have to be oftener defended against open gainsayers' in the early stages of evolution, and 'Both teachers and learners go to sleep at their post, as soon as there is no enemy in the field'.⁷³ The *Dublin* does not appear to have noticed this concession, caricaturing the argument as promoting contradiction alone and for its own sake. Moreover, by not openly acknowledging the fundamental anti-paternalism that underlies the whole

⁷¹ See his letter dated 7 January 1852 to Henry William Carr, *CW XIV* pp. 80–81: 'What the poor as well as the rich require is not to be indoctrinated, is not to be taught other people's opinions, but to be induced and enabled to think for themselves.... The miserable pretence of education, which those [upper and middle] classes now receive, does not form minds fit to undertake the guidance of other minds. Still, any person who sincerely desires whatever is for the good of all, however it may affect himself or his own class, and who regards the great social questions as matters of reason and discussion and not as settled long ago, may, I believe, do a certain amount of good by merely saying to the working classes whatever he sincerely thinks on the subjects on which they are interested. Free discussion with them as equals, in speech and in writing, seems the best instruction that can be given them, specially on social subjects'.

⁷² *Dublin*, p. 399.

defence of freedom of thought and discussion in *On Liberty*, the *Dublin* can essentially be judged as not having come to grips with Mill's argument at all. Ironically, the reviewer is not slow to charge Mill with confusion.⁷⁴

The differences between *On Liberty* and the *Churchman* and the *Dublin* are much more profound than superficial quibbles. *On Liberty* is based on broad utilitarian considerations which hold that, rather than forcing each to accept what society in general or a government thinks is good, society will benefit in the long run if it allows all people to develop freely in their own individual way. Mill certainly does *not* hold that a person will find enlightenment simply by engaging in uninformed discussion with another on topics which remain outside the intellectual grasp of both. However, while hearing more than one side of an argument can initially cause confusion, it inevitably provokes thought, and the individual intellect gradually grows and develops in self-confidence. Under these circumstances, people can become more receptive to other ideas, can become more open-minded, and thereby come to know their own individual good. While Mill concedes that freedom of discussion is only one factor which helps people to achieve individuality, he maintains that it is one of the most important factors:

How often, when smarting under some unforeseen misfortune or disappointment, does a person call to mind some proverb or common saying familiar to him all his life, the meaning of which, if he had ever before felt it as he does now, would have saved him from the calamity. There are indeed reasons for this, other than the absence of discussion: there are many truths of which the full meaning *cannot* be realized, until personal experience has brought it home. But much more of the

⁷³ *On Liberty*, CW XVIII, pp. 249–50.

meaning even of these would have been understood, and what was understood would have been far more deeply impressed on the mind, if the man had been accustomed to hear it argued *pro* and *con* by people who did understand it.⁷⁵

So while participation in discussion is one important factor on the road to achieving a sense of individuality, *hearing* the arguments of both sides is of greater importance: 'there is always hope when people are forced to listen to both sides'.⁷⁶ The right to *hear* what can be said on all sides of a question is again seen to give Mill's argument for freedom of thought and discussion its ultimate justification.

The *Dublin* claims more than once that there is Pyrrhonism at the heart of the second chapter. But Mill was no sceptic concerning knowledge. *On Liberty* points out that where freedom of discussion is given sway, the number of issues in dispute becomes less and less with time, as opinions consolidate and people become collectively assured of the practical issues concerning 'morals, religion, politics, social relations, and the business of life'. However, as such agreement is reached, it remains essential that opposing voices should continue to be heard. Thought must not cease when society agrees on practical matters. In fact, it then becomes more essential than ever that people should be free to dispute everything they hear, and opponents imagined where none exists.⁷⁷ Opinion 'is the amount of certainty attainable by a fallible being' on topics such

⁷⁴ He does so, for example, in the discussion of Mill's notion of infallibility (*Dublin*, p. 391).

⁷⁵ *On Liberty*, CW XVIII, p. 250.

⁷⁶ *Ibid.* p. 257

⁷⁷ Such a society is not unlike that identified in the 1840 essay on Coleridge (CW X, pp. 133–34). Moreover, one of the changes Mill made in the 1859 *Dissertations and Discussions* version of that essay brings home the importance of freedom of discussion even further: 'in all political societies which have had a durable existence, there has been a fixed point; something which men agreed in holding sacred; which, *wherever freedom of discussion was a recognised principle, it was of course lawful to contest in theory*'

as religion and morality, and discussion is the way to achieve that certainty.⁷⁸ History demonstrates that issues of religious belief are as prone to mistakes as any other area of inquiry – the treatment of Jesus by his contemporaries and the persecution of Christians by Marcus Aurelius are examples used to demonstrate this point. The continued inability of Christians to agree on religious doctrines among themselves lends further credibility to this thesis. Therefore, a form of negative dialectic in the pattern of the Socratic dialogues is essential to teach those who believe that they understand a subject, forcing them to reason about its grounds and true meaning. Education must turn away from its abhorrence of ‘negative logic’ if it is to create great speculative thinkers in fields other than mathematics and the physical sciences. Those who contest the mainstream opinions should be welcomed and encouraged for the vitality they can inject into the received opinions of society. Here is a practical reason supporting the doctrine that no subject should be considered beyond discussion, and clearly intended to apply to religious topics.

5.4 Truths and half-truths

In the course of the second chapter of *On Liberty*, Mill introduces a third part to the argument which is not mentioned at the outset. Having examined the hypothetical situations where a silenced opinion is true and the received opinion false, and where the received opinion is true and the silenced opinion is false, Mill next puts forward what he believes is the most common scenario of all: truth is not the preserve of any single opinion or viewpoint. Rather, various opinions must be combined in order to achieve truth:

[emphasis added]. Hamburger maintains (*Individuality and Moral Reform*, p. 47) that this position is not compatible with full freedom of discussion. However, as argued in Chapter 3 above, this idea is perfectly consistent with everything that is said in *On Liberty*.

⁷⁸ *On Liberty*, CW XVIII, p. 232.

Popular opinions, on subjects not palpable to sense, are often true, but seldom or never the whole truth. They are a part of the truth; sometimes a greater, sometimes a smaller part, but exaggerated, distorted, and disjoined from the truths by which they ought to be accompanied and limited.⁷⁹

In a world where one-sidedness is the norm, the ‘many-sidedness’ of Goethe, favoured by Mill since his mental crisis, is held up as the ideal.⁸⁰ The ultimate origin of truth, no less than the origin of falsehood, is part of the insight of the individual intellect. Discussion serves to bring these insights before the public mind. And this is a further reason why each should be free to express opinions on all subjects. Truth has no inherent power within itself to overcome falsehood: heretical opinions provide Mill with an example of truths which have continually burst forth to protest in the face of accepted religions.⁸¹ Where such opinions have not been allowed a public voice, whatever that is of value in them is lost.

On Liberty proceeds through a series of examples to illustrate the changing tastes in public opinion from age to age, each opinion presenting that portion of truth which is appropriate to the times, no opinion containing within itself the whole truth.⁸² But because truth is most often the result of achieving a balance:

⁷⁹ Ibid. p. 252.

⁸⁰ *Autobiography*, CW I, p. 171.

⁸¹ *On Liberty*, CW XVIII, p. 238.

⁸² Ibid. pp. 252ff. One of the examples which Mill deems a ‘commonplace’, drawn from the philosophy of Coleridge, discusses the social and historical interchange of conservative and progressive trends in political thought, characterised by the acknowledged necessity for a party of permanence and a party of progress – see Mill’s letter to John Sterling of October 1839 (CW XII, pp. 408–9). It may have been a deliberate move on Mill’s part to mix these two elements at the very heart of his thesis

Unless opinions favourable to democracy and to aristocracy, to property and to equality, to co-operation and to competition, to luxury and to abstinence, to sociality and individuality, to liberty and discipline, and all the other standing antagonisms of practical life, are expressed with equal freedom, and enforced and defended with equal talent and energy, there is no chance of both elements obtaining their due; one scale is sure to go up, and the other down.⁸³

However, because the process of filtering and weaving opinions is an intellectual skill, not everybody is capable of striking the necessary balance it takes to comprehend and interpret the full complexity of argument and discussion:

Truth, in the great practical concerns of life, is so much a question of the reconciling and combining of opposites, that very few have minds sufficiently capacious and impartial to make the adjustment with an approach to correctness, and it has to be made by the rough process of a struggle between combatants fighting under hostile banners.⁸⁴

Here yet again it becomes obvious that Mill is under no illusions about the intellectual state of society at large, clearly holding that not all minds are capable of discussing all issues. In this he agrees with his critics in the *Churchman* and the *Dublin*. Where Mill differs is that he believes that freedom of thought and discussion is both a prerequisite

when he speaks of utility in the largest sense, grounded on the *permanent* interests of man as a *progressive* being.

⁸³ *On Liberty*, CW XVIII, pp. 253–54.

⁸⁴ *Ibid.* p. 254.

and an ongoing requirement if people are to become intellectually capable beings.⁸⁵

Moreover:

When there are persons to be found, who form an exception to the apparent unanimity of the world on any subject, even if the world is in the right, it is always probable that dissentients have something worth hearing to say for themselves, and that truth would lose something by their silence.⁸⁶

The *Churchman* consciously supports a thorough paternalism which is severely at odds with the main thrust of *On Liberty*. It stresses the physical impossibility of discovering and considering all the opinions contrary to one's own, as 'the possible varieties of opinion are as numerous as the individuals which compose mankind' – a point which is at the heart of Mill's defence of freedom of thought and discussion.⁸⁷ Most people are incapable of intellectual functioning without leadership, and scripture demands no requirement such as listening to the other side.⁸⁸ Mill's use of examples to demonstrate the incompleteness of truth and the fallibility of knowledge simply 'illuminates the awful responsibility of rulers' and shows that 'there cannot be such a thing as mere secular policy'. And Mill is hard pressed 'to define what the exact powers of a government ought to be in cases where the welfare of the community is considered to be

⁸⁵ The *Churchman* (1 December, p. 1154), on the contrary, expresses horror that 'the most valuable knowledge possessed and maintained by this Christian nation' should 'be exposed to the public discussion of the ignorant or the designing'.

⁸⁶ *On Liberty*, CW XVIII, p. 254. Cf. p. 229: 'But the peculiar evil of silencing the expression of an opinion is, that it is robbing the human race; posterity as well as the existing generation; those who dissent from the opinion, still more than those who hold it'.

⁸⁷ *Churchman*, 3 November, p. 1059.

⁸⁸ Ibid. 10 November, p. 1079: 'If Mr. Mill can really consider the belief in a God as an open question, a mere opinion, I can only say that he is utterly unqualified to speak about matters of evidence, or to argue about faith and opinion at all'.

placed in jeopardy'.⁸⁹ Moreover, regarding Mill's examples of blasphemy and his advocating freedom of discussion, the *Churchman* comments, 'A miserable state of things, truly, that would be, in which the axioms of our faith, the most valuable knowledge possessed and maintained by this Christian nation, were to be exposed to the public discussion of the ignorant or the designing', adding that anybody who does not believe in Christianity must have received a defective education.⁹⁰

In concentrating more on the examples used by Mill rather than the arguments which those examples were designed to illustrate, both the *Churchman* and the *Dublin* overlook many essential parts of the argument. In his treatment of Christian morality, for example, Mill's point is not that it is misleading or incorrect, but that it is capable of growth and adaptation to circumstances, and therefore cannot be considered to provide a complete moral code as it stands:

I believe that the sayings of Christ.... are irreconcilable with nothing which a comprehensive morality requires; that everything which is excellent in ethics may be brought within them, with no greater violence to their language than has been done to it by all who have attempted to deduce from them any practical system of conduct whatever. But it is quite consistent with this, to believe that they contain and were meant to contain, only a part of the truth; that many essential elements of the highest morality are among the things which are not provided for, nor intended to be provided for, in the recorded deliverances of the Founder of Christianity, and

⁸⁹ Ibid. 24 November, p. 1130.

⁹⁰ Ibid. 3 December, pp. 1154–55.

which have been entirely thrown aside in the system of ethics erected on the basis of those deliverances by the Christian Church.⁹¹

Despite the overriding benefits of intellectual enquiry towards completing such a system of morality, freedom of discussion will not always bring immediate or direct results for the better, and Mill openly admits that those who are sectarian in outlook and approach will not necessarily change through discussion:

the tendency of all opinions to become sectarian is not cured by the freest discussion, but is often heightened and exacerbated thereby; the truth which ought to have been, but was not, seen, being rejected all the more violently because proclaimed by persons regarded as opponents.⁹²

In such cases, however, Mill makes the point that ‘it is not on the impassioned partisan, it is on the calmer and more disinterested bystander, that this collision of opinions works its salutary effect’, yet again emphasising the primacy of the hearer. He continues:

And since there are few mental attributes more rare than that judicial faculty which can sit in intelligent judgment between two sides of a question, of which only one is represented by an advocate before it, truth has no chance but in proportion as every side of it, every opinion which embodies any fraction of the truth, not only finds advocates, but is so advocated as to be listened to.

⁹¹ *On Liberty*, CW XVIII, p. 256.

⁹² *Ibid.* p. 257.

Before finally resting his case, Mill reverts to the themes with which the chapter began, emphasising that all of mankind's well-being depends on mental well-being. His concluding remarks concern the importance of fair discussion, urging that all should strive towards impartiality, and adding that in society 'there would be much more need to discourage offensive attacks on infidelity, than on religion'.⁹³ He emphasises that government has no role to play in attempting to restrain such discussion, largely following arguments used by James Mill.⁹⁴ Thus Chapter 2 of *On Liberty* comes full circle, ending as it had begun with a silent bow towards the famous *Encyclopaedia Britannica* article of 1821.

5.5 Conclusion

What precisely was the second chapter of *On Liberty* attempting to achieve? Mill himself admits that there was no necessity to promote freedom of expression as a political right in 1859.⁹⁵ *On Liberty* was written primarily as a commentary on 'moral, social and intellectual liberty, asserted against the despotism of society whether exercised by governments or by public opinion'.⁹⁶ Mill's hope was to spread open-mindedness among the general populace as a route to more tolerance and individualism.⁹⁷ He also wanted to provoke debate and change, not least on the issue of religion. Hamburger's suggestion that when Mill 'wrote *On Liberty*, far from being in retreat into a world of theory, his political ambition was never greater' is certainly correct, although misguided in its belief that Mill's covert purpose was ultimately to

⁹³ Ibid. p. 259.

⁹⁴ See James Mill, 'Liberty of the Press', in Ball, *op. cit.*, pp. 130–35.

⁹⁵ *On Liberty*, CW XVIII, p. 227.

⁹⁶ Letter to Theodor Gomperz, 4 December 1858, CW XV, p. 587.

⁹⁷ Letter to Alexander Bain, 6 August 1859, CW XV, p. 631.

overthrow established religion in favour of an elitist Religion of Humanity.⁹⁸ That Mill achieved his aim of provoking debate among his contemporaries cannot be denied. His opponents represented a viewpoint which supports a paternalism which for Mill was no longer acceptable as a social (or indeed political) force. However, the contrast they provided helps to place *On Liberty* in a sharper focus. Whether the reviewers in the *Churchman* and the *Dublin* fully appreciated what they were arguing against seems doubtful in light of the foregoing discussion. That Mill's arguments have continued to be so misunderstood by critics subsequent to 1859 and up to the present day is the subject of the following chapters.

⁹⁸ Joseph Hamburger, *How Liberal was John Stuart Mill?*, pp. 16ff.

CHAPTER 6

JAMES FITZJAMES STEPHEN AND *LIBERTY, EQUALITY, FRATERNITY*

On 12 February 1859, the first of two notices of the newly published *On Liberty* appeared in the *Saturday Review*, declaring that its 'agreement with the general tone of the book is so complete, and it coincides so entirely with the temper of mind in respect to political institutions and to customary social law'.¹ The author of these reviews was James Fitzjames Stephen.² Almost fourteen years later when a series of articles under the title 'Liberty, Equality, and Fraternity' appeared in the *Pall Mall Gazette*, Stephen's stance had radically changed.³ There he joined the tradition of criticism and argument which was first meted out by the *English Churchman* and the *Dublin University Magazine*. Like those reviewers, for whom freedom of thought and discussion was particularly controversial in relation to the issues of religious belief and the existence of God, Stephen now regarded the theological implications as 'By far the most important' part of *On Liberty*.⁴ Acknowledging that the second chapter belongs among Mill's finest writings due to its eloquence, Stephen however now accused Mill of going too far, 'that in order to justify in practice what might be justified on narrow and special grounds, he

¹ 'Mr. Mill on Political Liberty', *Saturday Review*, vol. 7, 12 February 1859; repr. in Andrew Pyle (ed.) *Liberty: Contemporary Responses to John Stuart Mill* (Bristol, 1994), p. 6. A second instalment on 17 February (ibid. p. 15) outlined 'some of the points in which we either differ from him, or are obliged to qualify our assent to his opinions'.

² Identified by Leslie Stephen in his *Life of Sir James Fitzjames Stephen*, London, 1895, p. 314. Pyle does not identify the author.

³ The twenty articles, all signed 'F', appeared in rapid succession between 5 November 1872 and 24 January 1873. The first edition of Stephen's book, which added little to the content of the original articles but simplified the title to *Liberty, Equality, Fraternity*, appeared in March 1873, two months before Mill's death.

⁴ James Fitzjames Stephen, *Liberty, Equality, Fraternity* (London, 1873; 2nd edn, 1874); repr. Cambridge, 1967, p. 97. Page references are to the 1967 edition.

lays down a theory incorrect in itself and tending to confirm views which might become practically mischievous'.⁵

For many commentators, the arguments of *Liberty, Equality, Fraternity* have seemed conclusive. Thus in 1880 one commentator observed that 'no longer ago than 1873 Sir Fitzjames Stephen... examined it [*On Liberty*] with care... and proved... that Mr. Mill's premises will not bear the weight he puts upon them'.⁶ That the controversy and debate surrounding Mill's treatment of the topic of freedom of expression appear to have gradually petered out after 1873 may be due in no small way to the wide acceptance of the validity of Stephen's argument. And that acceptance continued for a long time afterwards. In 1960, for example, John Rees was able to declare with confidence that '*Liberty, Equality, Fraternity* has set the pattern for much of the criticism directed against Mill up to the present time'.⁷ Seven years later, R.J. White held that 'Stephen readily, and effectively, disposes of Mill's view that "all silencing of discussion is an assumption of infallibility"'.⁸ Yet, despite their having become part of the standard canon of criticism, it is far from evident that Stephen's 'broadside' – especially his criticisms of Mill's arguments for freedom of thought and discussion – actually hit their target.⁹ An examination of those criticisms forms the subject of the present chapter.

⁵ Ibid. p. 74. In the first 1859 article he had said of the second and third chapters of *On Liberty*: 'We know of nothing in English literature since the *Areopagitica* more stirring, more noble, better worthy of the most profound and earnest meditation, than these two chapters of Mr. Mill's Essay' – see Pyle, *op. cit.*, p. 12.

⁶ James T. Mackenzie, 'Professor Max Müller on Mr. Mill and Liberty', *Contemporary Review*, vol. 37, 1880; repr. in Pyle, *op. cit.*, p. 405.

⁷ John Rees, 'A Re-reading of Mill on Liberty', *Political Studies*, vol. 8, 1960; repr. in John C. Rees, *John Stuart Mill's On Liberty*, ed. G.L. Williams (Oxford, 1985), p. 140.

⁸ See his introduction to the 1967 reprint of the second edition of *Liberty, Equality, Fraternity*, pp. 12–13.

⁹ R.J. White's introduction to the 1967 edition cites Stephen relating that, on his way home from India in spring 1872, he found himself 'firing broadsides into John Mill for about three hours' which resulted in the publication of the articles.

6.1 Self-regarding acts and infallibility

Mill died in Avignon in May 1873 without having responded publicly to Stephen's criticisms. The sole indication of his reaction to *Liberty, Equality, Fraternity* was recorded by Alexander Bain who says that upon seeing the articles, Mill remarked that Stephen 'does not know what he is arguing against; and is more likely to repel than to attract people'.¹⁰ Following Mill's death, John Morley, then editor of the *Fortnightly Review*, took it upon himself to defend *On Liberty* against Stephen.¹¹ However, Morley's inadequate defence merely provided extra ammunition for Stephen, which he incorporated into the second edition of *Liberty, Equality, Fraternity*, thereby giving that work an air of having achieved its mission completely.

As Stephen's argument is directed primarily against the principle of liberty itself, his confrontation with *On Liberty*'s defence of freedom of thought and discussion is formulated as part of his argument with the liberty principle.¹² While he professes himself to be in agreement with the practical conclusions, he regards the ground on which they rest to be 'very far indeed from the truth, and which, if generally accepted, might hereafter become a serious embarrassment to rational legislation'.¹³ In the preface to his second edition, in response to criticisms directed against him by Morley, Stephen explains that, essentially, he regards as futile the attempt to define any act as self-

¹⁰ Alexander Bain, *John Stuart Mill: A Criticism with Personal Recollections* (London, 1882); repr. New York, 1969, p. 111. Although Bain gives the impression that the remark was made to him by Mill in person, Mill was actually in Avignon when the articles first appeared in November 1872, and did not return to London until the following February, suggesting that the words may have been written in a letter, presumably now lost.

¹¹ 'Mr. Mill's Doctrine of Liberty', *Fortnightly Review*, vol. 20, 1873; repr. in Pyle, *op. cit.*, pp. 271–97.

¹² *Liberty, Equality, Fraternity*, p. 75.

¹³ *Ibid.*

regarding.¹⁴ Therefore, Mill's inclusion of the expression of opinion in the category of self-regarding acts was fundamentally inaccurate and totally inappropriate:

What... are the great cases of 'self-regarding' acts to which Mr. Mill's doctrine of liberty mainly applies? They are the formation and publication of opinions upon matters connected with politics, morality, and religion, and the doing of acts which may, and do, and are intended to set an example upon those subjects. Now these are all acts which concern the world at large quite as much as the individual. Luther would never have justified either the publication of his theses at Wittenberg or his marriage on the ground that they were acts which concerned himself alone. Mr Mill would hardly have written his Essay on Liberty in order to show that it would be wrong to interfere with your neighbour's hours or with his diet.¹⁵

Put this way, it appears that Mill must be very much in error if he bases his principle of liberty on a distinction between acts which exclusively affect the individual and acts which affect others.¹⁶ But this is *not* the distinction which Mill makes. He distinguishes between those actions which properly concern the individual and those which affect others *adversely* and *against their will* – 'the only purpose for which power can be rightfully exercised over any member of a civilized community... is to prevent harm to

¹⁴ Morley had suggested that 'At the bottom of all Mr. Stephen's argumentation lies a fundamental reluctance to admit that there are such things as self-regarding acts at all' (Pyle, *op. cit.*, p. 292). (By contrast, Stephen's earlier *Saturday Review* article had not only spoken approvingly of the social-self-regarding distinction, but had also identified its origin in Bentham's philosophy – see *ibid.* p. 12).

¹⁵ *Liberty, Equality, Fraternity*, p. 28.

¹⁶ In the first edition (p. 66), Stephen said that Mill 'assumes that some acts regard the agent only, and that some regard other people. In fact, the most important part of our conduct regards both ourselves and others, and revolutions are the clearest proof of this'.

others'.¹⁷ Stephen maintains that, since the expression of thought affects others, it cannot be included in the realm of liberty (which Mill also calls the realm of self-regarding actions). That Mill was aware of this apparent dilemma is evident from his acknowledgement at the outset of his discussion that 'The liberty of expressing and publishing opinions may seem to fall under a different principle, since it belongs to that part of the conduct of an individual which concerns other people'.¹⁸ But freedom of thought and freedom of discussion are so mutually dependent as to be inseparable in practice.¹⁹ The theme that pervades *On Liberty* is that, in order to achieve maximum happiness, people must be free to reach their full potential as human beings if they so wish. For Mill, human well-being depends primarily on mental well-being, and this necessitates an intellectually free and active people.²⁰ Therefore, 'absolute freedom of opinion and sentiment on all subjects, practical or speculative, scientific, moral, or theological' should not only be permitted but actively encouraged. Stephen's attempt to undermine the validity of freedom of expression of thought as a self-regarding action misconstrues the distinction made in *On Liberty*. That distinction is not one between self-regarding and other-regarding acts; rather, it is a distinction between acts which harm others (which we can be restricted in performing) and the realm of liberty (which includes all other acts, including self-regarding acts, which do not harm others). Stephen would have to show that speech is something which harms others in order to prove his point. Rather, he demonstrates that speech is something which merely affects others, a point which Mill readily admits. For Mill, however, expression of opinion remains

¹⁷ *On Liberty*, CW XVIII, p. 223.

¹⁸ *Ibid.* p. 225.

¹⁹ *Ibid.* As noted in Chapter 5 of this thesis, this point also highlights the importance of Mill's carefully chosen title – 'Of the Liberty of Thought and Discussion' rather than merely 'On Freedom of Expression'.

²⁰ *Ibid.* pp. 227, 257.

within the realm of liberty because of the benefits it offers to the individuals who hear a variety of opinions, thus yielding long-term benefits to society at large.

Stephen's main case against unlimited freedom of thought and discussion addresses Mill's argument that all silencing of discussion is a claim to infallibility. *Liberty, Equality, Fraternity* also argues against the idea that rational assurance can come only through debate and listening to contrary opinions. Regarding the former, Stephen holds that 'there are innumerable propositions on which a man may have a rational assurance that he is right whether others are or are not at liberty to contradict him, and that although he does not claim infallibility'.²¹ As an example he offers propositions of which we are assured by our senses. Pointing out that while there may be reasons for forbidding people to deny that London Bridge and the river Thames exist, he holds 'the fear that the proof of those propositions would be weakened or that the person making the law would claim infallibility is not among the number'.²²

Stephen is misreading *On Liberty* on more than one point here. In the first place, Mill's idea of infallibility goes farther than simply believing that one's own opinion is right and the silenced opinion wrong: it also amounts to the notion that one's own certainty is the same thing as absolute certainty, not just in relation to the truth of the issue in question but also because one is totally denying others the right to hear the silenced opinion and to judge it for themselves.²³ As argued in Chapter 5 above, Mill's theory originates in people's right to *hear* all opinions expressed rather than with people's unqualified right to *express* opinions. To claim the authority to prevent other people

²¹ *Liberty, Equality, Fraternity*, p. 76.

²² *Ibid.* Challenged by Morley on this point, he replied in the second edition: 'I say only that persecution does not of necessity involve a claim to infallibility, which Mr Mill asserts'.

from hearing an opinion is tantamount to claiming to know the ultimate truth of the matter, as well as to know what constitutes those other people's ultimate good. It is claiming an authority for one's own opinions which no human can possess, and denying others the opportunity to think through the topic for themselves.

In support of his claims, Stephen points out that, by imposing limits on religious controversy, Henry VIII and Elizabeth I were actually trying to avoid civil war, and therefore were not claiming infallibility. But this example is misleading and fails to consider all that Mill actually says in *On Liberty*. First of all, neither Henry nor Elizabeth reigned over a democracy – both were in a position of near absolute power and their authority was not open to question, not least in matters of opinion, which is tantamount to a declaration that their decisions could not be regarded as wrong. This is the very authority over others which Mill believes should be possessed by no human being. The silencing of religious debate by the Tudor monarchs may have been made with a view to avoiding civil war, but in thereby deciding the issue of religion for others and in preventing debate by forcing submission to their views, both Henry and Elizabeth claimed that their certainty was equivalent to absolute certainty, both for the good of the country and on the religious question. In so doing they *were* claiming infallibility, claiming that their certainty is equivalent to absolute certainty, even on such a practical matter as the avoidance of civil war. Mill actually considers the very objection which this issue raises, that of the importance of an opinion to the well-being of society, and replies:

This mode of thinking makes the justification of restraints on discussion not a question of the truth of doctrines, but of their usefulness; and flatters itself by that

²³ *On Liberty*, CW XVIII, p. 229.

means to escape the responsibility of claiming to be an infallible judge of opinions. But those who thus satisfy themselves, do not perceive that the assumption of infallibility is merely shifted from one point to another. The usefulness of an opinion is itself a matter of opinion: as disputable, as open to discussion and requiring discussion as much, as the opinion itself. There is the same need of an infallible judge of opinions to decide an opinion to be noxious, as to decide it to be false, unless the opinion condemned has full opportunity of defending itself.²⁴

Stephen's argument in his discussion of infallibility, however, ultimately conflates matters of fact with matters of opinion. Whether London Bridge and the Thames exist cannot be considered part of the realm of opinion with which Mill is dealing, a realm broadly described as incorporating 'morals, religion, politics, social relations, and the business of life'.²⁵ Other examples used by Stephen – the suggestion that somebody is a thief, or 'that a respectable man of mature years led an immoral life in his youth'²⁶ – are similarly very much part of the realm of fact and factual explanation: that someone is a thief or had previously led an immoral life can be demonstrated more or less

²⁴ Ibid. p. 233.

²⁵ Ibid. p. 244–45.

²⁶ *Liberty, Equality, Fraternity*, p. 77. Stephen's second example was added subsequent to the appearance of the *Pall Mall Gazette* articles and may well be a veiled reference to the idea that, in his youth, Mill had been arrested for distributing literature advocating artificial birth control (see Chapter 1 of this thesis). That this rumour was circulating even before *The Times* obituary is evident from an article entitled 'An Old Argument Newly Stated', in the *Pall Mall Gazette* of 11 October 1872, p. 10: 'The art of preventing marriages from being fruitful... has often been made, with more or less reticence, the topic of philosophical lecturers. It is still remembered what amount of obloquy Mr. Mill incurred, in his early days of economical enthusiasm, for standing forth as its exponent. How far he approves now of his own past lessons we know not – at all events he has not repeated them of late'. That Stephen was not above such jibes is illustrated by the footnotes added to the second edition, which sometimes make disparaging references to Mill's *Autobiography*: see *Liberty, Equality, Fraternity*, pp. 93–94, 100.

conclusively by factual evidence. Such conclusive proof, however, is not possible on 'subjects not palpable to sense'.²⁷ Mill was always very careful to distinguish between fact and opinion, and much controversy was generated by his choosing not to admit theological and moral matters as questions of fact.²⁸ Yet, Stephen seems to have been in agreement with Mill regarding the status of theological truths: the example of the suppression of religious discussion by the Tudor monarchs noted above is prefaced with the assertion that 'In cases in which it is obvious that no conclusion at all can be established beyond the reach of doubt, and that men must be contented with probabilities, it may be foolish to prevent discussion and prohibit the expression of any opinion but one'.²⁹

Stephen then proceeds to talk about moral certainty and cases where it is and is not attainable on the evidence, again asserting that the suppression of an opinion need not involve a claim to infallibility: 'Where moral certainty is not attainable on the evidence the suppression of opinion involves no claim to infallibility', he maintains, 'because it does not assert the falsehood of the opinion suppressed'.³⁰ But again this misses Mill's point that, in deciding an issue for others, one does not have to deny the truth of an opposing viewpoint: in silencing opposition even where no certainty can be achieved, one is claiming infallible knowledge regarding what is best for society. To deny others the right to hear an opposing viewpoint and to decide an issue for themselves is

²⁷ *On Liberty*, CW XVIII, p. 252.

²⁸ Such controversy has been illustrated in Chapter 5 above.

²⁹ *Liberty, Equality, Fraternity*, pp. 77–78. See also Stephen's assertion (p. 91) that 'The real opinion of most legislators in the present day... is the opinion that no religion is absolutely true, but that all contain a mixture of truth and falsehood, and that the same is the case with ethical and political systems'. This is very close to Mill's assertion in *On Liberty* (p. 252) that 'Popular opinions, on subjects not palpable to sense, are often true, but seldom or never the whole truth. They are a part of the truth; sometimes a greater, sometimes a smaller part, but exaggerated, distorted, and disjoined from the truths by which they ought to be accompanied and limited'.

tantamount to denying the individuality of the other. Mill's argument is framed by the confines of democratic states, and he is arguing primarily against social pressure to conform. Liberty is the preserve of those who are capable of improvement through free and equal discussion. However, 'Until then, there is nothing for them but implicit obedience to an Akbar or a Charlemagne, if they are so fortunate as to find one'.³¹

6.2 Liberty versus control

The importance of brute force is a point which Stephen attempts to exploit to his own advantage. Confident that his argument against infallibility is conclusive, he offers more general arguments against freedom of the expression of opinion, putting forward the more common notion that 'The notorious result of unlimited freedom of thought and discussion is to produce general scepticism on many subjects in the vast majority of minds'.³² This situation posits the exact opposite situation of Mill's vision of freedom of thought and discussion fostering an atmosphere where people hold opinions with strong conviction. For Stephen, in order to achieve 'zealous belief', one should not look to intellectual freedom but instead should 'set people to fight. Few things give men such a keen perception of the importance of their own opinions and the vileness of the opinions of others as the fact that they have inflicted and suffered persecution for them'.³³ Such intellectual sectarianism, however, was the antithesis of Mill's professed intention to 'make the many more accessible to all truth by making them more open minded'.³⁴ Far from merely wishing to instil conviction without understanding, the argument of *On*

³⁰ *Liberty, Equality, Fraternity*, p. 78.

³¹ *On Liberty*, CW XVIII, p. 224.

³² *Liberty, Equality, Fraternity*, p. 79.

³³ *Ibid.*

³⁴ Letter to Alexander Bain, 6 August 1859, CW XV p. 631.

Liberty is directed towards allowing people actively to know the truth and realise their individuality.³⁵

Ultimately, the real difference between Stephen and Mill lies in their attitudes to the limits of state and social interference in the life of the individual. While Mill maintained that, in the nineteenth century, 'mankind have become capable of being improved by free and equal discussion', Stephen maintained that society had not progressed to that stage: rather than being held as an absolute principle, liberty should be at the disposal of government to be granted or withdrawn in each circumstance as appropriate. Moreover, 'Governments ought to take the responsibility of acting upon such principles, religious, political, and moral, as they may from time to time regard as most likely to be true, and this they cannot do without exercising a very considerable degree of coercion'.³⁶ If any principles of legislation are to be effective, Stephen believes, one group must rule and the other must obey, the wise must force the foolish to comply.³⁷ Because of this aim, legislators cannot work on the supposition that differing creeds are of equal value. Rather, they should actively adjudicate the truth or falsehood of various opinions relevant to the well-being of society. Thus society and government should take priority over the individual, not the other way around: 'Human life is one and indivisible, and is or ought to be regulated by one set of principles and not by a multitude'.³⁸

³⁵ *On Liberty*, CW XVIII, p. 257.

³⁶ *Liberty, Equality, Fraternity*, pp. 85, 87.

³⁷ In the introduction to the second edition (p. 32), Stephen holds that 'The real difference between Mr Mill's doctrine and mine is this. We agree that the minority are wise and the majority foolish, but Mr Mill denies that the wise minority are ever justified in coercing the foolish majority for their own good, whereas I affirm that under certain circumstances they may be justified in doing so.... the wise minority are the rightful masters of the foolish majority'.

³⁸ *Ibid.* p. 92.

In society, those opinions pertaining to the truth of various religions are especially important. It is for this reason that Stephen considers the ‘true centre’ of *On Liberty* to be the passages in which Mill argues ‘that people should be at perfect liberty to express any opinions whatever about the existence of God and a future state, and that for doing so they should neither be punished by law nor censured by public opinion’.³⁹ To allow people such unlimited freedom of discussion is to allow people to question the very foundations of society. For Stephen, the public profession of atheism is far from being a purely intellectual question; rather, it constitutes an attack on the very framework of society. The principle of liberty would impede rather than benefit society, as only those with something of value to say on the topic of the existence of God should possess the freedom Mill wishes to grant to all. ‘Speculation on government, morals, and religion is a matter of vital practical importance, and not mere food for curiosity’.⁴⁰

Liberty, Equality, Fraternity supports the view that an energetic minority should not tolerate dissent from those not qualified to question. It does not, like *On Liberty*, attempt to offer a path towards enlightenment for the ‘unqualified’, and lacks vision concerning the spread of education and intellectual progress. Stephen holds that if existing notions of morality and religion are true – and he does not clarify exactly how this can be ascertained – it is good that people should be made to accept those doctrines. To prevent abuse, ‘people should not talk about what they do not understand. Nobody has a right to be morally intolerant of doctrines which he has not carefully studied’.⁴¹ (A footnote added to the second edition adds that this latter point is one ‘on which I think that there was not really much difference between Mr. Mill and myself’.) Ultimately, Stephen

³⁹ Ibid. pp. 97, 101; in the latter passage he regards such questions as being at the heart of the most important discussions of the generation.

⁴⁰ Ibid. p. 104.

⁴¹ Ibid. p. 108.

contends that discussion cannot and does not play the role which Mill attributes to it; on the contrary, discussion is merely an indication that people have lost their true enthusiasm for and interest in a topic. Experience, not discussion, is more important, as it alone enforces important maxims such as 'honesty is the best policy'.⁴² Clearly, Stephen's starting point and utilitarianism are at odds with the fundamental principles and 'utility in the largest sense' of *On Liberty*. For Stephen, the greatest happiness can simply be achieved by the denial of liberty to some; for Mill human happiness involved more complex and fundamental issues, including the right of the individual person to grow and develop independently of the pressures of society and government control. The debate concerning which is the more correct philosophical defence of utilitarianism is one that has not yet abated.⁴³

6.3 Conclusion

Considering that there are such fundamental differences in their starting points, as well as Stephen's obvious misconstrual of some of Mill's central arguments, it is surprising that the treatment of the issue of freedom of thought and expression in *Liberty, Equality, Fraternity* has held such sway in debate about Mill. Ultimately, the main value of *Liberty, Equality, Fraternity* lies in the fact that, by attempting to refute Mill, Stephen was actually illustrating the value of debate and discussion as aids to better understanding: in effect, he demonstrated the very idea he was arguing against. However, this is not to hold that Stephen's stance can be lightly dismissed. The Hart–Devlin debate of the 1960s proved that the issues of contention between Stephen and

⁴² Stephen appears to have overlooked Mill's contention (*On Liberty* p. 231) that 'There must be discussion, to show how experience is to be interpreted'.

⁴³ See, for example, Roger Crisp, *Mill on Utilitarianism* (London and New York, 1997), pp. 173ff.

Mill were still very much alive one hundred years after *On Liberty*.⁴⁴ That Stephen attempted to address freedom of thought and discussion as part of the principle of liberty rather than as a secondary principle within *On Liberty* itself is consistent with Mill's stated intentions. More recent commentators such as Himmelfarb, Rees and Skorupski take a somewhat different approach.⁴⁵ These 'modern' commentators and interpretations are explored in the next chapter.

⁴⁴ The legal/philosophical debate between H.L.A. Hart and Patrick Devlin reawakened interest in the issues raised by the Mill and Stephen, but did not specifically address issue of freedom of expression. However, it should be noted that Devlin believed that Mill's primary concern in *On Liberty* was with freedom of opinion and discussion: see his *The Enforcement of Morals* (Oxford, 1965), p. 107. See also Hart's *Law, Liberty and Morality* (London, 1963).

⁴⁵ See Gertrude Himmelfarb *On Liberty and Liberalism*, New York, 1974, p. 24; Rees, *op. cit.*, p. 98; John Skorupski *John Stuart Mill*, London, 1991, p. 376.

6.4 Appendix: three 'new' letters from Mill to Stephen

In the course of researching this Chapter, I became intrigued by an article written by Herbert Spencer following the death of Mill in May 1873. In a piece written for the *Examiner* in that same month, Spencer speaks of Mill's ability to tolerate and even encourage criticism of his work by others, illustrating his comments with an example:

The last evening I spent at his house was in the company of another invited guest who, originally agreeing with him entirely on certain disputed questions, had some fortnight previously displayed his change of view – nay, had publicly criticised some of Mr. Mill's positions in a very undisguised manner.⁴⁶

The implication that this unnamed guest was James Fitzjames Stephen was probably intentional on Spencer's part. Although *Liberty, Equality, and Fraternity* had originally appeared as a series of articles in the *Pall Mall Gazette* towards the end of 1872, the first edition of the book appeared the following March.⁴⁷ Mill's correspondence indicates that Spencer had been invited to dine at 10 Albert Mansions on 1 April.⁴⁸ Also invited on that occasion was a certain Douglas Spalding.⁴⁹ If Stephen had been invited to dine with Mill on this date, any record of their conversation would surely prove of interest to interpretation of *On Liberty*.

⁴⁶ The *Examiner* article was subsequently published with eleven other essays as *John Stuart Mill: Notices of his Life and Works*, ed. H.R. Fox Bourne (London, 1873); repr. Bristol, 1990, p. 27

⁴⁷ See note 3 above. The September 1873 issue of *Blackwood's Edinburgh Magazine*, vol. 114, pp. 347ff. (see Pyle, *op. cit.*, p. 298), began its review of Stephen's book thus: 'A Calcutta newspaper recently assured its readers that there was no truth in the report that the sudden death of Mr. Mill had been occasioned by a perusal of Mr Stephen's book, and his consequent remorse for having inundated society with principles and theories which stood refuted and denounced before the world'.

⁴⁸ CW XVII, p. 1944. Mill and Helen Taylor now lived at this Victoria Street address in London, to which they had moved from Blackheath at the end of January 1872.

⁴⁹ *Ibid.* p. 1945.

My efforts to determine whether or not the two men had met in 1873 has led me to three letters from Mill to Stephen whose existence, as far as I can ascertain, has not been previously recognised.⁵⁰ The letters, now in the Representative Church Body Library, Dublin, add further to our knowledge of the developing relationship between the two men during the 1860s.⁵¹ In a (known) letter dated May 1865, Stephen had thanked Mill for a copy of his *Examination of Sir William Hamilton's Philosophy* and asked for a testimonial from Mill to the Committee of Legal Education at the Inns of Court.⁵² Jean O'Grady comments on this letter that 'We do not know Mill's response, but Stephen was not appointed', and proceeds to discuss the next letter known to her, a letter from Mill dated 18 June 1865.

The first of these 'new' letters is dated 25 May 1865 and goes some distance towards filling the lacuna in our knowledge identified by O'Grady. However, it also demonstrates that at least one letter from Stephen, dated 10 May, is missing, and any reply from Mill to the (presumably) earlier letter mentioned by O'Grady is also unknown.⁵³ The letter, in Mill's hand, is addressed from Saint Véran, Avignon and opens with a favourable assessment of Stephen's review of the *Examination*:

Dear Sir

I only received your letter of the 10th, and I have now had the pleasure of reading your review of my book; the authorities having, fortunately for me, found

⁵⁰ They are not included in the *Collected Works*, and were clearly not known to Jean O'Grady in her article 'Mill and Fitzjames Stephen: Personal Notes', *Mill News Letter*, Winter 1987, pp. 2–9.

⁵¹ Representative Church Body Library, Dublin, MS 252/2/54–6. These 'new' letters complement those described in O'Grady *op. cit.*

⁵² O'Grady, *op. cit.*, pp. 3–4. Stephen's letter is now at Cambridge University Library, Add MS 7349/11/4.

no treason in that number of the Saturday Review, though they kept it back twenty four hours to see.⁵⁴ It is very pleasant to a writer in such subjects to be so completely understood even if by an opponent: and to be not only understood but also approved, by a competent thinker, is doubly so.⁵⁵ You have spoken of the book as I could best have wished or hoped that it might be spoken of: and your article is fitted to be very useful in itself, in addition to all the help it gives to whatever good there may be in the book.

I am the better pleased at anything I may have done to damage Mansel, as I perceive he is one of the leaders of the anti Gladstone movement at Oxford.⁵⁶

I have a very distinct remembrance of the correspondence I had with Sir James Stephen about my Logic in connexion with religious belief – and which on his side was an admirable exhibition of the candour and freedom from prejudice which were essential parts of his mental and moral character.⁵⁷

It is a pity that the office you thought of applying for is so onerous. It is a great mistake in the governing body to make its duties incompatible with professional success, as it greatly limits their power of obtaining the fittest men.⁵⁸

I am Dear Sir

⁵³ However, see note 56 below.

⁵⁴ 20 May 1865. Stephen's review is on pp. 604–7. The 'treason' refers to censorship laws then in place in France

⁵⁵ Stephen had stated (p. 604) that 'A more careful, searching or destructive piece of criticism has seldom appeared'.

⁵⁶ This paragraph suggests that Mill may not have replied to the extant letter dated May 1865. There, Stephen had commented 'I am particularly delighted with the way in which you – (in the Scotch sense) Justified Mansel, & I am equally pleased about Sir W. Hamilton himself, for whom I had always an ignorant or at least a very uninformed dislike'.

⁵⁷ Two such letters from James Stephen to Mill, dated 3 and 13 May 1845, are in the Mill-Taylor Collection, British Library of Political and Economic Science, LSE, vol. I, items 14–15.

⁵⁸ Stephen may have changed his mind about applying for the position, which suggests that Mill did not have to supply the requested testimonial.

ever yours truly

J. S. Mill

P.S. Spinoza [*sic*], Kant, Schelling and Hegel, being certainly essential members of the series, it would be well to include them in the catena of authorities for the a priori metaphysics. I suggest it in case you at any time reprint your article, as the omission of them has perhaps a somewhat narrow and exclusively English appearance.⁵⁹

The friendly, at times almost paternal tone of this letter certainly indicates that the relationship between the two men at this time was cordial. However, it is interesting to note that Mill at this stage considered Stephen's praise to be that of 'an opponent'. This certainly calls into question the picture of intellectual unity put forward by O'Grady when she states that 'At this time, then, the two men were on cordial terms, working together in the causes of liberal politics and empirical thought'.⁶⁰ She perceives the first divergence between the men to appear subsequently in their different reactions to the Reform Bill of 1867. There was undoubtedly an affinity between the two men in May 1865, but Mill was evidently conscious of the intellectual differences between them. Both elements of their relationship are obvious in the next letter from Mill, again from Avignon and dated 31 May 1865:

Dear Sir

The short paragraph into which you condensed your account of my view of logic, seems to me not only a correct, but as complete an account of it as could

⁵⁹ See Stephen's article in the *Saturday Review*, 20 May 1865, p. 605. That Stephen considered a republication of at least some articles is evident from Mill's letter of 18 June 1865, cited in O'Grady and published in *CW XXXII*, p. 154.

well be put into the same number of words. It shewed how perfectly you had seized (as Locke says) the scope of my speculations; another consequence of which is, that you see the mode in which my opinions on subjects apparently remote fit into one another and form part of the same general conception of things.⁶¹

Respecting the metaphysics of Belief my mind is not in the same degree made up. I incline to your view of it, but am not sure that Belief is not an independent and primordial mental fact, different from, but which may be generated by, a strong association. Have you read the chapter on Belief near the end of professor Bain's book 'The Emotions and the Will'? There is much in that chapter requiring more meditation than I have yet given it.

It has not been thought consistent with the safety of the French Empire that I should receive the last number of the Saturday Review.⁶² Consequently I have not seen the article you mention. But I hope the Professorship will be made such as you can accept.⁶³

⁶⁰ O'Grady, *op. cit.*, p. 4.

⁶¹ Mill is here again referring to the review of the *Examination of Sir William Hamilton's Philosophy*, which Stephen must have asked him about in an intervening letter. That Stephen was conscious of demonstrating the unity of Mill's thought is evident from the review where he had concluded, p. 606: 'This short explanation of Mr Mill's leading doctrines shows how his psychology, his logic, and his theory of human action all hang together'.

⁶² See note 54 above.

⁶³ Thus it seems that Stephen may have decided either not to apply to, or to withdraw his application from, the Inns of Court, as suggested in note 58 above. The article (almost certainly 'The Committee of Legal Education', *Saturday Review*, 2 May 1865, pp. 631–32) may well have been written by Stephen as it pertains to the reform of legal education, the very topic on which he had planned to base his candidacy for the position of Reader in Constitutional Laws and Legal History. In requesting a testimonial from Mill, he had said of the position: 'I think if I held it it would bring to a point a good many schemes hitherto somewhat vaguely entertained of thinking out a new line of teaching legal subjects which I hope might be of some use'.

The reason you give for not mentioning Kant and the other Germans, is the same which I had conjectured. If the feeling that influenced you was lawyer like, it was not at all reviewer like, and does credit to the lawyers.

I shall be in England just in time for the P.E. Club on July 7. I hope that the circuit will not then have commenced, and that I may not only meet you there, but be able to arrange a walk with you and Professor Bain, who understands the Association psychology better than anybody else, and is the very person with whom I should like a joint discussion of the points you refer to.⁶⁴

I am Dear Sir yours very truly

J. S. Mill

Mill is here demonstrating the tolerance and friendship towards 'an opponent' which Spencer had found admirable. Mill's later opinion of Stephen, again cited by O'Grady, to the effect that he was 'insolent & domineering', and juvenile in his boast that he always fell asleep at the Political Economy Club, indicates a deterioration in the relationship between the two men.⁶⁵ However, that decline is not readily apparent in the third 'new' letter, dated 26 February 1867. The tone of this letter, quite unlike the earlier two, is quite formal, as Mill was writing in his capacity as chairman of the Jamaica Committee to the Committee's legal representative.⁶⁶ The occasion that prompted the letter had been Stephen's closing arguments and summing up of his case against Nelson and Brand, two of Governor Eyre's officers who had carried out executions under Eyre's orders in Jamaica. Stephen was evidently unhappy about some aspect of the

⁶⁴ The invitation to meet was repeated in Mill's letter of 18 June 1865.

⁶⁵ Letter to T.E. Cliffe Leslie, 8 May 1869, *CW* XVII, p. 1600. Additionally, Mill there states of Stephen: 'My daughter begins to have doubts whether he is thoroughly an honest man, either in word or in deed'.

⁶⁶ Mill's involvement with the Jamaica Committee is discussed by me in Chapter 9 below.

speech he had made, and had brought it to Mill's attention, asking for advice. Mill replied:

Dear Sir

I yesterday communicated your letter of Feb. 20 to the Jamaica Executive Committee, but the members present were not only so highly pleased with your speech on Saturday at Bow Street in all other respects,⁶⁷ but is completely satisfied with it as regards the particular point to which your letter relates, that it was unanimously considered unnecessary to give any publicity to your letter, or to take any further steps whatever on the subject.⁶⁸ In this opinion I heartily concur, and am very glad that anything like an appearance of want of unanimity has been avoided. I have only further to congratulate you on our success at Bow Street, and on your most effective reply and summing up, which, as those say who were present, was still better to hear than to read in the report.

I am Dear Sir

yours very truly

J. S. Mill

To Fitzjames Stephen Esq.

That there may have been some tensions between the Committee and Stephen at this stage – when success in the prosecution was still possible – is suggested by the fact that Mill was seeking to avoid any semblance of disagreement: Stephen and the Jamaica

⁶⁷ Saturday, 23 February 1867, reported in *The Times* on the following Monday, p. 10.

⁶⁸ The 'particular point' is not clear, but it probably pertains to issues raised at Bow Street on the previous Tuesday, 19 February and reported in *The Times* on 20 February (p. 5)

Committee were to part company later that year. Mill's relationship with Stephen did not subsequently improve.

These 'new' letters confirm Mill's earlier respect for Stephen, both personally and intellectually. That Mill's feelings later changed is evident from the known subsequent correspondence, making it unlikely that Mill would have asked Stephen to dine at home with him in April 1873. Yet, Stephen, for his part, does not appear to have felt any personal enmity towards Mill. This is evident from one further letter, known but not usually cited by commentators and which should surely be recognised for its value in plotting the relationship between Stephen and Mill. Some time after Mill's death, Stephen wrote to Helen Taylor to express his sympathy.⁶⁹ Apologising for intruding on her in her mourning, Stephen continues:

There are very few men to whom I owed so much, or for whom I felt so deep a respect as Mr Mill, & though I differed from him in several matters, and had lately had occasion to express my differences pointedly I never forgot, I hope I never appeared to others to forget, what was due to him on every account & what was due to him from me for many special reasons.

I tried in some measure to express my feelings in an article in the Pall Mall Gazette which I enclose.⁷⁰ It was hurried and imperfect in every way, but I hope you will accept it as a sincere though inadequate expression of deep and genuine feelings.

⁶⁹ The undated letter is in the Mill-Taylor Collection, vol. VIII, item 87, folios 165–66.

⁷⁰ The obituary had appeared on 10 May 1873. The copy in the Mill-Taylor Collection, Box V, item 6 may be that enclosed in Stephen's letter.

The tone of the *Pall Mall* article maintains the same reserved respect as the letter to Helen Taylor, but nonetheless refers without apology to the substance of Stephen's criticisms in *Liberty Equality, Fraternity* (albeit not in the first person). This letter demonstrates the respect in which Stephen had obviously continued to hold Mill even after their differences had entered the public arena. That Stephen is still remembered at the end of the twentieth century is in large part due to his criticism of Mill. The three 'new' letters discovered in the course of my research go some way towards adding to our knowledge of the relationship between the two men.

CHAPTER 7

ON LIBERTY: RECENT INTERPRETATIONS

Unlike nineteenth-century commentators whose argument with Mill centred on the specific issue of freedom of expression, studies of *On Liberty* in the second half of the twentieth century have tended to concentrate almost exclusively on debating the validity of the principle of liberty itself.¹ Much literature has recently been generated in analysing the notion of harm and interests, the question of actions as self-regarding and other-regarding, and the compatibility of Mill's defence of liberty with utilitarianism generally.² Meanwhile, the arguments of Chapter 2 of *On Liberty* have come to be regarded as 'overstated' but 'generally sufficient to outweigh those who [*sic*] oppose freedom of expression'.³ Usually, however, those arguments are regarded as resting on a principle different from that set out in the first chapter of *On Liberty*.⁴ Much twentieth-century debate regarding the principle of liberty itself has been the legacy of Fitzjames Stephen whose *Liberty, Equality, Fraternity* set the tone for subsequent criticism.⁵ But Stephen's understanding of Mill's arguments was far from complete. Yet his words are echoed in the prevalent attitude that while the argument for freedom of thought and

¹ John Rees' 1960 article 'A Re-reading of Mill on Liberty', *Political Studies*, vol. 8, stimulated a new interest in Mill which has continued since that time.

² This variety is amply demonstrated by the titles of most of the articles published since 1960, a selection of which have been collected in the Routledge *Critical Assessments* series: see John Cunningham Wood (ed.) *John Stuart Mill: Critical Assessments*, 4 vols (London, 1991); and G.W. Smith (ed.) *John Stuart Mill's Social and Political Thought: Critical Assessments*, 4 vols (London, 1998).

³ Roger Crisp, *Mill on Utilitarianism* (London, 1997), p. 194. Peter Singer, in defending his own controversial views, has invoked Mill's arguments for freedom of thought and discussion as 'still essentially sound' – see Singer's 'A German Attack on Applied Ethics', *Journal of Applied Philosophy*, vol. 9, 1992, p. 88.

⁴ The notion, discussed below, that Mill's defence of freedom of thought and discussion is built on grounds different to the principle of liberty has been put forward by many, including John Rees, Gertrude Himmelfarb and John Skorupski.

discussion is the most memorable part of *On Liberty* ‘these august pages persuade rather by inspiration than reasoning’.⁶ This chapter examines the attitudes of contemporary commentators and seeks to discover how far their analysis and attitudes are justified.

7.1 *One principle or two?*

Whereas Stephen had attempted to demolish Mill’s principle of liberty by pointing out that to express an opinion is not to perform a self-regarding act, the focus among twentieth-century commentators has shifted. On the one hand, philosophers have analysed the principle of liberty to the extent that it is often dismissed as a useless chimera.⁷ On the other hand, Chapter 2 of *On Liberty* has come to be regarded as a separate entity, to be understood and interpreted in isolation from the principle of liberty.⁸ Even John Rees (in what seems to be a tone of approval) concedes that ‘it is sometimes said that the principle of self-protection might be completely discarded’ without affecting the arguments of Chapter 2.⁹ Such a move may not be entirely unwelcome – after all, if *On Liberty* defends freedom of thought and discussion on a basis other than the principle of liberty (albeit in a manner unrecognised by Mill), then if the latter principle proves to be untenable, the classic arguments for freedom of speech can possibly be saved. Yet, devoid of their

⁵ James Fitzjames Stephen, *Liberty, Equality, Fraternity* (London, 1873; repr. Cambridge, 1967, ed. R.J. White). Page references are to the 1967 reprint.

⁶ John Skorupski, *John Stuart Mill* (London, 1991), p. 369: cf. Stephen, *op. cit.* p. 75, who claimed that that Chapter 2 provides ‘illustrations which are even more valuable for what they suggest than for what they say.... which made the deepest impression when it was first published, and which have been most vividly remembered by its readers’.

⁷ See, for example, Ted Honderich, ‘Mill on Liberty’, *Inquiry*, vol. 10, 1967, pp. 292–97, and his development of this argument in *Punishment: The Supposed Justifications* (London, 1989), pp. 184ff.

⁸ Honderich, for example (*Punishment*, p. 194), holds that despite the invalidity of the liberty principle, ‘There is, given the Principle of Utility, to be no interference in freedom of thought and expression’.

⁹ John C. Rees, ‘*On Liberty* and its Early Critics’, in *John Stuart Mill’s On Liberty*, ed. G.L. Williams (Oxford, 1985), p. 98.

context in the wider argument of *On Liberty*, those arguments appear dry and lifeless, not readily serving Mill's broader aim of promoting human happiness and individuality.

The supposed bifurcation in the argument is observed by Gertrude Himmelfarb, who explains it in terms of an 'odd turn' in Mill's line of argument for freedom of thought and expression:

instead of defending his position on the grounds he was to use elsewhere in *On Liberty* – the importance of preserving individuality against the pressures of social and political conformity – Mill chose to base his case on quite different grounds. It was not for the sake of the individual dissenter that he denied to mankind the right to silence the single dissenting opinion; it was rather for the sake of truth.¹⁰

More recently, John Skorupski has capitulated entirely, providing what appear to be solid arguments for the 'two principles' thesis:

Liberty of expression is not a special case of the Liberty Principle, nor does it mainly flow from the same source.... the deepest justification for the Principle of Liberty of Expression is that it gives a hearing to the communal voice – that to which we respond in common.... [Mill] is not presenting a special case of the Liberty Principle; he is defending the dialogue model by appeal to its internal goal. One may accept his defence of liberty of expression and reject the Liberty Principle, or vice versa.¹¹

¹⁰ Gertrude Himmelfarb, *On Liberty and Liberalism* (New York, 1974), p. 24. See also Frederick Schauer, *Free Speech: A Philosophical Enquiry* (Cambridge, 1982), pp. 15ff.; Eric Barendt, *Freedom of Speech* (Oxford, 1985), p. 8ff.

¹¹ Skorupski, *op. cit.*, p. 376.

Thus, contemporary scholarship has gradually redefined what Mill regarded as standing at the core of his argument in *On Liberty*. For Mill, freedom of thought is a 'single branch' of the liberty principle, the grounds for which 'when rightly understood, are of so much wider application than to only one division of the subject'.¹² Can it be that he got his argument so confused as not to recognise a division which these commentators identify so easily? The *Autobiography* makes it clear that every word in the essay was carefully weighed and re-weighed by both Mill and Harriet in order to weed out ambiguities.¹³ If Himmelfarb and Skorupski are correct, their assessment casts serious doubt on Mill's intellectual ability and lends support to the argument of some – philosophers prominent among them – that *On Liberty* is a mass of contradiction and illogical intrigue.¹⁴ Such a conclusion is strange considering the lasting appeal of the work, as well as the fact that among his contemporaries Mill was considered to be 'the most profound thinker England has produced since the seventeenth century'.¹⁵

Mill readily conceded in *On Liberty* that the expression of an opinion is not a self-regarding act, but he nonetheless maintained that it should be protected by the principle of liberty, claiming that it is impossible in practice to have true freedom of thought without freedom of expression.¹⁶ He does not, of course, identify freedom of thought

¹² *On Liberty*, CW XVIII p. 227.

¹³ *Autobiography*, CW I pp. 257–59.

¹⁴ This view is put forward, for instance, by R.P. Anschutz, *The Philosophy of John Stuart Mill* (Oxford, 1953), p. 5.

¹⁵ Henry Thomas Buckle, 'Mill on Liberty', *Fraser's Magazine*, vol. 59, May 1859; repr. in Andrew Pyle (ed.) *Liberty: Contemporary Responses to John Stuart Mill* (Bristol, 1994), p. 52.

¹⁶ *On Liberty*, CW XVIII, pp. 225–26: 'The liberty of expressing and publishing opinions may seem to fall under a different principle... but, being almost of as much importance as the liberty of thought itself, and resting in great part on the same reasons, is practically inseparable from it'.

with the freedom to express opinions. As argued in Chapter 5 of this thesis, it is not primarily for the sake of the person who expresses an opinion that Mill makes his defence of freedom of thought and discussion; rather, his arguments are based on the idea that people must be free to hear what can be said on all sides of a question if they are to develop intellectually and individually. To deny people this right, especially in relation to those questions pertaining to ‘morals, religion, politics, social relations, and the business of life’, is to decide on these questions for others. To do so is to equate one’s own certainty with absolute certainty, both with regard to the truth of the issue at hand and to the usefulness of holding that particular opinion.¹⁷ And this is tantamount to claiming one’s own infallibility. For Mill, silencing the expression of an opinion is ‘robbing the human race; posterity as well as the existing generation; those who dissent from the opinion, still more than those who hold it’.¹⁸ Certainly it is robbing them of the possibility of achieving truth, as Himmelfarb acknowledges. But more importantly it is robbing them of the opportunity to learn, compare and contrast their own views and opinions in relation to the silenced opinion. (Himmelfarb recognises that it was not for the sake of the speaker that Mill defends freedom of thought and discussion, but she does not recognise the emphasis Mill places on the right to *hear* an opinion.)

Mill’s arguments are not focused primarily on the discovery of truth but on the use and development of human faculties and intellect. Silencing any opinion detracts from the individual’s development and thus from the diversity which society needs if it is to grow and progress. It is ultimately not for the sake of truth alone but for the sake of individuality in society that freedom of expression must be permitted. *On Liberty* proceeds on the notion that:

¹⁷ Ibid. pp. 233, 244–45.

¹⁸ Ibid. p. 229

mankind are not infallible; that their truths, for the most part, are only half-truths; that unity of opinion, unless resulting from the fullest and freest comparison of opposite opinions, is not desirable, and diversity not an evil, but a good, until mankind are much more capable than at present of recognising all sides of the truth, are principles applicable to men's modes of action, not less than to their opinions.¹⁹

Diversity of opinion is desirable not simply for its own sake but because it is the product of, as well as providing inspiration for, natural diversity among individuals. Unity of opinion is acceptable when it is the result of free and open discussion. After all 'As mankind improve, the number of doctrines which are no longer disputed or doubted will be constantly on the increase'.²⁰ For Mill, arguing for individuality and development, it is not sufficient that people should know that something is true; they must also understand the reasons which make it true.²¹ And complete freedom to think and express all opinions is necessary in order for society to progress.

John Skorupski identifies his 'dialogue model' of *On Liberty* by concentrating on the importance of the speaker rather than the hearer, and in this manner he identifies a

¹⁹ Ibid. p. 260.

²⁰ Ibid. p. 250.

²¹ Ibid. p. 244; see also pp. 262–3: 'He who chooses his plan for himself, employs all his faculties. He must use observation to see, reasoning and judgment to foresee, activity to gather materials for decision, discrimination to decide, and when he has decided, firmness and self-control to hold to his deliberate decision.... It is possible that he might be guided in some good path, and kept out of harm's way, without any of these things. But what will be his comparative worth as a human being? It really is of importance, not only what men do, but also what manner of men they are that do it'. In his book *Happiness, Justice, and Freedom* (Belmont, CA, 1984), pp. 271ff., Fred Berger follows C.L. Ten in referring to this as the necessity of 'knowing the truth'.

principle of freedom of expression which is separate from Mill's principle of liberty.²² Skorupski defines dialogue as 'unconstrained discourse between rational people' which aims at the common pursuit of truth: 'An act of communication may fall short of dialogue – and thus of protection under liberty of expression – because of a relevant defect in the state of the recipient'.²³ His position could thus far be regarded as compatible with the account of *On Liberty* offered in this thesis. However, Skorupski proceeds to explain that Mill's defence of liberty of expression, in appealing to 'the growth of truth and of rational qualities of mind', makes 'no reference to the Liberty Principle, or the rights of the individual. Mill defends liberty of expression by a direct appeal to the internal goal of dialogue'.²⁴ For Skorupski it is the social importance of dialogue in the discovery of truth that justifies Mill's account of liberty of expression. Here, truth assumes an importance of greater value than the individual. Skorupski concludes, therefore, that there must be a principle of freedom of expression which is separate from the principle of liberty, the latter emphasising the individual, the former emphasising society. This principle of liberty of expression prohibits restrictions on honest dialogue for the sake of the communal discovery of truth, while the principle of liberty 'permits interference with acts of expression on the basis of foreseeably harmful non-dialogue effects'.²⁵ Thus on Skorupski's account, speech can be restricted, and can be banned altogether if its possible or probable effects are deemed harmful in their 'non-dialogue effects'. Mill's insistence on 'absolute freedom of opinion and sentiment on all subjects, practical or speculative, scientific, moral, or theological' here loses much of its potency.²⁶

²² Skorupski, *op. cit.*, pp. 369ff.

²³ Ibid. pp. 371, 372.

²⁴ Ibid. p. 375.

²⁵ Ibid. p. 373.

²⁶ *On Liberty*, CW XVIII, p. 225.

When the role of the hearer is emphasised, on the contrary, Mill's theory can be demonstrated as consistent, both with regard to freedom of thought and discussion and to the wider principle of liberty. The position which emphasises the hearer is one that Skorupski certainly considers but does not entertain. Skorupski deems Mill's definition of infallibility – which demonstrates the primacy of the hearer –misleading because 'What is specifically wrong in undertaking to decide *for others* is not that it assumes infallibility... but that it ignores the fact that truth must be pursued communally and dialectically'.²⁷ On this interpretation, the arguments of *On Liberty*'s second chapter do not sit at all comfortably with the defence of individuality given in the remainder of the essay. Thus, while Skorupski concedes that it is unacceptable to censor discussion in order to bring about an individual's happiness or the possession of truth, he asks: 'But what if we censor a person's information not for *his* good but for the *general* good? This is after all far likelier. The objection from paternalism may not then apply'.²⁸ This argument holds that an opinion may be considered so important to the existence of society that it is generally felt that any opinions to the contrary should be suppressed, and such censorship cannot be considered as interference for the individual's own good. But Mill addresses this very issue in *On Liberty*, where he maintains that the position involves a shifting of the notion of infallibility from the judge of the truth of an opinion to the judge of its social usefulness.²⁹ And as such the objection from paternalism *does* continue to apply. For Mill, 'whatever crushes individuality is despotism, by whatever name it may be called, and whether it professes to be enforcing the will of God or the injunctions of men'.³⁰ Moreover, if society can censor information for the sake of the

²⁷ Skorupski, *op. cit.*, p. 380.

²⁸ *Ibid.* p. 384.

²⁹ *On Liberty*, CW XVIII, pp. 233.

³⁰ *Ibid.* p. 266.

general good, what then can stop further interference in other areas of the life of the individual? Speaking of actions (which, at the beginning of Chapter 3, he conceded should not be as free as opinions) Mill asks:

But where has there been seen a public which set any such limit to its censorship?.... In its interferences with personal conduct it is seldom thinking of anything but the enormity of acting or feeling differently from itself; and this standard of judgment, thinly disguised, is held up to mankind as the dictate of religion and philosophy, by nine tenths of all moralists and speculative writers.³¹

When the priority of the hearer is recognised, *On Liberty* can be read as providing a defence of freedom of thought and discussion which is consistent with his defence of individuality. There is therefore no need to resort to the idea of two separate principles, as does Skorupski, in order to defend the work.

7.2 Gray's defence of Mill

Current interpretations of the principle of liberty place much emphasis on the fact that its first formulation is made by reference to preventing harm to others.³² Mill believed that any offence given by the expression of an opinion did not constitute such harm.³³ So how is the notion of harm to be understood? John Rees' 1960 interpretation points out that, in the most important passages of *On Liberty*, Mill almost always returns to the notion of harming *interests* rather than simply 'harming' or 'affecting' others. His reading has gained widespread acceptance and has informed almost all subsequent

³¹ Ibid. p. 284.

³² See, for example, John Gray, *Mill on Liberty; A Defence*, 2nd edn (London, 1996), pp. 48ff.

³³ *On Liberty*, CW XVIII, p. 258.

philosophical debate about the principle of liberty. Rees offers further clarification of his thesis by citing a passage from *On Liberty* which says the conduct which a society can demand of its citizens 'consists, first, in not injuring the interests of one another; or rather certain interests, which, either by express legal provision or by tacit understanding, ought to be considered as rights'.³⁴ But it is not immediately clear what exactly constitute these 'certain interests'.

That confusion prevails about the issue may have prompted McCloskey to suggest that Mill had no clear concept of interests, and that any attempt to interpret *On Liberty* along such lines is therefore bound to be unsuccessful.³⁵ Similarly, D.G. Brown believes that Mill's use of the word 'interests' is in no way special and that such interests can be calculated in a straightforward way by 'prudential reasoning'.³⁶ Mill occasionally seems to be using a general notion of interests, for example when he says that 'As soon as any part of a person's conduct affects prejudicially the interests of others, society has jurisdiction over it, and the question whether the general welfare will or will not be promoted by interfering with it, becomes open to discussion'.³⁷ But it is also clear from *On Liberty* that Mill is at times not speaking about interests in general but of specific interests which ought to be recognised as rights. Acts which interfere with such interests are distinguished from those acts which 'may be hurtful to others or wanting in due consideration for their welfare, without going the length of affecting any of their constituted rights'. To define what Mill means when he speaks of such interests, and how these interests can be harmed, has been the goal of much debate surrounding *On Liberty*.

³⁴ Ibid. p. 276.

³⁵ H.J. McCloskey, *John Stuart Mill: A Critical Study* (London, 1971), pp. 108–9.

³⁶ D.G. Brown, 'Mill on Harm to Others' Interests', *Political Studies*, vol. 26, 1972, p. 399.

One of the more influential studies to have built on Rees' work is that by John Gray.³⁸

Gray views the argument of *On Liberty* in the context of Mill's larger corpus, including Book VI of the *System of Logic*, and the account of justice and moral rights in the final chapter of *Utilitarianism*.³⁹ In the latter work, the most vital interests of human beings are identified as those pertaining to security and to 'the moral rules which forbid mankind to hurt one another'.⁴⁰ Gray concludes:

The significance of this claim for the argument of *On Liberty* can scarcely be exaggerated. These are the 'certain interests' which Mill there specifies are to be protected as rights.... these interests are satisfied when men refrain from invading one another's autonomy and from undermining one another's security. Unless these vital interests are endangered, no policy which aims at preventing men from harming themselves, or at compelling them to benefit others, can ever be justified. It is to these interests that Mill refers in the introductory chapter of *On Liberty* when he makes the appeal to 'the permanent interests of man as a progressive being' and which function in Mill's theory of liberty in a manner analogous to the primary goods in Rawls's theory of justice. These vital interests are to be protected before any others a man may have; and they are not to be invaded or damaged simply because it seems that a greater satisfaction of overall preferences might thereby be achieved.⁴¹

³⁷ *On Liberty*, CW XVIII, p. 276.

³⁸ Gray, *op. cit.* (first published 1983).

³⁹ *Ibid.* pp. 10, 14.

⁴⁰ *Utilitarianism*, CW X, pp. 251, 255–56.

⁴¹ Gray, *op. cit.*, p. 52.

But this interpretation, which identifies security and autonomy as being both the ‘certain interests’ which Mill wishes to be considered as rights, *and* the permanent interests of progressive beings, does not fit with what is actually said in *On Liberty*. In speaking of ‘utility in the largest sense, grounded in the permanent interests of man as a progressive being’, Mill continues: ‘*Those interests* [i.e. ‘permanent interests’], I contend, authorize the subjection of individual spontaneity to external control, only in respect to those actions of each, which concern the *interest* of other people’.⁴² The permanent interests of man as a progressive being justify interference with liberty when an individual interferes with the interests of others. Among these latter interests are the ‘certain interests which ought to be considered as rights’. These ‘certain interests’ obviously must differ from the ‘permanent interests of man as a progressive being’, which justify them.⁴³ The ‘certain interests’ therefore cannot be identical to the ‘permanent interests’ in the manner which Gray contends. This would be to say that autonomy, as one of the permanent interests of man as a progressive being, is its own justification, which is plainly not an argument.

The connection between *On Liberty* and *Utilitarianism*, moreover, should not be accepted uncritically. In *Utilitarianism* Mill does indeed speak of security as ‘the most vital of all interests’, that which ‘no human being can possibly do without’, but he also speaks of it as being indispensable ‘after physical nutriment’.⁴⁴ That security is a

⁴² *On Liberty*, CW XVIII, p. 224, emphasis added.

⁴³ The 1865 People’s Edition of *On Liberty* incorrectly rendered the phrase as the ‘permanent interests of *a* man as a progressive being’ (see CW XIX, Appendix D, p. 657). This incorrect text is used by John Rawls in his criticism of Mill in *A Theory of Justice* (§33, note 7).

⁴⁴ *Utilitarianism*, Chapter 5, CW X, p. 251. See also Mill’s 1868 pamphlet *England and Ireland*, which speaks of ‘the primary interests of subsistence and security’ (CW VI, p. 532).

primary end of legislation had long since been held by Bentham.⁴⁵ Therefore, as security appears to be an interest in which all rational beings will take an interest, there is little to distinguish it as specifically pertaining to man as a *progressive* being. The interests which Gray has identified cannot therefore be considered to be the ‘permanent interests’ employed in *On Liberty*.⁴⁶ But it may well be that, in speaking of interests which ought to be considered as rights, Mill intended his audience to understand security and autonomy. Gray adds credence to the connection between *On Liberty* and *Utilitarianism* by pointing out that the two works were composed concurrently in the 1850s. This idea of complementarity through simultaneous composition has gained acceptance and is now generally regarded as significant for interpretation of both works.⁴⁷ Yet the historical connection between the composition of *On Liberty* and *Utilitarianism* may be overstated. Mill first talked of ‘employing myself in working up some papers which have been lying by me, with some additional matter into a little treatise on Utilitarianism’ in his letters to Alexander Bain of late 1859, a full year after *On Liberty* was offered for publication.⁴⁸ Such language clearly indicates that he was just then in the process of composing the work. A month later he told Bain that he would not publish *Utilitarianism* for another year, although it was ‘now finished, subject to any correction or enlargement which may suggest itself in the interval’.⁴⁹ Mill had ‘some papers’ a year after *On Liberty* had appeared. From these he generated the work which first appeared a full two years later in *Fraser’s Magazine*. That he was still working on

⁴⁵ See Douglas G. Long, *Bentham on Liberty* (Toronto, 1977), pp. 115–18; F. Rosen, *Bentham, Byron and Greece* (Oxford, 1992), pp. 33ff.

⁴⁶ Although Gray’s second edition of *Mill On Liberty: A Defence* rejects the universal validity of any liberal project such as that undertaken in *On Liberty*, Gray stands by this original interpretation of interests: see his ‘Preface to the Second Edition’, *op. cit.*, p. xi.

⁴⁷ Roger Crisp in *Mill on Utilitarianism* (London, 1997), p. 173, for example, seems to concur with Gray.

⁴⁸ 15 October 1859, *CW XV*, p. 640. See also John Robson’s ‘Textual Introduction’ to *CW X*, pp. cxxii–cxxv.

Utilitarianism in 1860 after *On Liberty* was published suggests that the idea of simultaneous composition of the two works is largely based on conjecture.⁵⁰

Furthermore, there is no evidence to the effect that Mill intended *Utilitarianism* specifically as a means to elucidate specific points which were made in the earlier work, not least the question of interests. In his correspondence with Bain (for whom he had not previously been slow to provide clarification on issues in *On Liberty*) Mill never even hints that the two works were linked in the manner which Gray would have us believe.⁵¹ *On Liberty* is explicitly discussed in the letters concerning the composition of *Utilitarianism*, but no connection between the two works is mentioned.⁵² If the later work had been written as a companion piece to the earlier, Mill would surely have discussed it with Bain, with whom he corresponded on most intellectual matters following the death of Harriet.⁵³ Alternatively, we are again faced with the surprising scenario in which Mill is unable to recognise those important subtleties and connections in his own work which commentators such as Gray identify so easily.

7.3 Mill and interests

The cryptic use of the concept of interests attributed to Mill in *On Liberty* is also surprising: other writings make clear his awareness of the problems of interpretation attendant on the use of the concept. In 1829, Thomas Babington Macaulay had raised

⁴⁹ 14 November 1859, *CW XV*, p. 645.

⁵⁰ The articles which appeared in *Fraser's Magazine*, vol. 64, October, November, December 1861 were later gathered in *Utilitarianism*, published as single volume in 1863.

⁵¹ Mill's correspondence with Bain regarding *On Liberty* is discussed in Chapter 5 of this thesis.

⁵² In addition to the two letters mentioned in notes 48 and 49 above, see Mill's letter to Bain of 6 August 1859 (*CW XV*, pp. 630–32).

⁵³ See Alexander Bain, *Autobiography* (London, 1904), p. 251.

the question of how the notion of interests could be understood in James Mill's *Encyclopaedia Britannica* article 'Government'.⁵⁴ Macaulay's criticisms made a deep impression on John Stuart Mill. Subsequently, in a discussion of the 'Benthamite theory of government', Mill asks: 'What can a philosopher make of such complex notions as "interest" and "general interest", without breaking them down into the elements of which they are composed?'.⁵⁵ The passage continues:

If by men's interest be meant that which would appear such to a calculating bystander, judging what would be good for a man during his whole life, and making no account, or but little, of the gratification of his present passions... and if men's interest, in this understanding of it, usually governed their conduct, absolute monarchy would probably be the best form of government.⁵⁶

Here, the problem voiced in recent scholarship is articulated by Mill himself: what *can* a philosopher, seeking precision, make of a notion as vague as interests? The reply – an interest is that which could generally be judged as good for a person – corresponds with what Mill had to say elsewhere on the subject. Thus in his *Thoughts on Parliamentary Reform*, published shortly after *On Liberty*, Mill held that a person's interests are constituted by 'whatever he takes interest *in*. Everybody has as many different interests as he has feelings.... It cannot be said that any of these, taken by itself constitutes "his

⁵⁴ 'Mill's *Essay on Government: Utilitarian Logic and Politics*', *Edinburgh Review*, vol. 49, March 1829, pp. 159–89; repr. in James Mill, *Political Writings*, ed. T. Ball (Cambridge, 1992). The theory put forward by James Mill in his article on government holds that the interest of those who govern should be identical to the general interest.

⁵⁵ 'Coleridge', *CW X*, p. 153. This article was revised for publication in his *Dissertations and Discussions* which appeared in 1859. Himmelfarb makes much of Mill's revisions, as discussed above in Chapters 3 and 5. Revisions to the passage cited here were minor, including the replacement in the first clause of the words 'do with' by the words 'make of'. That Mill regarded human interests as highly complicated is reiterated in his essay 'Nature': see *CW X*, p. 387.

interest”’.⁵⁷ The answer to what is meant by ‘interests’ thus could be simple and straightforward: the common understanding of an interest is that which is judged good for somebody. But can this inform our understanding of *On Liberty*? Even if it is accepted that Mill’s notion of an interest is simply that which is judged good for somebody, which of these interests ought to be considered as rights, and how is one supposed to understand the ‘permanent interests of man as a progressive being’?

One way to solve the problem is again to look beyond *On Liberty* to Mill’s other writings. Mill used the notion of ‘permanent interests’ elsewhere: for example, in the continuation of the passage from ‘Coleridge’ cited above he says:

But since men usually do what they like, often being aware that it is not for their ultimate interest, still more often that it is not for the interest of their posterity... it is necessary to consider, not who are they whose *permanent interest*, but who are they whose immediate interests and habitual feelings, are likely to be most in accordance with the end we seek to obtain [the general good].⁵⁸

Again in discussing ‘The Condition of Ireland’ during the Great Famine, Mill speaks of people having a ‘permanent interest’ in the land.⁵⁹ To say that an interest is permanent is evidently to say that it can be considered good for somebody regardless of time and place. Moreover, in his 1852 discussion of ‘Whewell on Moral Philosophy’, an important account of utilitarian ethics contrasted to intuitionist doctrines, Mill compares the notions of ‘progressive’ and ‘stationary’ moralities. What is progressive is defined as

⁵⁶ ‘Coleridge’, CW X, pp. 153–4.

⁵⁷ *Thoughts on Parliamentary Reform*, CW XIX, p. 336.

⁵⁸ ‘Coleridge’, CW X, pp. 154, emphasis added.

⁵⁹ ‘The Condition of Ireland’, *Morning Chronicle*, 22 October 1846, CW XXIV, p. 909.

that which is grounded in ‘reason and argument’ as opposed to ‘the deification of mere opinion and habit’.⁶⁰ That Mill understands progress in a manner which pertains to an area wider than morality alone is evident from his explanation that: ‘The doctrine that the existing order of things is the natural order, and that, being natural, all innovation upon it is criminal, is as vicious in morals, as it is now at last admitted to be in physics, and in society and government’.⁶¹ The expansion of human intellect through reason and argument is at the basis of all such progress, an idea which is very much in keeping with what Mill had previously maintained in his *System of Logic* and *Principles of Political Economy*.⁶² The liberty to question the existing order constantly, never remaining content with institutions or ideas as they are, thereby generating new angles on existing concepts and opening up new avenues of thought, is instrumental in allowing progress to occur. If the good of society is to be progressively maximised, all individuals should be free to develop and flourish in their human individuality. They must therefore be free to hear what can be said on all sides of every opinion. Thus, intellectual development can objectively be judged good for progress in the long term. In other words, the possibility of intellectual (and moral) development forms an important part of the permanent interests of man as a progressive human being. The ‘inward domain of consciousness’ is therefore prior to all other liberties, fostering the development of individuality and thus the progress of society as a whole.

⁶⁰ ‘Whewell on Moral Philosophy’, CW X, p. 179.

⁶¹ Ibid.

⁶² *A System of Logic* VI, x, §7 (CW VIII, p. 927) points out that all advances in industry and commerce, in politics and social policy, have (historically) been preceded by intellectual advances. Again, in the *Principles of Political Economy* V, xi, §3, Mill speaks of the necessity of ‘surrounding individual independence of thought, speech and conduct, with the most powerful defences, in order to maintain that individuality of mind and character, which are the only source of any real progress’ (CW III, pp. 939–40, emphasis added).

This understanding of Mill is also reflected in John Skorupski's idea that 'Men are progressive beings, inasmuch as they have capacities of intellect and susceptibility which can be cultivated and deepened'.⁶³ It is closer, however, to Wendy Donner's interpretation of *On Liberty* which claims that:

These 'permanent interests of man as a progressive being' are interests in mental and moral development. In the rest of this essay Mill argues for the development of generic intellectual and social capabilities and for autonomy and individuality. Chapter 2, 'Of the Liberty of Thought and Discussion', is on one level an eloquent argument for the importance of free discussion and freedom of expression for the development of our intellectual powers. Unless we have an intense desire to seek the truth and reflect critically on important matters, as well as the mental powers obviously presupposed by such a search, we will not continue developing morally. This dynamic process feeds on itself; the more we use our mental powers, the more we develop them and want to use them.⁶⁴

Here, intellectual development is seen to lie at the heart of Mill's argument for individual liberty, fitting comfortably with the notion that progress is inherently related to intellect. The *System of Logic*, the *Principles of Political Economy* and 'Whewell on Moral Philosophy' all lend textual support for such an interpretation. *On Liberty*, in fact, takes a step further into the social value of intellectual liberty by attempting to show that those who do not desire such liberty for themselves should allow others to avail of it because:

⁶³ Skorupski, *op. cit.*, p. 350.

In the first place, then, I would suggest that they might possibly learn something from them. It will not be denied by anybody, that originality is a valuable element in human affairs. There is always need of persons not only to discover new truths, and point out when what were once truths are true no longer, but also to commence new practices, and set the example of more enlightened conduct, and better taste and sense in human life.⁶⁵

Intellectual progress is to the fore here. But not all possess the same level of intellectual ability, and some people desire more than others to learn and discover. This need for liberty felt by some but not by others has continued to tempt commentators towards the conclusion that Mill's aim was to establish liberty for an elite group.⁶⁶ However, Mill makes it clear in the text of *On Liberty* that he is not arguing for the liberty of an elite group. Those who desire liberty have a social role insofar as can they arouse an appetite for freedom in those who unreflectingly favour conformity. These others can thereby be alerted to new possibilities of thought and existence, and become aware of their own unique individuality.⁶⁷

The idea of progress is at the heart of John Gray's more recent rift with Mill. Gray claims that *On Liberty* (and indeed liberalism in general) is doomed to failure above all

⁶⁴ Wendy Donner, *The Liberal Self: John Stuart Mill's Moral and Political Philosophy* (Ithaca, NY, 1991), p. 140.

⁶⁵ *On Liberty*, CW XVIII, p. 267. This passage additionally, by emphasising the role of the individual in the discovery of truth, contradicts Skorupski's insistence on the absolute value of the *social* importance of the discovery of truth.

⁶⁶ That Alexander Bain was tempted to follow this line of thought is evident from Mill's letter of 6 August 1859, discussed in Chapter 5 of this thesis. More recent proponents of the elitist thesis include Maurice Cowling and Joseph Hamburger, also discussed in Chapter 5.

⁶⁷ *On Liberty*, CW XVIII, pp. 268–69.

because it rests on a mistaken conception of history and progress.⁶⁸ According to this view, Mill 'identified European hegemony with the advance of the entire species and understood progress as the universal adoption of Western institutions, beliefs and values'. Gray therefore asks 'why should this ideal of life be favoured over others – particularly by a value-pluralist who acknowledges the diversity of forms of genuine human flourishing?'.⁶⁹ In making his case, he takes for granted that Mill's view of progress differs in no way from that which Gray attributes to almost all Western nineteenth-century thinkers:

For only a philosophy of history in which the universalisation of Western values of individuality and progress is equated with the progress of the species can sustain the universal claims of liberalism when the foundationalist projects that once engaged liberal thinkers – thinkers such as Mill – have been abandoned. Perhaps other conceptions of progress are possible, which do not privilege liberalism or Western values; or perhaps the very idea of progress is rightly suspect as a barbarous relic of Enlightenment.... liberal values are in no sense underwritten by history and have no claim to embody the permanent interests of the species.⁷⁰

But it is not clear that Gray's representation of Mill is entirely accurate. In the first place, Mill insists from the outset that liberty is not universally applicable to all societies

⁶⁸ Gray, *op. cit.*, 'Postscript', pp. 130ff.

⁶⁹ *Ibid.* pp. 132, 150.

⁷⁰ *Ibid.* p. 158. See the *Autobiography* (CW I, p.169) where, speaking of Coleridge and European thinkers, Mill says 'From these sources... I derived.... [the idea] that any general theory of philosophy or politics supposes a previous theory of human progress, and that is the same thing with a philosophy of history'. This does not preclude the possibility of non-Western ideas of progress.

but only to those which value democracy.⁷¹ Therefore, it does not apply to any society which is not interested in or capable of improvement through the intellectual means of ‘free and equal discussion’. *On Liberty* regards true progress as the ultimate outcome, in whatever form, of human intellectual development. Diversity at cultural and national levels gives human progress its very impetus, and freedom of thought and discussion is at the very heart of this idea. Mill was far from believing that the practical results of intellect as expressed in Western institutions and values were the optimum outcome, to be adopted by all other cultures. In fact, he clearly believed the opposite. In a letter dated 18 August 1860, Mill states:

Though you do not say so, the whole of your reasoning seems to converge to the conclusion that all Europe (if not the whole human race) will some time or other be brought under one government. That there may one day be a kind of loose federation among the countries of Europe, & a common tribunal to decide their differences, is likely enough. But as for actual incorporation, where there is not identity of language, literature, & historical antecedents, I see no spontaneous tendency to it, nor any likelihood of its being brought about but by that which has produced it heretofore, viz. conquest, which of all tendencies we ought most to execrate.⁷²

To attribute the primacy of European hegemony in Mill’s scheme is to oversimplify his views. *On Liberty* argues for individuality precisely because it is *not* appreciated as a value in Western democratic society. Mill faults the Chinese and the Europeans alike for their lack of appreciation of difference. History he understands as the interplay of the

⁷¹ *On Liberty*, CW XVIII, p. 224.

⁷² Letter to T.E. Cliffe Leslie, 18 August 1860, CW XV, p. 703.

antagonistic principles of custom *and* progress.⁷³ To fall under the sway of *either* interest would therefore be bad for mankind. To understand ‘man as a progressive being’ as the simple embodiment of Western institutions in the manner attempted by Gray, or that ‘liberal values... embody the permanent interests of the species’ cannot be judged an accurate representation of Mill. (On this latter point, I have attempted to demonstrate above that Gray’s interpretation of ‘permanent interests’ is itself flawed.) Mill was aware that other viewpoints exist, and that the ideas expressed from those perspectives must also be heard. Therefore:

Unless opinions favourable to democracy and to aristocracy, to property and to equality, to co-operation and to competition, to luxury and to abstinence, to sociality and individuality, to liberty and discipline, and all the other standing antagonisms of practical life, are expressed with equal freedom, and enforced and defended with equal talent and energy, there is no chance of both elements obtaining their due; one scale is sure to go up, and the other down.⁷⁴

To allow voice to all opinions, to have room for a variety of ways of life and for all people to remain free to glean what they deem best in all of these is Mill’s aim. In this schema there is room for ideas and values from all cultures. Mill’s account of individuals in society is grounded in reality, where human improvement is the product

⁷³ *On Liberty*, CW XVIII, p. 272: ‘the contest between the two [progress and custom] constitutes the chief interest of the history of mankind. The greater part of the world has, properly speaking, no history, because the despotism of Custom is complete’. Similarly, it may be argued that progress needs custom to ground it in permanence. Again, this is the idea originally expressed in ‘Coleridge’, where Mill speaks of the necessity to society of ‘*something* which is settled, something permanent, and not to be called into question; something which, by general agreement, has a right to be where it is, and to be secure against disturbance, whatever else may change’ (CW X, pp. 133–34).

⁷⁴ *On Liberty*, CW XVIII, pp. 253–54.

of reflection on experience, and progress is ultimately recognised as the product of intellect.⁷⁵

7.4 Progress through intellect

The idea of progress through intellectual development in turn brings us back to the problem of what it is that Mill means in *On Liberty* when he speaks of ‘certain interests, which, either by express legal provision or by tacit understanding, *ought to be considered as rights*’.⁷⁶ That he is not here referring to the ‘permanent interests of man as a progressive being’ should now be evident. *Those* interests, Mill maintains, ‘authorize the subjection of individual spontaneity to external control, only in respect to those actions of each, which concern the *interest* of other people. If any one does an act hurtful to others, there is a *prima facie* case for punishing him, by law, or, where legal penalties are not safely applicable, by general disapprobation’.⁷⁷ The permanent interests of mankind as progressive beings dictate that people should refrain from acting in a manner which is hurtful to ‘certain interests’. What those interests should be evident from the text of *On Liberty* itself: there is little reason to believe that Mill was being deliberately cryptic.

The general thrust of *On Liberty* is to urge people to value freedom rather than constraint, individuality rather than social conformity in human affairs. In the long-term,

⁷⁵ Ibid. p. 231: ‘Why is it, then, that there is on the whole a preponderance among mankind of rational opinions and rational conduct? If there really is this preponderance – which there must be, unless human affairs are, and have always been, in an almost desperate state – it is owing to a quality of the human mind, the source of everything respectable in man, either as an intellectual or as a moral being, namely, that his errors are corrigible. He is capable of rectifying his mistakes by discussion and experience. Not by experience alone. There must be discussion, to show how experience is to be interpreted’.

⁷⁶ Ibid. p. 276, emphasis added.

⁷⁷ Ibid. p. 224.

Mill argues, these characteristics are in the best interests of adults in societies which have already advanced beyond the 'backward' stage of development. Because each human being is different, 'The only freedom which deserves the name, is that of pursuing our own good in our own way, so long as we do not attempt to deprive others of theirs, or impede their efforts to obtain it. Each is the proper guardian of his own health, whether bodily, or mental or spiritual'.⁷⁸ Thus, to pursue one's own good (that is to say, on the definition introduced in 'Coleridge', one's own interest) in one's own way without interfering with others who wish to pursue *their* own good in *their* own way is evidently to remain within the province of liberty, the realm of self-regarding actions. To prevent others from pursuing what they perceive to be their own interests is to prevent them from achieving their individual good. And this is, in fact, to cause them harm.⁷⁹

The 'certain interests' passage appears at the beginning of *On Liberty*'s Chapter 4, as part of the response to Mill's question as to what constitutes 'the rightful limit to the sovereignty of the individual over himself'. His reply is that 'To individuality should belong the part of life in which it is chiefly the individual that is interested; to society, the part which chiefly interests society'.⁸⁰ Because all enjoy the protection of society, every one 'owes a return for the benefit, and the fact of living in society renders it indispensable that each should be bound to observe a certain line of conduct towards the rest'. The passage continues:

⁷⁸ Ibid. p. 226.

⁷⁹ Cf. *Utilitarianism* where Mill speaks of the 'moral rules which forbid mankind to hurt one another (*in which we must never forget to include wrongful interference with each other's freedom*)'; and also of 'the moralities which protect every individual from being harmed by others, either directly or by *being hindered in his freedom of pursuing his own good*' (CW X, pp. 255–56, emphasis added).

This conduct consists first, in not injuring the interests of one another; or rather certain interests, which, either by express legal provision or by tacit understanding, ought to be considered as rights; and secondly, in each person's bearing his share (to be fixed on some equitable principle) of the labours and sacrifices incurred for defending the society or its members from injury and molestation. These conditions society is justified in enforcing, at all costs to those who endeavour to withhold fulfilment.⁸¹

This passage is part of the answer to the question concerning the sovereignty of individuals over themselves. At the outset of *On Liberty*, however, Mill had answered this same question by claiming that 'All that makes existence valuable to any one, depends on the enforcement of restraints upon the actions of other people'.⁸² It is not unreasonable, therefore, to claim that what Mill means when he speaks of interests which ought to be considered as rights he is simply speaking of the interests consequent upon developing one's own individuality in one's own way, as opposed to being constricted by that which others or society generally considers to be for one's good. This is the central thesis of *On Liberty* itself, and denies society any right to impede a person's development as an individual. Because each person is different and has different interests and tastes, 'Each is the proper guardian of his own health, whether bodily, or mental or spiritual. Mankind are greater gainers by suffering each other to live as seems good to themselves, than by compelling each to live as seems good to the rest'.⁸³ Nobody has a right to prevent adults from pursuing their own good in their own way. To do so is to interfere with individuality, which is to impede their happiness and

⁸⁰ *On Liberty*, CW XVIII, p. 276.

⁸¹ *Ibid. loc. cit.*

⁸² *Ibid.* p. 220.

⁸³ *Ibid. loc. cit.*

therefore to harm them in a significant manner. That Mill should speak of such interests as those which *ought* to be considered as rights makes perfect sense in the overall context of a society which he believed was subtly crushing all notions of difference by the invisible force of public opinion. (This interpretation can be read as compatible with the idea of autonomy which Gray attributes to Mill.⁸⁴ However, Gray's notion of security as a primary right loses force when it must be so considered by 'express legal provision or by tacit understanding'. The right to security is something with which few would disagree, even in Mill's day.⁸⁵ That adults should be free to live their own lives in their own way, without state or social interference, was not so readily conceded, as is evident from the response of his contemporaries.)⁸⁶

If the 'certain interests which ought to be considered as rights' are those pertaining to liberty, then the passage ties in directly with the main thesis of *On Liberty* in a manner which is simple and consistent with the overall work. Moreover, the 'one very simple principle' thereby coincides with the 'single truth' attributed to *On Liberty* in the *Autobiography* – 'the importance, to man and society, of a large variety of types of character, and of giving full freedom to human nature to expand itself in innumerable and conflicting directions'.⁸⁷ Moreover, rather than reading the principle of liberty as being primarily concerned with harm to *others*, a far more consistent and compelling reading can thereby be had by viewing the principle as being primarily concerned with dismissing the notion of harm to *self* as a justification for society or government to

⁸⁴ Gray, *op. cit.*, pp. 54–57.

⁸⁵ The notion of a 'primary right of security' is used in *On Liberty* to discredit a theory of rights which 'acknowledges no right to any freedom whatever, except perhaps to that of holding opinions in secret, without ever disclosing them: for, the moment an opinion which I consider noxious passes any one's lips, it invades all the "social rights" attributed to me...' (CW XVIII, p. 288).

⁸⁶ As examined, for example, in Chapters 5 and 6 above.

⁸⁷ *Autobiography*, CW I, p. 259.

interfere in the life of the individual. The former reading is taken from the following passage in *On Liberty*:

That principle is, that the sole end for which mankind are warranted, individually or collectively in interfering with the liberty of action of any of their number, is self-protection. That the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others.

Traditional interpretations read this as constituting Mill's main argument, and regard the lines which follow as an addendum to the 'concrete' principle concerning harm to others. But by far the greater part of Mill's point is taken up, not with the notion of preventing harm to others but with the notion of society interfering in the lives of individuals. It is likely that the lines quoted above are meant to serve as a contrast and prelude to the main point made in the paragraph: that society cannot interfere in the lives of individuals for the individuals' own good; society cannot interfere when it believes that an individual is harming themselves. Thus, the passage continues:

His own good, either physical or moral, is not a sufficient warrant. He cannot rightfully be compelled to do or forbear because it will be better for him to do so, because it will make him happier, because, in the opinions of others, to do so would be wise, or even right. These are good reasons for remonstrating with him, or reasoning with him, or persuading him, or entreating him, but not for compelling him, or visiting him with any evil, in case he do otherwise. To justify that, the conduct from which it is desired to deter him must be calculated to

produce evil to some one else. The only part of the conduct of any one, for which he is amenable to society, is that which concerns others. In the part which merely concerns himself, his independence is, of right, absolute. Over himself, over his own body and mind, the individual is sovereign.⁸⁸

Mill additionally explains:

as soon as mankind have attained the capacity of being guided to their own improvement by conviction or persuasion... compulsion, either in the direct form or in that of pains and penalties for non-compliance, is no longer admissible *as a means to their own good*, and justifiable only for the security of others.⁸⁹

This reading regards the principle of liberty as primarily anti-paternalist, rather than regarding anti-paternalism as an implication or by-product of that principle.⁹⁰ Such a principle is identifiable in the justification which Mill gives to freedom of thought and discussion – that nobody has the right to decide opinions for others. It also is consistent with what Mill has said of the *On Liberty* in the *Autobiography* and elsewhere. Thus, for example, he wrote to George Grote concerning his conception of the general good:

⁸⁸ *On Liberty* CW XVIII, pp. 225–6.

⁸⁹ *On Liberty* CW XVIII, pp. 224, emphasis added.

⁹⁰ For Gray, ‘The anti-paternalist *implication* of Mill’s principle stipulates that no one (state or society) can legitimately interfere with the fully voluntary choice of a mature rational agent concerning matters which affect only or primarily his own interests’ (*op. cit.*, p. 91, emphasis added).

First, it requires that each shall consider it his special business to take care of himself: the general good requiring that that one individual should be left, in all ordinary circumstances, to his own care, and not taken care of for him, further than by not impeding his own efforts, nor allowing others to do so. The good of all can only be pursued with any success by each person taking as his particular department the good of the only individual whose requirements he can thoroughly know.⁹¹

Philosophers have been reluctant to accept the validity of the connection between paternalism and utilitarianism. For Gray ‘the ban on paternalist restraints of liberty... seems impossible to justify on any kind of utilitarian reasoning’.⁹² For Skorupski, although people are often the best judges of their own happiness, this reasoning ‘cannot by itself give the utilitarian grounds for an absolute ban on paternalism’.⁹³ Yet, what Mill actually stated in *On Liberty* and on other occasions indicates that he believed otherwise. If the principle of liberty is absolute, anti-paternalistic and based on ‘utility in the largest sense’, it may seriously call into question traditional notions of utilitarianism as both a social and a moral doctrine, where individuals can be sacrificed for the sake of the greater good. And to make such a challenge is precisely what Mill appears to have been attempting to do. Thus, in defending utilitarianism against Whewell, Mill again uses the notion of interests and claims that:

⁹¹ Letter to George Grote, 10 January 1862, *CW XV*, p. 761–63.

⁹² Gray, *op. cit.* p. 137.

⁹³ Nonetheless, Skorupski believes that Mill’s ‘opposition to paternalism is essentially consequentialist; based on a fear of the “tyranny of the majority”, and a high estimate of the good consequences of letting people make their own decisions’ (*op. cit.*, p. 359–60). One aim of this thesis is to demonstrate that anti-paternalism is not an *implication* but the *essence* of the principle of liberty. The wider philosophical issue of the plausibility of such paternalism is beyond the scope of this work: for an assessment of some of the

Government is entitled to assume that it will take better care than individuals of the public interest, but not better care of their own interest. It is one thing for the legislator to dictate to individuals what they shall do for their own advantage, and another thing to protect the interest of other people who may be injuriously affected by their acts.... The proper object of sanitary laws is not to compel people to take care of their own health, but to prevent them from endangering that of others. To prescribe by law, what they should do for their own health alone, would by most people be justly regarded as something very like tyranny.⁹⁴

These are the very same points made in *On Liberty*, based on ‘utilitarianism in the largest sense’. If one is to take a narrow view of utilitarianism, to claim for example that ‘Since autonomy is only one element of well-being, the possibility remains open that an individual’s overall unity may be increased by diminishing it’, then there can be no utilitarian justification for liberty.⁹⁵ But Mill had spent a lifetime since his ‘mental crisis’ in distancing himself from any abstract notion of happiness, measurable independent of an individual who experiences it. *On Liberty* vehemently argues against the belief that happiness is something which can be imposed from without, that individuals and society are better off in ignorance, shaped and moulded topiary-like by some elite which controls everybody else.⁹⁶ If the greatest happiness is to be achieved, people must proceed unimpeded towards the discovery of their own happiness. Society is ultimately the benefactor: ‘the only unfailing and permanent source of improvement is

arguments involved, see Richard J. Arneson, ‘Mill versus Paternalism’, *Ethics*, vol. 90, 1980, pp. 470–89.

⁹⁴ ‘Whewell on Moral Philosophy’, *CW X*, pp. 197–98.

⁹⁵ Skorupski, *op. cit.*, p. 359.

liberty, since by it there are as many possible independent centres of improvement as there are individuals'.⁹⁷ Yet there is also a more general benefit to society to be had from this scenario: 'In proportion to the development of his individuality, each person becomes more valuable to himself, and is therefore capable of being more valuable to others'.⁹⁸

However, real progress is possible only through fostering intellectual development, that part of human nature which actually makes change and improvement possible in the first instance. Freedom of thought and discussion constitute an essential part of that process. The practical concerns of life must always be open to discussion, and individuality must assert itself throughout if happiness is to be maximised, and the overall well-being of the human race is to be maintained and improved. Different societies can and will decide differently about the more practical concerns of life, about those issues and concerns that change from generation to generation: 'Human nature is not a machine to be built after a model, and set to do exactly the work prescribed for it, but a tree, which requires to grow and develop itself on all sides, according to the tendency of the inward forces which make it a living thing'.⁹⁹ Underlying Mill's argument is a notion of each person as a unique individual. If each is to achieve happiness, all must be free to explore their unique nature in the manner which their very nature demands, free of the social pressures which attempt to force them to conform with the 'tried-and-tested' notions of happiness. Therefore, liberty is necessary to avoid stagnation: there must exist absolute freedom of opinion on all subjects, the liberty of framing our own plan of life to suit our own character, and the freedom to unite with others for any purpose not involving harm

⁹⁶ *On Liberty* CW XVIII, pp. 265.

⁹⁷ *Ibid.* p. 272.

⁹⁸ *Ibid.* p. 266.

⁹⁹ *Ibid.* p. 263.

to anyone else (so long as those involved are adults who are not forced or deceived into involvement): 'Mankind are greater gainers by suffering each other to live as seems good to themselves, than by compelling each to live as seems good to the rest'.¹⁰⁰

All opinions are inextricably bound to the individual's perspective and knowledge, and thus to individuality. But being free to think as we choose adds nothing to the development of humanity if we are not free to hear what can be said against our opinions, and thus to exchange opinions without hindrance. Moreover, an opinion is part of one's individuality. To deny somebody the right to exchange opinions with another is to impede on their development and thus to impede on their individuality. Freedom of thought and discussion can therefore be justified by Mill as coming within the province of liberty – the realm of self-regarding actions – insofar as it involves the exchange of *opinions*. The realm of fact, however, is quite different from that of opinion, and to distort the facts or to lie is not something which Mill condones. He regards the interests of truth and justice as necessary to the overall well-being of discussion, while fraud, treachery and force are 'contrary to the general interest to permit'.¹⁰¹ The one exception which Mill allows to his argument is where the circumstances in which an opinion is expressed are such as to constitute an instigation to a mischievous act. This exception is examined in Chapter 8 of this thesis.

7.5 Conclusion

Neither Gray nor Skorupski has fully exploited the avenues opened by Rees' original positing of the importance of interests to the interpretation of *On Liberty*. Both confuse what it is that Mill means by the 'permanent interests of man as a progressive being'

¹⁰⁰ Ibid. p. 226.

¹⁰¹ Ibid. pp. 259, 293.

with what he means by ‘certain interests which... ought to be considered as rights’. In identifying a principle of freedom of expression separate from the actual principle of liberty itself, Skorupski does not do full justice to Mill’s conception of either idea. Gray’s original reading of Mill can similarly be shown as incomplete, while his more recent attitude to liberalism fails to appreciate what exactly Mill had in mind when he spoke of progress. Mill’s notion of progress is based primarily on the idea that innovation is the result of intellectual effort, and that innovation can best be harvested socially if society – or some elite group in society – does not attempt to restrict its members by controlling their thoughts and opinions.

Mill’s insistence on absolute freedom of thought and discussion holds that any ‘harm’ resulting from the expression of an opinion (with the exception of incitement) should be overlooked for the sake of ‘utility in the largest sense’. That people find certain opinions unpalatable or regard them as dangerous is not sufficient reason to prohibit the expression of such opinions: ‘there is no parity between the feeling of a person for his own opinion, and the feeling of another who is offended at his holding it; no more than between the desire of a thief to take a purse, and the desire of the right owner to keep it. And a person’s taste is as much his own peculiar concern as his opinion or his purse’.¹⁰² On balance, society will benefit in the long-run by allowing people to think and to speak freely, and those whose beliefs are contested in discussion should gain intellectually from the experience, and thus gain in overall well-being.¹⁰³ Thus freedom of thought and discussion, far from being separate from the main argument, can be shown to be central to the thesis of *On Liberty*, resting on a principle of liberty which holds that

¹⁰² Ibid. p. 283.

¹⁰³ Ibid. p. 257, Mill speaks of the necessity of freedom of opinion and freedom of the expression of opinion to ‘the mental well-being of mankind (on which all their other well-being depends)’.

society or government cannot interfere in the life of the individual for that individual's own good. This reading undoubtedly raises other problems, including the practical plausibility of such anti-paternalism. Yet it is fully consistent with what Mill said on the subject of liberty and freedom of thought and discussion, both in *On Liberty* itself and in other works. As such it identifies a cohesion in Mill's thought which many modern commentators, for whatever reason, refuse to recognise.

CHAPTER 8

EXCEPTIONS TO FREEDOM OF THOUGHT AND DISCUSSION

Mill's defence of the liberty of thought and discussion in *On Liberty* admits just one exception. That exception is not specifically concerned with the *content* of an opinion – after all, he is defending the 'fullest liberty of professing and discussing, as a matter of ethical conviction, any doctrine, however immoral it may be considered'.¹ His concern is with the *circumstances* in which an opinion is expressed.² He maintains that freedom of thought and discussion among adults in democratic societies must remain absolute for the sake of their intellectual and, in consequence, their moral nature. Rather than presenting this exception as part of his main focus, he introduces it almost as an aside, not in Chapter 2 of *On Liberty* but at the beginning of Chapter 3. That Mill did not see fit to tease out the finer points of this exception is telling: his primary concern in presenting arguments for liberty of thought and discussion was to give a general exposition of 'the grounds, both philosophical and practical, on which they rest' rather than to give a fully comprehensive analysis of the issue.³ And so there is a danger of expecting too much of – and, consequently, reading too much into – the one exception discussed. Nonetheless, the reasons Mill gives and the examples he offers appear to be consistent as a single class of action. Much of the criticism which this aspect of *On Liberty* has received is unwarranted, and can be shown as generally springing from a fundamental lack of appreciation of the role played by freedom of thought and discussion in human liberty generally.

¹ *On Liberty*, CW XVIII, p. 228, note.

² Ibid. p. 260. Undoubtedly the content of an opinion is of some importance insofar as it must have some bearing on the circumstances – the opinion that the earth is flat 'delivered orally to an excited mob assembled before the house of a corn-dealer' obviously does not entail the same danger as would the opinion that corn-dealers are starvers of the poor delivered in the same circumstances.

8.1 The corn-dealer example

In Chapter 3, Mill moves from his examination of freedom of thought and discussion to examine individuality ‘as One of the Elements of Well-Being’.⁴ Linking freedom of action to the argument of the preceding chapter, he seeks to ‘examine whether the same reasons do not require that men should be free to act upon their opinions – to carry these out in their lives, without hindrance, either physical or moral, from their fellow-men, so long as it is at their own risk and peril’. He comments:

This last proviso is of course indispensable. No one pretends that actions should be as free as opinions. On the contrary, even opinions lose their immunity, when the circumstances in which they are expressed are such as to constitute their expression a positive instigation to some mischievous act. An opinion that corn-dealers are starvers of the poor, or that private property is robbery, ought to be unmolested when simply circulated through the press, but may justly incur punishment when delivered orally to an excited mob assembled before the house of a corn-dealer, or when handed about among the same mob in the form of a placard. Acts of whatever kind, which, without justifiable cause, do harm to others, may be, and in the more important cases absolutely require to be, controlled by the unfavourable sentiments, and, when needful, by the active interference of mankind.⁵

³ Ibid. p. 227.

⁴ Ibid. p. 260.

⁵ Ibid.

Thus, the expression of an opinion can incur punishment when the circumstances in which it is expressed are such as to incite actions harmful to others.⁶ Note that Mill is not here talking about speech itself as a harmful act but of harmful actions which occur as a result of a speech act. The exception therefore serves to demonstrate further that the freedom to express opinions exists primarily for the sake of the hearer, rather than for the sake of the individual speaker: if those who hear are disposed towards interfering with the liberty of others, then the speaker may be blameworthy. This is not because harm has been caused to those who hear the opinion but because others are subsequently harmed as a direct consequence of the hearers being incited to action by the speaker's expression. But Mill does *not* say the incitement *should* be punished; he maintains only that it 'may justly incur punishment'. Each case, it seems, should be judged on the circumstances particular to it.

This careful use of language is also evident in a footnote at the beginning of Chapter 2 which discusses the subject of incitement, but in relation to the spread of doctrines regarding the 'lawfulness of tyrannicide'.⁷ There Mill maintains that 'the instigation to it, in a specific case, *may* be a proper subject of punishment, but only if an overt act has followed, and at least a probable connection can be established between the act and the instigation'.⁸ An action must be clearly seen to follow from the expression of an opinion, and at least a *probable* connection must be evident between the two if a speaker

⁶ Note that Mill does not here employ the notion of harm to interests, in what surely is an important passage. This somewhat undermines Rees' contention that, in the more important passages of *On Liberty*, Mill always uses the notion of 'harm to interests' rather than simply 'harm': see the discussion of interests in Chapter 7 of this thesis.

⁷ *On Liberty*, CW XVIII, p. 228, note. The 'Government Press Prosecutions of 1858' to which Mill refers involved Edward Truelove, indicted (but not tried) for publishing a pamphlet entitled *Tyrannicide, is it justifiable?* – Mill had donated £20 to his defence fund (see CW XVI, p. 1263, letter 1074, note 1).

⁸ Emphasis added.

is to be punished. Mill does not allow for prior restraint on speech. Each situation would be dealt with individually, it seems, allowing for instances of harm to be assessed and weighed within the context in which they occur. In the process, the discussion and dissension generated on all sides would help towards the discovery of the truth of each particular case, further demonstrating the validity of the arguments put forward in Chapter 2 of *On Liberty*. Freedom of thought and discussion are necessary for the forging of individual intellects, for the wider utility of the debate which arises in attaining that end, and for the social value of the truths which finally emerge.

However, the exchange of opinions is very far removed from actions which invade the freedom which people must possess in order to pursue their own good in their own way. The expression of the opinion that tyrannicide is good or that corn-dealers are starvers of the poor should always be permitted in the context of discussion among adults, in which Mill includes publication in a newspaper or book. Such circumstances may provoke criticism or disagreement in the form of counter-argument and debate, but publication alone cannot readily be regarded as posing a clear and unambiguous instigation to action.⁹ On the other hand, to express the same opinion to an *excited* mob (which is more likely to act instinctively than to reflect on the merits and demerits of the opinion) will probably result in action harmful to the interests of the corn-dealer at many levels: his premises may be attacked and looted, and the corn-dealer himself physically harmed if he were unfortunate enough to be in the vicinity. As in the cases of intemperance or extravagance, where people can be punished for harm which befalls others as a consequence of self-regarding actions (but not for the actual extravagance

⁹ In his discussion of tyrannicide, it is not entirely clear that throughout the footnote Mill continues to speak of instigation via the press alone. Nonetheless, it remains clear that each case must be judged on the individual circumstances surrounding it.

itself), they should not be punished for holding or believing an opinion, but for the harm caused to others as a consequence of the circumstances of expression.¹⁰

But is it possible in practice to distinguish between the liberty of expressing an opinion in circumstances where it will remain a topic of discussion and those in which it will become a ‘positive instigation to some mischievous act’? In the words of R.P. Anschutz, ‘How can you be sure that an opinion will *simply circulate* through the press without affecting anybody’s action? If you can be sure of this, why should you bother to express an opinion?’.¹¹ Like other commentators, including James Fitzjames Stephen, Anschutz here neglects to appreciate that Mill is not simply speaking of actions which *affect* other people, but actions which affect them *harmfully* and *against their will*. Beyond what he says in Chapter 2, Mill does not offer any specific arguments for the freedom of the press in *On Liberty*, but simply states that the time has passed when any such defence would be necessary for it ‘as one of the securities against corrupt or tyrannical government’.¹² The example of tyrannicide, as we have seen, allows for instigation to be punished if a probable connection can be established between opinion and harmful actions. This is tantamount to saying that the press can be prosecuted if it is used in a reckless manner to incite harm. While, for Mill, the press should remain free – in spite

¹⁰ *On Liberty*, CW XVIII, p. 281.

¹¹ R.P. Anschutz, *The Philosophy of J.S. Mill* (Oxford, 1953), p. 48, note.

¹² *On Liberty*, CW XVIII, p. 228. Mill comments ‘This aspect of the question, besides, has been so often and so triumphantly enforced by preceding writers, that it needs not be specially insisted on in this place’. Mill’s idea of incitement is certainly close to that of his father’s *Encyclopaedia Britannica* essay on the liberty of the press which maintained that ‘A hand-bill, for example, distributed at a critical moment, and operating upon an inflamed state of mind, in a narrow district, may excite a mob to disturb the proceedings of a court of justice, to obstruct police officers in the execution of their duties, or even to disturb, on this or that occasion, the deliberations of the legislature itself’ – see James Mill, *Political Writings*, ed. T. Ball (Cambridge, 1992), p. 113.

of the fact that he had a poor view of the intellectual value of the much of the press¹³ – it can be held responsible for the consequences which may result from what is published. The opinion that corn-dealers starve the poor, or that tyrannicide is just, should go untouched when it *does no more than* circulate through the press as an item of debate and discussion. If the same opinion is acted upon so that people are incited to descend upon the corn-dealer's warehouse brandishing the newspaper headline and acting in a manner harmful to the corn-dealer or others, then those who published the opinion may well be liable for punishment. There is a difference between an opinion circulating in the press as a matter of debate and the same opinion being put before the public in situations which are possibly inflammatory. Where a connection can be traced between an expression of opinion and a harmful act inspired by such expression, the speaker can be punished: 'As soon as any part of a person's conduct affects prejudicially the interests of others, society has jurisdiction over it, and the question whether the general welfare will or will not be promoted by interfering with it, becomes open to discussion'.¹⁴

It is evident from this account that criticisms such as the following made by Anschutz are without justification:

He [Mill] assumes that the question of freedom of speech and publication is entirely concerned with 'opinions' which will be judged by all concerned with complete dispassion. But the actual position, of course, is that we have also to do

¹³ This low opinion is evident throughout Mill's writings, not least in *On Liberty*: see, for example, *CW XVIII*, pp. 269, 290 (see also Chapter 2, note 78 of this thesis).

¹⁴ *Ibid.* p. 277.

with things that, for some people at least, rank rather as immediate stimuli to action.¹⁵

This interpretation disregards what Mill has conceded in the corn-dealer passage. If the expression of an opinion incites anybody to prevent others from ‘pursuing their own good in their own way’, the speaker may be subject to punishment. Undoubtedly, the circumstances of each case must be weighed and considered. But the status of freedom of thought and discussion remains unambiguous: it must at all times be absolute and there is to be no prior restraint on speech.¹⁶

However, *On Liberty* sets down no precise criteria by which the difference between harmful incitement and innocent debate can be established. This lack of criteria has sometimes been regarded as a shortcoming in Mill’s defence of freedom of thought and discussion.¹⁷ But it should be remembered that neither does Mill go into any detail about exceptions to the ‘overall principle of liberty, believing such exceptions to be more or less self-evident.¹⁸ If the principle is simple and the exceptions self-evident, it should be relatively easy to discover and to understand both.

8.2 *Forms of incitement*

One problematic example in the debate surrounding incitement, popular in contemporary commentary on freedom of expression, concerns racism.¹⁹ Should people be free to promote opinions which hold that one class or race of persons is inferior to

¹⁵ Anschutz, *op. cit.*, p. 50.

¹⁶ *On Liberty*, CW XVIII, p. 277.

¹⁷ See John Gray, *Mill on Liberty: A Defence* (London, 1996), p. 106, where he cites the same criticism made by Geoffrey Marshall.

¹⁸ *On Liberty*, CW XVIII, p. 225.

another? On Mill's theory, mature adults in democratic societies should remain free to hear and hold such opinions: if such an opinion is wrong, then its flawed character will be demonstrated through discussion, so long as they are also free to hear what can be said on the opposite side. But should people take action to harm others having heard such opinions, they are violating the principle of liberty. There is plainly a difference between the individual who hears an opinion, gives it consideration and even consults with others about it before acting upon it to harm another, and the person who unreflectingly follows a mob and proceeds to act immediately. The latter case, depending on the circumstances, could be regarded as a case of incitement, and a speaker may be punished if the interests of a third party are harmed. The former case, however, is not so clearly within that realm. But it seems consistent with Mill's argument to conclude that if a person considers the various opinions regarding a particular subject before embracing one of them, and subsequently acts on that opinion in a manner that interferes adversely with the liberty of another, then that person should be punished for the harm caused. But it would appear to be unnecessary (and, indeed, a practical impossibility) to punish those people who agree with him, or indeed the person from whom he originally heard the particular opinion. When a person is in a position to make a considered choice, then any course of action on which he or she embarks as a result of that choice is a product of that person as an individual.²⁰

In fact, Mill did address the issue of incitement to hatred ten years prior to the publication of *On Liberty* in an article discussing French laws against press freedom.²¹

¹⁹ The examples of hate speech and incitement to racial hatred have become the standard problem in much contemporary debate on free speech: see, for example, Alan Haworth, *Free Speech* (London, 1998), pp. 63ff.

²⁰ *On Liberty*, CW XVIII, p. 262.

²¹ 'French Law Against the Press', *Spectator*, 19 August 1848, CW XXV, pp. 1115–18.

Scornfully dismissing the idea that it might be possible to distinguish between the liberty of philosophical discussion and other types of verbal ‘attack’, he comments:

The distinction is good for nothing. To say that attacks are permitted, but not incitements to hatred and contempt, would be to say that discussion shall be lawful on condition that it be cold, dry and unimpressive; that the dull and indifferent shall be allowed to express opinions, but that persons of genius and feeling must hold their peace. Under such laws... Rousseau’s discourse on Inequality never could have been published. Nor could any great writings of great reformers, religious or political, have seen the light if such laws had existed and had been obeyed.²²

Here, Mill is again dismissing the idea that discussion must be permitted but must be regulated so that it is temperate at all times, an argument which also appears in *On Liberty*.²³ In both places, Mill holds that freedom of expression must be absolute, even when an opinion is considered offensive, untruthful and unfair. Actions which harm the interests of others are punishable, but people must be free to believe and say that such action is desirable.

If we take individuality seriously – as Mill argues that we should – it is not automatically possible to blame a third party for one individual’s harm to another: individuality also entails responsibility for one’s own actions. If a person exploits a situation in which people are likely to act without reflection, and others are harmed as a consequence, then it seems that the speaker may be punished, not for holding the

²² Ibid. p. 1117.

²³ *On Liberty*, CW XVIII, pp. 258–59.

particular opinion but for the harm caused to others by its reckless expression in an inflammatory situation.²⁴ As Mill holds in the example of tyrannicide at the beginning of Chapter 2, a speaker may be guilty of incitement when ‘at least a probable connection can be established between the act and the instigation’. Because freedom of thought and discussion exists for the sake of the hearer, there is an obligation on the part of the speaker to act responsibly when addressing the public. A speaker should not manipulate an audience in such a manner that they then, without thinking, cause harm.

At one level, this position is similar to what John Gray says in considering the corn-dealer passage. Understanding security and autonomy to be the ‘certain interests’ which Mill seeks to defend, Gray comments:

It is surely possible to regard this passage as making an appeal to the improbability of autonomous thought in ‘excited mobs’ rather than an appeal to the harm to the interests of corndealers caused by the utterances made in such circumstances: for, after all, corndealers might be as severely harmed by confiscatory legislation (passed as a result of expressive acts uttered in the reasoned arguments of parliamentary debate) as by any sort of mob violence.²⁵

The inability of those caught up in the excitement of a mob to think autonomously is among Mill’s reasons for saying that the person who incites them to perform harmful action may be punishable. However, that Gray’s interpretation of this passage is ultimately incorrect can be shown by the fact that it seems unlikely that Mill would

²⁴ Should the speaker’s expression of opinion not result in any harmful action on the part of the mob – perhaps peals of laughter break out instead and people disperse peacefully – then there obviously is no need for punishment.

count as punishable the speech of a religious evangelist who so moves members of his audience with his words that they rise from their seats, come forward and are 'saved' (or that they dig deep into their wallets and subscribe financially to the evangelist's organisation), even though such circumstances may not involve autonomous thought either. But *On Liberty* would certainly hold as punishable the speaker who encourages his audience to go out and break up the meetings of rival gatherings, or to commit murder. Thus it would seem that it *is* harm to the interests of the corn-dealer which is at stake in the passage. Mill's purpose in Chapter 2 is not to defend autonomous thought specifically but to promote individual liberty and individuality in general through intellectual freedom.²⁶ Moreover, while corn-dealers might be equally harmed by confiscatory legislation passed following reasoned parliamentary debate (Gray here appears to assume that Mill is considering only the *financial* interests of the corn-dealer, which is unlikely), such harm could be defended insofar as trade is a social act which is governable by society.²⁷ And while the corn-dealer's right to engage in trade or to possess private property is amenable to control, his right to individual liberty is not. Private property could legitimately be abolished. However, society or government cannot decide, for instance, that corn-dealers or individuals of a certain race or class in a civilised society may not pursue their own good in their own way, or that such persons may not discuss opinions regarding the desirability of free trade and private property. And neither can those individuals prevent others from doing the same. The freedom to think, to hear and to express thought remains absolute. The passages in *On Liberty*

²⁵ Gray, *op. cit.*, p. 105. This interpretation of *On Liberty* is part of Gray's broader account, discussed in Chapter 7 of this thesis.

²⁶ This point is, to some extent, conceded by Gray (p. 107): 'traditional criticisms neglect the point, central to Mill's argument, that liberty of thought and expression is valuable, not just instrumentally as a means to the discovery and propagation of truth, but non-instrumentally, as a condition of that rationality and vitality of belief which he conceives of as a characteristic feature of a free man'.

²⁷ *On Liberty*, CW XVIII, p. 293.

which deal with incitement do not restrict these liberties, but hold a speaker responsible for harm which can, in retrospect, be shown to have been a *direct* consequence of his or her expression of opinion. And this, in turn, reinforces the social and moral responsibility of every individual towards others, which flows from the intellectual nature of each.²⁸

In defending Mill's position, Monro quotes a distinction made by the US Supreme Court between incitement and advocacy: 'The essential distinction is that those to whom the incitement is addressed must be urged to *do* something now or in the future, rather than to merely believe in something'. He comments:

If an action is punished, it seems reasonable to punish incitement to that action; but, if the distinction between advocacy and incitement can be sustained, this need not imply any restriction on the expression of one's beliefs. There is a difference between saying that a law is a bad one and urging that it be broken.²⁹

Attractive as this position may initially seem, it ultimately does not fit in with Mill's thesis. In the corn-dealer passage, the speaker does not actually urge the mob to do anything. He merely expresses an opinion. As Monro interprets it, the expression of opinion here is only apparent, as the speaker is actually saying something akin to 'up and at him, boys!'. But what would happen in the same situation where no harmful action ensues? On Monro's account, it appears, the speaker should nonetheless be punished. But this does not seem to fit with the argument put forward in *On Liberty*, where if no action harmful to others occurs then no positive incitement to action can be

²⁸ Ibid. p. 260.

identified, and therefore no punishment is warranted. Moreover, Mill would defend the right to give voice to the opinion not only that a law is a bad one but also that it should be broken.³⁰ It is clearly the *circumstances* in which that opinion is expressed which are important. A naive orator who inadvertently causes a riot could, it seems, be judged responsible even though he or she may never have intended any harm (undoubtedly the individual circumstances must be taken into account). The freedom to express opinions gets its justification from the freedom of individuals to *hear* all opinions for the sake of their own intellectual development. The disposition of the hearer is more important than the intention of the speaker; it follows that when people are not in a position to receive an opinion rationally, or are forced against their will to listen to another's opinion, the liberty to continue speaking can be called into question.³¹

The freedom to express one's opinions does not mean liberty to express them just anywhere. In the words of Alexander Meiklejohn:

When self-governing men demand freedom of speech they are not saying that every individual has an inalienable right to speak whenever, wherever, however he chooses.... the common sense of any reasonable society would deny the existence of that unqualified right.... Anyone who would thus irresponsibly interrupt the activities of a lecture, a hospital, a concert hall, a church, a machine shop, a

²⁹ D.H. Monro, 'Liberty of Expression: Its Grounds and Limits (II)', *Inquiry*, vol. 13, 1970, pp. 239–40.

³⁰ For example, in a letter to Mary Carpenter of 29 December 1867, Mill says that the time has come for 'agitation' over the issue of female suffrage (CW XVI, p. 1341). For an assessment of Mill's attitude to political violence, see Geraint Williams 'J.S. Mill and Political Violence', *Utilitas*, vol. 1, 1989, pp. 102–11.

³¹ Just as 'Liberty, as a principle, has no application to any state of things anterior to the time when mankind have become capable of being improved by free and equal discussion' (*On Liberty*, CW XVIII, p. 22), it follows that where free and equal

classroom, a football field or a home does not thereby exhibit his freedom. Rather he shows himself to be a boor, a public nuisance, who must be abated, by force if necessary.³²

Mill makes the same point just after the corn-dealer passage at the beginning of Chapter 3: 'The liberty of the individual must be thus far limited; he must not make himself a nuisance to other people'.³³ *On Liberty* does not defend the right to express any opinion in any manner and in any place whatsoever. While no restrictions can be made on the content of thought and discussion, if an opinion is expressed in circumstances which give rise to an act harmful to the interests of another – or are likely to provoke such an act (although this situation must be regarded as the exception rather than the rule) – the speaker may incur punishment. This does not preclude the expression of the same opinion in different circumstances where debate and discussion do not give rise to harmful action.

In addition to the passages already discussed, Mill deals with one further issue related to the issue of incitement. This is where an individual encourages others to indulge in some act which harms nobody but which society may consider to be evil. Should a person be free to encourage others to perform such actions? Mill answers:

This question is not free from difficulty. The case of a person who solicits another to do an act, is not strictly a case of self-regarding conduct. To give advice or offer

discussion is not possible, as in the case of an excited mob, then abuse of liberty can be punished.

³² Alexander Meiklejohn, 'Freedom of Speech', in Peter Radcliff (ed.), *Limits of Liberty* (Belmont, California, 1966), pp. 23–24. Meiklejohn is here speaking of any theory of freedom of expression, not of Mill's in particular.

³³ *On Liberty*, CW XVIII, p. 260.

inducements to any one, is a social act, and may therefore, like actions in general which affect others, be supposed amenable to social control. But a little reflection corrects the first impression, by showing that if the case is not strictly within the definition of individual liberty, yet the reasons on which the principle of individual liberty is grounded, are applicable to it. If people must be allowed, in whatever concerns only themselves, to act as seems best to themselves at their own peril, they must equally be free to consult with one another about what is fit to be so done; to exchange opinions, and give and receive suggestions. Whatever it is permitted to do, it must be permitted to advise to do.³⁴

Mill conceives this advice primarily in terms of an honest exchange of opinions and suggestions, not in terms of deceit or profit to one person at the expense of another. But it is also clear that *On Liberty* justifies the encouragement one person may give another to perform actions of which society would not approve. However, where a person receives financial gain by encouraging others to do what the state considers to be evil – to visit a brothel or a gambling house, for example – Mill lists the pros and cons and finishes by saying that he ‘will not venture to decide’.³⁵ As in the case of the passages concerning the corn-dealer and tyrannicide, Mill leaves the gaps to be filled in by the readers, to think the issues through for themselves. However, he adds that to promote intemperance for profit ‘is a real evil, and justifies the State in imposing restrictions and requiring guarantees, which but for that justification would be infringements of legitimate liberty’. Why should this be? Why should Mill feel thus about alcohol but not about prostitution and gambling? The most likely explanation is that nobody under the

³⁴ Ibid. p. 296.

³⁵ Ibid. p. 297.

influence of excess alcohol can be said to be to be in control of their intellectual faculty, that from which all other freedom flows.³⁶

Mill takes for granted that fraud, deceit, dishonesty and the like have no place in public discussion, a point made at the end of Chapter 2 and sometimes overlooked by critics. McCloskey, for example, argues against Mill that 'in a context of free discussion a plausible, unscrupulous propagandist may cause a rationally grounded, true belief to be abandoned for a false belief based on pure emotion'.³⁷ Should mature adults genuinely need to be protected from such a possibility, however, *On Liberty* holds that society has itself to blame: 'If society lets any considerable number of its members grow up mere children, incapable of being acted on by rational consideration of distant motives, society has itself to blame for the consequences'.³⁸ Moreover, as long as individuals remain free to examine and exchange ideas, the false belief grounded on emotion will not be accepted uncritically. What is at issue in McCloskey's criticism, however, is the importance of truth.³⁹ For Mill, 'The truth of an opinion is part of its utility.... In the opinion, not of bad men, but of the best men, no belief which is contrary to truth can be really useful'.⁴⁰ (Mill here appears to overlook the use which falsehoods *do* have of showing truth in a better light.) McCloskey maintains that no absolute utilitarian defence of freedom of expression can be made, as in some circumstances it can 'be right and necessary to suppress the expression of a true view, to prevent harm.... the harm

³⁶ This, I take it, is why Mill maintains that 'The making himself drunk, in a person whom drunkenness excites to do harm to others, is a crime against others' (ibid. p. 295). It follows that those who 'push' drugs may be similarly prohibited.

³⁷ H.J. McCloskey, *John Stuart Mill: A Critical Study* (London, 1971), p. 121.

³⁸ *On Liberty*, CW XVIII, p. 282.

³⁹ As discussed in Chapter 7 of this thesis, commentators such as Frederick Schauer, Eric Barendt and Gertrude Himmelfarb regard the attainment of truth as the primary goal of Mill's arguments for freedom of thought and discussion.

⁴⁰ Ibid. pp. 233–34.

done or prevented, has to be weighed against the truth lost, and the harm involved and risks incurred in suppressing, even temporarily, the truth'.⁴¹ Such a view is the result of the approach which fails to situate Chapter 2 in the larger context of *On Liberty*, thereby doing the work less than justice. For Mill, while such a society may be considered highly desirable by some, humanity will be much poorer as a result. *On Liberty*'s main argument is that if people are forced without reflection to conform to belief in what is true, they cannot realise their full potential and therefore they cannot achieve as much happiness as they might should they be free to follow their own good in their own way. People should develop for their own sakes, thereby becoming more capable of enriching others. Against McCloskey's controlled utilitarian society, Mill calls for a society which is spontaneous and variegated intellectually. This is 'utility in the largest sense, grounded in the permanent interests of man as a progressive being'. To regard Mill as arguing purely for the sake of abstract truth in the second chapter of *On Liberty* is to rob that part of the work of the central point which drives the whole argument forward – 'the importance, to man and society, of a large variety of types of character, and of giving full freedom to human nature to expand itself in innumerable and conflicting directions'.⁴² Truth is valuable to society, but that is but a part of Mill's argument: controversy and discussion are to be encouraged not simply for the sake of truth but for the sake of individuality.⁴³ Freedom of thought and discussion are an essential component of the broader picture of liberty. They are what Mill was later to refer to as

⁴¹ H.J. McCloskey, 'Liberty of Expression – Its Grounds and Limits (I)', *Inquiry*, vol. 13, 1970, p. 227. A similar charge is made by Ted Honderich in 'The worth of J.S. Mill on Liberty', *Political Studies*, vol. 22, 1974; repr. in John Cunningham Wood (ed.) *John Stuart Mill: Critical Assessments* (London, 1991) pp. 473–4.

⁴² *Autobiography*, CWI, p. 259.

⁴³ Jan Narveson maintains that Mill sees society as an academy and that he does not appreciate that 'The right to express oneself... does not rest on society's valuing the truth. It rests on something more general and fundamental: the right to be who you are and do what you want, whatever others may think'. See W.J. Waluchow (ed.), *Free Expression* (Oxford, 1994), p. 78.

‘the first of all the articles of the liberal creed’, and ‘the most fundamental doctrine of liberalism’.⁴⁴

Moreover, like his father and Bentham, Mill believed that once the power to decide which opinions should or should not be heard is formally controlled by any group, there is subsequently no way to restrict that power.⁴⁵ The belief is implicit throughout *On Liberty* – Mill holds at the beginning of Chapter 2 that ‘No argument, we may suppose, can now be needed, against permitting a legislature or an executive, not identified in interest with the people, to prescribe opinions to them, and determine what doctrines or what arguments they shall be allowed to hear’.⁴⁶ Everything – including the liberty principle itself – must be open to question. Such liberty does indeed protect many opinions which society finds unacceptable, including opinions regarding the superiority or inferiority of any race. When such opinions are expressed in circumstances which lead to harm occurring to any person, Mill’s position is clear: society may punish those responsible if necessary. If an opinion is implausible, its free expression and discussion will eventually make its implausibility evident. If an opinion is plausible, then people will re-form their opinions in the light of what the new information has to offer them. But people must be free at all times to hear every side of the argument. To control the intellectual life of a person – and such control is always designed for the sake of the ‘good’ – is to control that person completely. No person or government can justly claim that right over another. The result of such control, Mill would maintain, is never the greatest happiness for the greatest number. This is the fundamental argument at the very

⁴⁴ ‘Auguste Comte and Positivism’, *Westminster and Foreign and Quarterly Review*, April 1865; *CW* X, pp. 301, 303.

⁴⁵ Discussed in Chapter 1 above.

⁴⁶ *On Liberty*, *CW* XVIII, p. 228 (note once again the emphasis on the hearer). The thought develops into: ‘The power itself is illegitimate. The best government has no

heart of *On Liberty*, and sheds further light on why it is that Mill maintained that the grounds on which intellectual freedom rest ‘when rightly understood, are of much wider application than to only one division of the subject’.

8.3 Indecency and censorship

Mill’s treatment of freedom of thought and discussion is sometimes connected to his single reference to the issue of indecency.⁴⁷ This reference occurs in the final chapter of *On Liberty* which provides practical applications and is ‘designed to illustrate the principles, rather than to follow them out to their consequences’.⁴⁸ Having discussed drunkenness and idleness in the context of the right of society ‘to ward off crimes against itself by antecedent precautions’,⁴⁹ which ‘suggests the obvious limitations to the maxim, that purely self-regarding misconduct cannot properly be meddled with in the way of prevention or punishment’, Mill continues:

Again, there are many acts which, being directly injurious only to the agents themselves, ought not to be legally interdicted, but which, if done publicly, are a violation of good manners, and coming thus within the category of offences against others, may rightfully be prohibited. Of this kind are offences against decency; on which it is unnecessary to dwell, the rather as they are only connected

more title to it than the worst. It is as noxious, or more noxious, when exerted in accordance with public opinion, than when in opposition to it’.

⁴⁷ See, for example, D.F.B. Tucker, *Law, Liberalism and Free Speech* (London, 1985), p. 128, and McCloskey, *John Stuart Mill*, p. 106.

⁴⁸ *On Liberty*, CW XVIII, p. 292.

⁴⁹ That Mill does not include incitement here as something that can be anticipated and warded off by antecedent precautions supports the idea that no prior restrictions can be placed on speech.

indirectly with our subject, the objection to publicity being equally strong in the case of many actions not in themselves condemnable, nor supposed to be so.⁵⁰

At first, the passage appears troublesome when considered in relation to freedom of thought and discussion.⁵¹ *On Liberty* has defended the right to express any opinion, no matter how immoral society considers it to be; Mill has not allowed that offence taken at a person's holding an opinion should count as harm; and here he says that certain actions can be prohibited on the grounds that they violate good manners. Surely if good manners can be employed to justify such prohibition, then can what might be called 'indecent speech' be prohibited on the same grounds? And if such is the case, because there is always going to be somebody who may take exception to all but the most innocuous opinions, almost all speech acts can ultimately be prohibited. McCloskey certainly believes this to be the case, concluding that in order to remain consistent Mill must prohibit 'utterances which are indecent, offensive, or breaches of good manners'. He adds that Mill 'nowhere stated a principle of freedom of expression designed to incorporate such interferences as these which he deemed to be desirable. Instead when not explicitly noting the legitimate interferences, he wrote as if there ought be unlimited freedom of expression'.⁵²

⁵⁰ Ibid. p. 295. Whether or not the notion of 'obvious limitation' crosses the paragraph is a moot point. John Skorupski maintains that it does (*John Stuart Mill* (London, 1991), p. 342); Jonathan Wolff holds that 'it is just not obvious' ('Mill, Indecency and the Liberty Principle', *Utilitas*, vol. 10, 1998, p. 5).

⁵¹ Wolff (*op. cit.*, p. 9ff.) offers a good summary of those who defend Mill's viewpoint on indecency. Critics who attack Mill at this point include Richard Taylor (*Freedom, Anarchy and the Law* (New Jersey, 1973), p. 60), McCloskey (*John Stuart Mill and 'Liberty of Expression – Its Grounds and Limits (I)'*), and others discussed below.

⁵² McCloskey, *John Stuart Mill*, p. 106; see also his 'Liberty of Expression (I)', p. 220.

If McCloskey is correct, there is a serious logical flaw in the argument of *On Liberty*. But it is not clear that the distinction which Mill made between speech acts and other actions is fully appreciated by McCloskey. Although the expression of an opinion certainly 'belongs to that part of the conduct of an individual which concerns other people' the freedom to hear and discuss opinions is an essential part of freedom of thought 'and resting in great part on the same reasons, is practically inseparable from it'.⁵³ The offence taken when a person holds a certain opinion is on a par with the offence taken at another's individuality, and must be ignored for the sake of the wider good which is achievable through the liberty of all: 'there is no parity between the feeling of a person for his own opinion, and the feeling of another who is offended at his holding it; no more than between the desire of a thief to take a purse, and the desire of the right owner to keep it. And a person's taste is as much his own peculiar concern as his opinion or his purse'.⁵⁴ However, while there must be freedom to discuss all opinions, however immoral they may be considered, 'the manner of asserting an opinion, even though it be a true one, may be very objectionable', and the use of 'intemperate discussion, namely, invective, sarcasm, personality, and the like' may 'justly incur severe censure'. It is, however, 'obvious that law and authority have no business with restraining' this type of expression.⁵⁵ Essentially, Mill is here demanding what amounts to good manners in the way an opinion is expressed. But such a restriction on discussion must be enforced by public opinion, not by law, because to give the power of censorship to anybody is to give the power of control which can be used and abused in a manner which is potentially without limit. So, while the content of any opinion should never be silenced (although the circumstances in which an opinion is

⁵³ *On Liberty*, CW XVIII, pp. 225–26. Here and elsewhere in *On Liberty* Mill uses the term 'practically' to mean 'in practice/on a practical level', not in the sense of 'almost'.

⁵⁴ *Ibid.* p. 283.

⁵⁵ *Ibid.* p. 258–59.

uttered may be such that a speaker should be held responsible for any ensuing harm), the mode of expression can and should at all times be regulated by the force of public opinion.⁵⁶ What is expected of speakers is, in essence, good manners in the way they choose to express opinions.⁵⁷ And as public standards and mores change, language once deemed unacceptable in the public forum is now thought acceptable and vice versa. But, of course, one remains free to break such conventions at any time without fear of legal reprisal. The use of 'good manners' to regulate actions is not unique to the prohibition on public indecency.

While speech acts must at all times be free as the primary means towards fostering intellectual development and progress, other actions which affect the public do not enjoy this privilege. Understanding harmful self-regarding acts (of which Mill speaks in the 'indecency' passage) to include those of a sexual nature (masturbation, as regarded by Victorian society, for example), it is difficult to see how their public display harmfully invades the interests of others, apart from the discomfort felt at witnessing such actions (and if such be the case, it could be argued, people can surely look the other way). But neither is it entirely clear that public displays of indecency fall within the scope of actions protected by the principle of liberty (Mill, after all, regards indecency as being connected only indirectly to the topic). Moreover, one should recall Mill's dictum that

⁵⁶ It seems feasible that what Mill has in mind here could work as follows: if a person's private conversation is considered offensive, those who choose to associate with that person might point out the offence; in a public situation where others may overhear, people might make known their displeasure at being forced to overhear such language in whatever way society deems appropriate (coughing, commenting 'well, really!', or making an obvious move away from the vicinity spring to mind). However, should such language be used by a public representative in a speech to parliament, opinion would almost certainly rally against the speaker among listeners in the house, in the press and among the wider general public such that other public representatives would be reluctant to employ such language in the future. Such circumstances can be regarded as self-regulatory, and there is no need for the law to interfere.

‘The liberty of the individual must be thus far limited; he must not make himself a nuisance to other people’.⁵⁸ Good manners are an informal way of ensuring that individuals in society demonstrate mutual respect in their dealings with each other. Yet, these are contingent and change with the times – actions considered indecent in Mill’s era are perfectly acceptable in the late twentieth century, and indeed an argument which seeks justification in ‘good manners’ lacks any force which it may have had in the nineteenth century. But the argument from good manners could surely be used to restrict actions not normally considered subject to the formal regulations of law, including non-offensive and trivial actions. This is certainly not what Mill intended (perhaps this is why he does not wish to become embroiled in the issue in the context of the final chapter of *On Liberty*, concluding that it is unnecessary to dwell on it). However, not widely appreciated among commentators is that the indecency passage reflects English law as it existed in Mill’s day and as it survived into the twentieth century. The Theatres Act of 1843 gave powers to the Lord Chamberlain to prohibit the performance of any new play should he be of the opinion ‘that it is fitting for the preservation of good manners decorum or public peace to do so’.⁵⁹ Mill’s attitude to indecency not only endorses this view, but mirrors it almost entirely. His argument against indecency can therefore be regarded as to some extent reflecting social mores and the law as it existed in 1859.⁶⁰

⁵⁷ This pressure can also be used in other ways, including (presumably) to regulate the content of speech in certain company.

⁵⁸ *On Liberty*, CW XVIII, p. 260.

⁵⁹ 6 & 7 Vict., c.68, quoted in Norman St John-Stevs, *Obscenity and the Law* (London, 1956), p. 53.

⁶⁰ Cf. Chapter 1, note 71 of this thesis. As Himmelfarb points out, Mill nowhere in *On Liberty* makes reference to the Obscene Publications Act of 1857. On the 1857 Act, see S.M. Easton, *The Problem of Pornography* (London, 1994), p. 123.

It could be argued that 'indecent' speech should be subject to the same regulation as indecent actions performed in public. If indecent acts are to be proscribed, the argument goes, so too indecent speech acts should be. But this approach overlooks the fact that Mill *does* make a distinction between actions and the expression of opinion, conceding that 'No one pretends that actions should be as free as opinions'. While people must be free to hear and discuss any opinion, they are not necessarily free to act on those opinions. An opinion may be considered indecent or in violation of good manners, but it does not follow that any action recommended by such speech must also remain free. Conversely, in saying that an action may be prohibited on the grounds that it violates good manners (note yet again Mill's wording: such actions *may* rightfully be prohibited, not that they *should* or *must* be prohibited), it does not follow that Mill must also hold that an opinion which supports that action should similarly be prohibited. And so the fact that public indecency may be prohibited does not have any ramifications for the arguments supporting freedom of expression of opinion. As in the case of 'intemperate discussion', such expression is controllable by public opinion, though not by law. Richard Vernon draws parallels in the following manner:

we cannot separate the illegitimate use of invective from legitimate forcefulness of expression, while we can much more readily separate public from private indecencies. Moreover, no right is placed in jeopardy by the prohibition of public indecency: and the fact that it violates 'good manners' is sufficient reason to prohibit it, if one believes that good manners are important as Mill evidently (and interestingly) did. There is a telling consideration against it, there is no telling consideration in its favour, so the presumption of liberty is outweighed.⁶¹

⁶¹ Richard Vernon, 'On Liberty, Liberty and Censorship', *Queen's Quarterly*, vol. 94, Summer 1987, p. 277.

Because actions cannot claim the same absolute status as the freedom to express opinions, where appropriate, the appeal to good manners may be used as a factor in regulating what is considered offensive in actions which concern others.

But this does not appear to solve the issue of the public–private divide: why should offence taken at publicity be used as a criterion for proscription, when people are also likely to be offended by the knowledge that certain actions are being done by others in private? As Wolff points out, we are ‘faced with the problem of why I have no right to be protected against offence caused by other people’s *private* behaviour’.⁶² This problem, although ostensibly addressing the issue of indecency, is at heart a questioning of the principle of liberty itself, of the assertion that everybody should be allowed to pursue their own good in their own way, so long as they do not prohibit others from doing the same. Thus, should people wish to read what might be considered an ‘indecent’ book such as an explicit sex manual in the privacy of their own home, the principle of liberty would surely support their right to do so. Others may be offended by the knowledge that people are reading such material, but the offence which one feels at what another chooses to do in private is the same as the offence felt that another should be different from oneself. And because the human race is composed of different individuals, ‘Mankind are greater gainers by suffering each other to live as seems good to themselves, than by compelling each to live as seems good to the rest’.⁶³ However, a sex manual (which imparts information) is technically different from an explicit work of pornography which is not specifically designed to convey information but to arouse its

⁶² Wolff, *op. cit.*, p. 8.

⁶³ *On Liberty*, CW XVIII, p. 226. Mill’s attitude towards indecency as the performance in public of an act that essentially belongs to the private sphere is evident in writings

readers sexually. *On Liberty*'s defence of freedom of thought and discussion defends the right to hear what can be said on all sides of an argument, rather than the notion of a right to express oneself purely because of one's own individuality, regardless of others. Consequently, the defence of freedom of thought and discussion does not readily fit the mould demanded of it in much contemporary debate concerning pornography. Pornography *qua* pornography cannot be regarded as an expression of opinion. However, if it is conceded on the principle of liberty that people should be free to use pornography in private, one must be also free to advise others to do likewise. But this does not mean that people should be free to display explicit sexual activity to an unsuspecting public. And this is essentially what Mill is maintaining in the 'good manners' passage.

People may be offended by opinions which they know others hold or which they hear spoken in public, but because absolute freedom of thought and discussion exists primarily for the sake of the listener, the listener can choose to avoid such utterances. As with those people whose actions (and, presumably, opinions) we believe to be foolish and even perverse, even if they do no harm to anybody but themselves, expression of opinion can be regulated subjectively by those who refuse to listen:

We have a right, also, in various ways, to act upon our unfavourable opinion of any one, not to the oppression of his individuality, but in the exercise of ours. We are not bound, for example, to seek his society; we have a right to avoid it (though not to parade the avoidance), for we have a right to choose the society most acceptable to us. We have a right, and it may be our duty, to caution others against

much earlier than *On Liberty*: see his 'Mr. O'Connell's Bill for the Liberty of the Press', *Monthly Repository*, 17 February 1834 (CW VI, p. 166).

him, if we think his example or conversation likely to have a pernicious effect on those with whom he associates.... A person who shows rashness, obstinacy, self-conceit... who pursues animal pleasures at the expense of those of feeling and intellect – must expect to be lowered in the opinion of others, and to have a less share of their favourable sentiments.⁶⁴

The option to avoid others and to refuse to listen remains the most powerful form of censorship available to individuals, although it is often forgotten (Mill holds that such self-censorship should remain the last resort). On the principle of liberty, nobody can be compelled to listen to, to witness or to participate in any action or expression of opinion. Nobody has a right to make a nuisance of themselves or to enforce their opinion on another, and certainly nobody has a right not to let others hear what can be said on all sides of an argument. In short, nobody has a right to interfere with other adults for their own good.

On Liberty is, above all, a work which aims primarily at the development and improvement of the human condition: people ‘should be forever stimulating each other to increased exercise of their higher faculties, and increased direction of their feelings and aims towards wise instead of foolish, elevating instead of degrading, objects and contemplations’.⁶⁵ In this, Mill has been accused of being naive, of not sufficiently grasping ‘the possibility that freedom may be used systematically to exploit people’s weakness, not to develop reason but to deprave and suppress it’.⁶⁶ But to exploit others in such a manner is fundamentally at odds with the principle which Mill promulgates.

⁶⁴ *On Liberty*, CW XVIII, p. 278.

⁶⁵ Ibid. p. 277.

⁶⁶ Francis Canavan, ‘J.S. Mill on Freedom of Expression’, *Modern Age*, vol. 23, Fall 1979, p. 368.

Freedom is not the liberty to exploit others but the liberty to experience and develop one's own individuality so long as one does not hinder others in doing the same. To exploit others is clearly to interfere with their pursuit of their own good, and is therefore clearly in violation of the liberty principle. Neither can people deliberately allow themselves to be exploited – 'The principle of freedom cannot require that he should be free not to be free. It is not freedom, to be allowed to alienate his freedom'.⁶⁷ With sufficient education, all should have adequate means to appreciate and develop their own individuality. Should an educated person fail to do this, then society has itself to blame:

Armed not only with all the powers of education, but with the ascendancy which the authority of a received opinion always exercises over the minds who are least fitted to judge for themselves; and aided by the natural penalties which cannot be prevented from falling on those who incur the distaste or the contempt of those who know them; let not society pretend that it needs, besides all this, the power to issue commands and enforce obedience in the personal concerns of individuals, in which, on all principles of justice and policy, the decision ought to rest with those who are to abide the consequences.⁶⁸

The freedom to associate with others who hold different opinions from oneself, in an intellectual environment as wide and as varied as possible, is central to every individual's development, those who lack intellectual greatness as much as those who are natural intellectual leaders. And freedom of thought and discussion is essential to both.

⁶⁷ *On Liberty*, CW XVIII, p. 299.

⁶⁸ *Ibid.* p. 282.

8.4 Conclusion

That many interpretations of Mill's position regarding exceptions to freedom of thought and discussion are to some degree flawed should be now evident. What *On Liberty* offers is not a 'principle of freedom of expression' which is separate from the main principle of liberty, but an argument which maintains that intellectual freedom is the cornerstone of all human individuality.⁶⁹ The right to hold, hear and discuss all opinions is central to the notion of individuality defended by the principle of liberty. To separate individuality from intellectual freedom and vice versa is to end up with a divided, impoverished notion of human liberty. All opinions on all topics must remain free, primarily so that all people can hear what can be said on all sides of a question. Freedom of expression does not exist because of the individual's right to express him- or herself. This latter viewpoint, which informs much contemporary debate on pornography and censorship, is not present in *On Liberty* (and there is little or nothing in Chapter 2 of *On Liberty* which would support 'expressions' other than the expression of opinion). Opinions delivered in circumstances where acts harmful to others ensue may result in the speaker being punished, but each situation must be dealt with individually. In the face of incitement, advocacy or indecency, freedom of thought and discussion retains an absolute quality, which amounts to a claim that there can be no exceptions to that freedom.⁷⁰

⁶⁹ The debate is outlined in Chapter 7 of this thesis.

⁷⁰ *On Liberty*, CW XVIII, p. 226: 'No society in which these liberties are not, on the whole, respected, is free, whatever may be its form of government; and none is completely free in which they do not exist absolute and unqualified'.

SECTION III

CHAPTER 9

AFTER *ON LIBERTY*: FROM THEORY TO REALITY

During the 1860s, Mill came to be recognised as one of the great intellectual figures of the era, his influence and fame extending far beyond Britain.¹ This recognition was due in no small way to *On Liberty*, the popularity of which was almost instant. Within two months of its publication, Mill admitted that ‘The book has had much more success, and has made a greater impression, than I had the smallest expectation of’.² The book went to a second edition in the year of publication, and the many subsequent editions throughout Mill’s lifetime testify to its continued popularity.³ It was soon translated into many languages.⁴ The defence of freedom of thought and discussion proved to be the prime attraction and the rallying point for the popular appeal of *On Liberty*. This defence was also the main source of controversy from the outset (as discussed in Chapter 5 above). Nonetheless, from the very beginning the work was hailed as a new

¹ Henry Sidgwick commented that ‘from about 1860–65 or thereabouts he [Mill] ruled England in the region of thought as very few men ever did’ – see John Skorupski (ed.), *The Cambridge Companion to Mill* (Cambridge, 1998), ‘Introduction’, p. 1. For an example of Mill’s own perception of his wider influence, see his comments to Charles A. Cummings in a letter dated 23 February 1863 (CW XV, p. 843), and to Edwin Chadwick on 15 May 1865 (CW XVI, p. 1050–51).

² Letter to Theodor Gomperz, 31 March 1859, CW XXXII, p. 117.

³ The second edition appeared in August 1859 – see Mill’s letter to his publisher, John William Parker, dated 18 July 1859 (CW XV, p. 630). See also his subsequent correspondence with William Longman on matters relating to publication (e.g. CW XVI, p. 1041, especially note 3; CW XVII, p. 1815). The popular appeal of the work was contrary to the attitudes of the critics, as interpreted by John Rees in his *Mill and his Early Critics* (Leicester, 1956), recently echoed by Peter Nicholson in his essay ‘The Reception and Early Reputation of Mill’s Political Thought’, in Skorupski (ed.), *op. cit.*, pp. 464–96.

⁴ See, for example, Mill’s letter of 21 August 1861 to Theodor Gomperz (CW XV, pp. 739–40), which mentions the German, Russian and French translations.

Areopagitica, a comparison with Milton which continues to be made today.⁵ Such a comparison indicates that the arguments for freedom of thought and discussion colour the way in which the whole work continues to be perceived. In fact, at least one commentator has suggested that Mill deliberately used freedom of speech as a ploy to lure readers into accepting his larger and less common principle of liberty: '[his] linking together of the two liberties inducing the reader to accept the newer liberty because he had already accepted the older one'.⁶ However, if this was actually the case, Mill never betrayed his covert approach, either in his public or his private writings. For the remainder of his life he continued to defend freedom of thought and discussion as part of a larger idea of liberty and individuality. Those 'public years' provide the basis of this chapter.

9.1 Liberty in practice

Mill's life changed dramatically following Harriet's death. He gradually emerged from his mourning and from the closely guarded private life of the previous decades. No longer constrained by his employment at East India House, he had anticipated spending the remainder of his days as a writer and political commentator, alternating between London and Avignon.⁷ He now began to develop for publication the writings for popular consumption planned in conjunction with Harriet, concentrating on the practical rather

⁵ The first to do so was James Fitzjames Stephen in the *Saturday Review*, 12 February 1859. Ironically, John Morley was later to use the same comparison in defending Mill against Stephen in the *Fortnightly Review* in 1873 – both articles are reprinted in Andrew Pyle (ed.) *Liberty: Contemporary Responses to John Stuart Mill* (Bristol, 1994). Comparisons with Milton continue to be made by, for example, Alan Haworth, *Freedom of Speech* (London, 1998), and Stuart Justman, *The Hidden Text of Mill's Liberty* (Savage, Maryland, 1991).

⁶ Gertrude Himmelfarb, *On Liberty and Liberalism* (New York, 1974), p. 299.

⁷ *Autobiography*, CWI, p. 264.

than on the theoretical aspect of politics.⁸ The themes of *On Liberty* reappear again and again, including the themes of freedom of thought and discussion and the importance of intellectual development. For the remainder of his life, Mill was to spend much time as a public figure explaining and defending to people from all walks of life the practical application of his ideas and theories. The period provides ample evidence to refute the claims of recent commentators to the effect that the freedom of thought and discussion defended in *On Liberty* is 'the liberty of the seminar room'.⁹ Mill was convinced not only of the intellectual validity of his ideas but also of their practical application to legislation and the workings of society.

Thus, in *Thoughts on Parliamentary Reform*, a pamphlet published in the same month as *On Liberty*, Mill considers the notion of political equality, and states that such equality cannot exist until all people are of equal worth as human beings.¹⁰ The worth of human beings is measured in terms of their moral and intellectual development – those aspects of character which have most bearing on the true sources of human development and happiness:

Putting aside for the present the consideration of moral worth, of which, though more important even than intellectual, it is not so easy to find an available test; a person who cannot read is not as good for the purposes of human life as one who can.... There is no one who, in any manner which concerns himself, would not

⁸ His *Dissertations and Discussions* – a collection of periodical articles on various topics dating from as early as the 1830s – appeared in April 1859. They had been offered for publication at the same time as *On Liberty* – see letter to Parker of 30 November 1858 (CW XV, pp. 578–79).

⁹ Haworth, *op. cit.*, pp. 27ff. See also Francis Canavan, 'J.S. Mill on Freedom of Expression', *Modern Age*, vol. 23, Fall 1979, p. 369, which holds that 'It is Mill's failure to grapple with reality that makes it difficult to judge how much freedom of expression can be deduced from his principles'.

rather have his affairs managed by a person of greater knowledge and intelligence, than by one of less.... to give a more potential voice to the more educated and more cultivated of the two.¹¹

Continuing the theme of the importance of intellectual development in the political and social spheres, Mill focuses on education:

If there ever was a political principle at once liberal and conservative, it is that of an educational qualification. None are so illiberal, none so bigoted in their hostility to improvement, none so superstitiously attached to the stupidest and worst of old forms and usages, as the uneducated.... An uneducated mind is almost incapable of clearly conceiving the rights of others.¹²

The importance of active and informed intellects to progress and improvement (and through the intellectual to the moral nature of the individual) is one of the central issues of *On Liberty*.¹³ The free development of the intellect brings forth individuality, which

¹⁰ *Thoughts on Parliamentary Reform*, CW XIX, pp. 323–24.

¹¹ *Ibid.*

¹² *Ibid.* p. 327. Cf. *On Liberty*, CW XVIII, p. 261: ‘The majority, being satisfied with the ways of mankind as they now are (for it is they who make them what they are), cannot comprehend why those ways should not be good enough for everybody’. See also p. 268: ‘Originality is the one thing which unoriginal minds cannot feel the use of. They cannot see what it is to do for them: how should they?’.

Mill later used this idea to score points off his Conservative opponents in parliament. Confronted by them with a passage from his *Representative Government*, Mill explained that ‘What I stated was, that the Conservative party was, by the law of its constitution, necessarily the stupidest party. (*Laughter.*) Now, I do not retract this assertion; but I did not mean that Conservatives are generally stupid; I meant, that stupid persons are generally Conservative. (*Laughter and cheers.*)’ Speech of 31 May 1866, ‘Representation of the People’ (CW XXVIII, pp. 83–84). This incident is repeated in the *Autobiography* (CW I, p. 277).

¹³ *On Liberty*, CW XVIII, p. 260.

is of value both to the person who possesses it and to the larger society.¹⁴ Moreover, the above passages serve to demonstrate further and to reinforce why it is that intellectual freedom is of paramount importance to Mill's social and political theorising. An informed, intellectually active and open mind is capable of contributing more to the well-being of society than an uninformed mind; the most effective way to achieve an intellectually active people is to educate people and allow each to follow his or her own intellect wherever it may lead; to allow all people to achieve their potential and to maximise their happiness, they should not be prohibited from hearing what can be said on any side of every question; therefore, complete freedom of thought and expression of opinion is necessary if society is to improve and progress, rather than stagnate.¹⁵ In this approach, Mill is stressing the importance of individual intellect to the overall happiness of society, but not neglecting the importance of fostering and developing the moral aspects of human nature towards that end and purpose.

The practical applications of the arguments for freedom of thought and expression also receive some airing in *Thoughts on Parliamentary Reform*, including the effect which an opposing opinion has of forcing people to know the grounds of their own opinions in the public arena.¹⁶ Further evidence of the practical application of *On Liberty* can be found in Mill's attraction to Thomas Hare's scheme for proportional representation in voting. In 1859, Mill's enthusiasm for the scheme was immediate and was connected directly with the issue of diversity. He declared to Hare that 'during a great part of my life I have been troubled by the difficulty of reconciling democratic institutions with the

¹⁴ Ibid. p. 266: 'In proportion to the development of his individuality, each person becomes more valuable to himself, and is therefore capable of being more valuable to others'.

¹⁵ Cf. *On Liberty*, CW XVIII, pp. 242–43.

¹⁶ *Thoughts on Parliamentary Reform*, CW XIX, p. 335.

maintenance of a great social support for dissentient opinions'.¹⁷ Hare's scheme provided a practical way in which variety and individuality could be heard, embracing the necessity of opposition and giving a fuller weight to the voice of the minority. At the heart of Mill's argument are the ideas of democracy and liberalism as evolving phenomena, requiring continued development in their practical application. The freedom of the human mind to develop and grow as it alone requires is essential to such a process.

This theme is continued in *Considerations on Representative Government*, published in 1861. The work maintains that 'The first question in respect to any political institution is, how far they tend to foster in the members of the community the various desirable qualities, moral and intellectual; or rather (following Bentham's more complete classification) moral, intellectual, and active'.¹⁸ Progress, understood as improvement, is achievable on Mill's understanding primarily through the fostering of individuality and the development of the intellectual faculty, which informs the conscious life of human beings.¹⁹ Underlying this project yet again is the necessity of intellectual freedom.²⁰ Freedom of thought and discussion is thus evident again as the basis of Mill's liberal political and social theory. In *Auguste Comte and Positivism*, first published in 1865, Mill is unambiguous about this basis. There he refers to liberty of conscience as 'the first of all articles of the liberal creed', and he censures Comte for not admitting a moral

¹⁷ Letter to Thomas Hare, 19 December 1859, *CW XV*, p. 653.

¹⁸ *Considerations on Representative Government*, *CW XIX*, p. 390.

¹⁹ See *On Liberty*, *CW XVIII*, p. 272: 'the only unfailing and permanent source of improvement is liberty, since by it there are as many possible independent centres of improvement as there are individuals'.

²⁰ Liberty of discussion is taken for granted and is therefore mentioned only in passing by Mill in *Considerations* (*CW XIX*, p. 391).

right of all, even the most uninformed individuals, to freedom of thought.²¹ Furthermore, he opposes the later Comte's emphasis on unity and systematising with what is essentially a defence of the doctrine found in *On Liberty* and *Utilitarianism*:

Why is it necessary that all human life should point but to one object, and be cultivated into a system of means to a single end? May it not be that mankind, who after all are made up of single human beings, obtains a greater sum of happiness when each pursues his own, under the rules and conditions required by the good of the rest, than when each makes the good of the rest his only object, and allows himself no personal pleasures not indispensable to the preservation of his faculties?²²

For Comte, freedom of speech was to be used as a check against dictatorship, not for the sake of developing the individual intellect which he decreed should only be employed in a manner which furthers the general good. But Mill believed that no restrictions should be put on the acquisition of knowledge because 'Nobody knows what knowledge will prove to be of use, and what is destined to be useless'. And Comte himself 'does not imagine that he actually possesses all knowledge, but only that he is an infallible judge of what knowledge is worth possessing'.²³ For Mill, intellectual freedom is a necessary prerequisite to achieve the greatest happiness for the greatest number. Each person's primary experience is of him or herself as an individual, a consciousness of which evolves through the employment of intellect. Happiness is an individual experience, one

²¹ *Auguste Comte and Positivism*, CW X, pp. 301ff.

²² Ibid. pp. 337. In his correspondence also, Mill explained utilitarianism as the sum total of individual happiness – see, for example, his letter to George Grote of 10 January 1862 (CW XV, p. 762), and to Henry Jones of 13 June 1868 (CW XVI, p. 1414).

²³ Ibid. pp. 351ff. The point is the same as that made in *On Liberty* (CW XVIII, pp. 233–34).

that can be shared, certainly, but one which essentially remains an experience of the individual. People are going to be happiest if they are free to follow their own good in their own way, informed by the experience of others and armed with an education and open-mindedness that allows them to continue to grow and improve as individuals. Intellectual freedom plays a fundamental part in this process.

9.2 *The Inaugural Address*

Mill had an opportunity to announce formally his views on education in a lecture delivered at the University of St Andrews after his election by the students as Rector in November 1865.²⁴ The views expressed there further complete the picture of the role of individuality and diversity, of freedom of thought and discussion and the importance of intellect in the progress and improvement of the human race. Mill maintains that the proper function of a university is to make ‘capable and cultivated human beings’, whose intellects become improved through an acquaintance with diverse ideas and ways: ‘Improvement consists in bringing our opinions into nearer agreement with facts; and we shall not be very likely to do this while we look at facts only through glasses coloured by those very opinions’. Diversity of opinion and the exchange of ideas are therefore essential to the process of self-criticism and education. But it is the pursuit of truth at a variety of levels which Mill declares to be the most incessant occupation of the human mind. The differences between individual human intellects lie in their ability to judge evidence. Observation and reasoning are the processes by which any new truths can be discovered, and these processes have been developed furthest in the physical sciences. However, the chief end of intellectual education is ‘the exercise of thought on

²⁴ The address was not delivered until February 1867. For correspondence surrounding the address see the letters at *CW* XVI, pp. 1122–3 and 1127–8. For Mill’s comments see the *Autobiography*, *CW* I, p. 287. The text of the Address itself is at *CW* XXI, pp. 215–57.

the great interests of mankind as moral and social beings – ethics and politics, in the largest sense’.²⁵ In education the emphasis must be on the practical aspects of life, through which the intellect is led to its own conclusions, informed by the ideas of others including the great thinkers on these subjects. In learning from and building on truths accepted or rejected from the past, education should aim towards an understanding of the fundamental causes and laws which make the human intellect progressive.²⁶

In the address, Mill’s treatment of moral and religious topics deals explicitly with the question of freedom of thought and discussion. Alexander Bain records that Mill ‘was most struck with the vociferous applause of the Divinity students at the Free-thought passage. He was privately thanked by others among the hearers for this part’.²⁷ In fact, what Mill had to say on the topic would have been already well known to anyone familiar with the arguments of *On Liberty*, and in many ways their repetition at St Andrews serves to demonstrate further the application of Mill’s theory. In *On Liberty* he had used religion and morals to illustrate the arguments in Chapter 2 and to illustrate his discussion of education in Chapter 5. He holds there that in morals, pupils should be taught the arguments for all systems without prejudice or favour to any, because all value systems contain some truth.²⁸ Mill’s approach to religious topics in the *Inaugural Address* is the same: the best religious education is parental, however, and any education outside that sphere should be administered not ‘in the spirit of dogmatism, but in that of enquiry’; it should ‘give us information and training, and help us to form our own

²⁵ Cf. *On Liberty*, CW XVIII, p. 224, where Mill speaks of ‘utility in the largest sense, grounded on the permanent interests of man as a progressive being’.

²⁶ *Inaugural Address*, CW XXI, *passim*.

²⁷ Alexander Bain, *John Stuart Mill: A Criticism with Personal Recollections* (London, 1882; repr. New York, 1969), p. 128. The campaign to have Mill elected as rector was headed by Charles Kinnear Watt, a theology student.

²⁸ See *On Liberty*, CW XVIII, pp. 254ff. and p. 303.

[religious] belief in a manner worthy of intelligent beings'.²⁹ Freedom of speculation must exist so that people can discover religious and moral truths for themselves (not necessarily in the sense of discovering *new* truths but in the sense of understanding existing truths and making them their own). And so Mill's focus here is on showing the value of freedom of thought to the development of the individual, rather than on demonstrating the benefits that society will reap in allowing individuals to develop through free speculation. That the human mind is progressive is demonstrated by the fact that great thinkers have emerged even where free thought and inquiry have been suppressed. Therefore:

An university ought to be a place of free speculation.... The ruling minds of those ancient seminaries [Oxford and Cambridge] have at last remembered that to place themselves in hostility to the free use of the understanding, is to abdicate their own best privilege, that of guiding it.... whatever you do, keep, at all risks, your mind open: do not barter away your freedom of thought.... It is not right that men should be bribed to hold out against conviction – to shut their ears against objections, or, if the objections penetrate, to continue professing full and unflinching belief when their confidence is already shaken.³⁰

Mill's address (which Bain says took three hours to deliver) finished by encouraging the students to acquire 'a facility of using your minds on all that concerns the higher interests of man' and to stay acquainted with 'the best thoughts that are brought forth by the original minds of the age'. Bain judged the speech a failure because Mill had taken

²⁹ *Inaugural Address*, CW XXI, pp. 249–50.

³⁰ *Ibid.* pp. 250–51.

no regard of the limits imposed by a university curriculum.³¹ However, such a judgement seems not to have grasped the aspirational character of the speech, nor to have understood that Mill felt the universities preferred ‘inoffensive mediocrities to men of original genius’.³² Moreover, the speech was a public affair, reported in *The Times* on 4 February and published immediately. The occasion was used by Mill to present his ideas to an audience beyond the auditorium at St Andrews.

9.3 Mill in parliament

With his election as Member of Parliament for Westminster in 1865, Mill’s theories and ideas became an object of curiosity to the general public, and his writings became open to scrutiny more than ever before. Several times during the election campaign and afterwards, extracts from his works were employed by opponents in attempts to embarrass him (his Tory opponents were particularly given to this strategy), and he was regularly forced to defend and explain his writings to a lay audience, an exercise in which he was usually successful.³³ Mill presented himself to the electorate as an ‘advanced liberal’ whose understanding was that the perfect model of government has not yet been discovered and whose first political commitment in the pursuit of better government was to ‘more freedom, more equality, and more responsibility of each person for himself’.³⁴ His second commitment was to the notion that:

society and political institutions are, or ought to be, in a state of progressive advance; that it is the very nature of progress to lead us to recognise as truths what we do not as yet see to be truths; believing also that by diligent study, by attention

³¹ Bain, *op. cit.*, pp. 126–27.

³² Letter to Edwin Ray Lankester, 8 February 1873, *CW* XVII, p. 1937.

³³ In the *Autobiography* (*CW* I, pp. 272ff.) Mill discusses the many issues leading up to his election.

to the past, by constant application, it is possible to see a certain distance before us, and to be able to distinguish beforehand some of these truths of the future, and to assist others to see them – I certainly think that there are truths which the time has now arrived for proclaiming, although the time may not yet have arrived for carrying them into effect.³⁵

The identification of progress with the discovery of truth and the recognition of patterns in history had been consistent themes in all that Mill had previously said on the subject. Progress is here defined not as an imposition, whether explicit or implicit, on individuals but as the natural unfolding of a society in whatever direction it may take, through an openness to new ideas and the embracing of new truths.³⁶

Mill regarded an ever-growing level of literacy, coupled with the proliferation of a inexpensive press, as essential to the continued progress of all, offering people ‘the means of acquiring the best information respecting political knowledge, written by some of the most able men of the country’.³⁷ Mill’s honesty in answering the taunts and accusations put before him were instrumental in his being elected in 1865. When his opponents attempted to manipulate electors by taking arguments from Mill’s writings out of their proper context, Mill stood firm and electors appear to have been impressed

³⁴ Speech to an election meeting held at St James’s Hall, 5 July 1865, *CW XIX*, p. 23.

³⁵ *Ibid.*

³⁶ This notion of progress serves further to question the notion of progress ascribed to Mill by Gray in his ‘Postscript’ to the second edition of his *Mill on Liberty: A Defence* (London, 1996) p. 132: see the discussion in Chapter 7 of this thesis.

³⁷ Answer to a question regarding education at an election meeting held at the Regent Music Hall, 6 July 1865 (*CW XIX*, pp. 30–31). In the *Autobiography*, (*CW I*, p. 264.) Mill also makes an interesting point with regard to the necessity of diversity of opinion. Stressing the importance of reading the varied ideas put forward in newspapers and periodicals in order to achieve a full understanding of public opinion, he notes that ‘every one’s social intercourse is more or less limited to social sets or classes, whose

by his honesty. Ironically, it may well have been that honesty in his support for the openly atheistic Charles Bradlaugh which subsequently tilted opinion against him and caused his defeat in the election of 1868.³⁸

In his many speeches to the House of Commons and to public meetings, the importance of freedom of thought and discussion regularly featured as part of Mill's stance on various topics. But it was in addressing the House regarding the Hyde Park riots of July 1866, and in his further comments made a year later in opposing a Bill which aimed to regulate meetings in Royal Parks, that his arguments for freedom of expression were explicitly stated.³⁹ The 1866 crisis was prompted by the Government's decision to prohibit a meeting of the Reform League in Hyde Park on 23 July. When the organisers of the planned assembly had protested by leading the march to the locked gates of the park and then proceeding to Trafalgar Square, others remained behind and knocked down the railings. Public disorder ensued for almost three days. Mill placed the blame for the disorder squarely at the feet of the Government, which had failed to take account of public sentiment. The people believed that they had a right to meet in the park and 'surely this circumstance, when the people were already in an excited state of mind on another subject, ought to have warned right honourable Gentlemen opposite that the

impressions and no others reach him through that channel', an idea evocative of Chapter 3 of *On Liberty*.

³⁸ *Autobiography*, CW I, p. 289. In his letters, however, Mill was inclined to identify other factors as the cause of his not being re-elected: see, for example, his letters to Thomas Dyke Acland and to Henry G. Mackson of 1 and 7 December 1868 (CW XVI, pp. 1498ff., 1512–13). A letter to Richard Marshall dated 5 November 1868 (ibid. pp. 1478–79) discusses Bradlaugh with explicit reference to the ideas put forward in *On Liberty*. Chapter 7 of Bruce L. Kinzer, Ann P. Robson and John M. Robson, *A Moralist In and Out of Parliament* (Toronto, 1992), gives a full analysis of the 1868 election.

³⁹ For the July 1866 speeches see CW XXVIII, pp. 96ff.; for the July 1867 speeches, see ibid. pp. 215ff.

consequences would be such as have actually occurred'.⁴⁰ Moreover, at a particularly turbulent and noisy meeting of the Reform League a week later Mill informed the assembled crowd: 'You have been very much attacked for holding such large meetings on the grounds that they are inconsistent with discussion'. However, public meetings are not merely used for discussion alone: 'One of the objects of such gatherings is demonstration'.⁴¹ Mill was here broadening the notion of freedom of expression beyond discussion to include demonstration, thereby entering the murky waters of what it is that constitutes expression. Unfortunately, he did not develop his thoughts on this occasion.

The 1866 Hyde Park crisis passed, but a year later Mill addressed parliament in opposing a Bill to prevent public meetings in Royal Parks, a move he regarded as an imposition on the age-old right to freedom of speech and assembly, and which therefore should be avoided at all costs:

Because it has been for centuries the pride of this country, and one of its most valued distinctions from the despotically-governed countries of the Continent, that a man has a right to speak his mind, on politics or on any other subject, to those who would listen to him, when and where he will. (*Cries of No.*) He has not a right to force himself upon anyone; he has not a right to intrude upon private property; but wheresoever he has a right to be, there, according to the Constitution

⁴⁰ Speech to the House of Commons, 24 July 1866 (CW XXVIII, p. 99). Mill records the events of these days in his *Autobiography*, CW I, p. 278–79, noting that he 'strongly censured' the Government and believed that he prevented further disorder by his intervention. Kinzer *et al.* (*op. cit.* pp. 96ff.) suggest that Mill exaggerated his role in resolving the crisis.

⁴¹ CW XXVIII, p. 103.

of this country, he has a right to talk politics, to one, to fifty or to 50,000 persons. I stand up for the right of doing this in the parks.⁴²

Thus arguing for the right to freedom of expression in Britain, as the Member for Westminster drawing on tradition rather than as the renowned philosopher drawing on rational argument, Mill insisted that the role of legislators is to consider what the law *ought* to be, not to discuss what it actually is. If more than 100,000 people are to be prevented from using the parks for public meetings without permission, as the Bill proposed, then it must be on the grounds of public safety or some other reason. He maintained that there is no principle on which to base any restriction on freedom of speech without falling into despotism. And while it might be considered better to have *some* restrictions on freedom to speak to such a large crowd, rather than to have the situation which prevailed in France and elsewhere which sought to impose restrictions on what people say to each other in private, once any restriction is placed on liberty of expression there is no reason why further restrictions cannot be imposed until the liberty itself no longer exists. Those in favour of the Bill, Mill contended, believed that the majority of the public is foolish and that people must be protected to the greatest extent possible against their own foolishness. The arguments used against such meetings is that they do not promote discussion but are used as a form of intimidation. But, Mill explained:

Sir, I believe public meetings, multitudinous or not, seldom are intended for discussion. That is not their function. They are the public manifestation of the

⁴² 22 July 1867, *CW XVIII*, p. 215. For a further assertion of the special role of freedom of speech in the British Constitution, and a comparison with the US Constitution, see Mill's letter to Charles Eliot Norton dated 24 November 1865 (*CW XVI*, p. 1119), and his earlier letter to Maurice Wakeman, (*ibid.* pp. 1108–9).

strength of those who are of a certain opinion.... it is one of the recognized springs of our Constitution.... We are told that threatening language is used at these meetings. In a time of excitement there are always persons who use threatening language. But we can bear a great deal of that sort of thing, without being the worse for it, in a country which has inherited from its ancestors the right of political demonstration. It cannot be borne quite so well by countries which do not possess this right. Then, the discontent, which cannot exhale itself in public meetings, bursts forth in insurrections, which, whether successful or repressed, always leave behind them a long train of calamitous consequences.⁴³

There are some extremely pertinent points to note about this passage. In the first place, it follows the line of argument used by James Mill, Bentham and even the young John Stuart Mill almost fifty years previously in support of freedom of expression as a political necessity to prevent despotism. The power to impose restrictions on what people can hear is ultimately an absolute power over people's minds, and should therefore not be granted to any governing body. Freedom of expression is here understood as a political safety valve for society through which government action can be checked, thereby ensuring the continuation of democracy.

In the second place, Mill is obviously not putting an argument for 'the liberty of the seminar room', the cool, calm, reasoned debate among intellectuals, and he is not overestimating the rational nature of humanity, as has often been maintained by way of criticism of his arguments for freedom of expression in Chapter 2 of *On Liberty*.⁴⁴ He is defending the absolute right to freedom of thought and discussion, including heated

⁴³ CW XVIII, pp. 216–17.

political diatribes, threatening language and public demonstrations in situations which at times, such as during the July 1866 riots, can be potentially volatile.

Such ideas can colour interpretation of the notion of incitement put forward at the beginning of Chapter 3 of *On Liberty*. In democratic countries such as Britain, the absolute right to use all kinds of language must be maintained: even threatening language or speech which can be deemed to incite others should not be restricted of itself, but should be punished when it leads to actions that invade the liberties of others.⁴⁵ Thus, the right to freedom of speech is absolute, and even speech which can be regarded as an incitement to violence should not be prohibited and should not be punished unless violence actually follows. On the question of prior restraint, Mill's position was later clarified in a speech to parliament on 12 June 1868 regarding the repeal of a law which required deposits from newspapers as a security against publishing blasphemy and libel. Mill called for an end to such legislation:

What would be said if every physician were bound to give security that he would not poison his patients? (*Hear, hear, and a laugh.*) Surely it was sufficient to punish him if he did poison them, without placing restrictions like those complained of upon the innocent.⁴⁶

This position regarding the absolute liberty afforded to speech, compared with actions which can be restricted when they are likely to harm others, is reinforced by Mill's attitude towards violent revolution. He felt that the repression of freedom of speech can

⁴⁴ Haworth, *op. cit.*, pp. 27ff. See Roger Crisp, *Mill on Utilitarianism* (London, 1998), pp. 194–95, for another recent reiteration of this traditional criticism.

⁴⁵ Discussed in Chapter 8 above.

⁴⁶ 'Registration of Publications', *CW XXVIII*, p. 287.

lead to political violence. He had made clear on many occasions that revolution was sometimes justifiable, and did so again when questioned directly about the issue raised in a speech made on 25 May 1867.⁴⁷ In describing the Fenian movement in Ireland at that time, on the occasion of addressing a reform meeting at St James's Hall, Mill maintained that it is always necessary to punish unsuccessful revolutionaries because nobody has a right to raise civil war unless there is a reasonable prospect of success. Asked in a letter to clarify his meaning, he replied:

I did not mean that all insurrections, if successful, stand exculpated.... What I was arguing for was that even those revolutionists who deserve our sympathy, ought yet for the general good, be subject to legal punishment if they fail.⁴⁸

Thus those who prompt or incite unsuccessful revolutions, the consequences which follow on from their use of free speech, should be punished. This position remains consistent with all that Mill had previously said on the subject of incitement.⁴⁹

It was with such an unsuccessful revolution, one of the most controversial issues of the day, that Mill concerned himself for much of the second half of the 1860s. The harsh treatment of revolutionaries in the aftermath of the insurrection in Jamaica in October 1865 had provoked a public outcry, and a campaign had been initiated to ensure that a proper investigation would be held into what actually had occurred. In his *Autobiography*, Mill indicates that he had joined the resulting Jamaica Committee as

⁴⁷ 'Reform of Parliament', *CW XXVIII*, pp. 167–74.

⁴⁸ Letter to G.W. Sharpe, 1 June 1867, *CW XVI*, p. 1275.

⁴⁹ Cf. Mill on tyrannicide (*On Liberty*, *CW XVIII*, p. 228, note), discussed in Chapter 8 above: 'As such, I hold that the instigation to it, in a specific case, may be a proper subject of punishment, but only if an overt act has followed, and at least a probable connection can be established between the act and the instigation'.

soon as he had learned of its existence in November 1865.⁵⁰ By July of the following year, at about the same time as the Hyde Park riots, Mill had been elected chairman of the Committee. Charles Buxton, the previous incumbent and also an MP, had resigned because he did not believe that the Committee should support the prosecution of Edward Eyre, Governor of Jamaica at the time of the rebellion.⁵¹

On 19 July 1866, Mill put a question to Disraeli, then Chancellor of the Exchequer, inquiring ‘Whether any steps had been or would be taken by Her Majesty’s Government for bringing to justice those who had been concerned in the commission of various illegal acts in Jamaica?’.⁵² Requested by Disraeli to read out the prepared text in its entirety, Mill proceeded to list the various misdeeds committed by over a dozen named officers, culminating with Eyre, asking whether the Government had plans to bring each of these men to trial, ‘And, if not, whether Her Majesty’s Government are advised that these acts are not offences under the Criminal Law?’.⁵³ Disraeli, in an obviously premeditated move, did not miss the opportunity to express his annoyance at the way in which Mill’s questions assumed the guilt of those named. In this way, Mill was ‘trespassing in some degree upon the liberty and freedom of expression’ of the House.⁵⁴

⁵⁰ *CW* I, p. 281. Kinzer *et al.* (*op. cit.*, p. 185) comment that ‘In all probability, Mill himself felt more strongly about the conduct of the authorities in Jamaica in the autumn of 1865 that led to the formation of the Jamaica Committee than he did about anything else in his entire public life’. It was one of the most controversial stands taken by Mill, resulting in his receiving abusive letters and (according to Helen Taylor’s note on the Columbia Manuscript of the *Autobiography*) almost weekly threats of assassination (*CW* I, p. 282).

⁵¹ Eyre had been recalled by the Russell-Gladstone cabinet just before the Liberal government fell on the issue of reform. A full account of the events is given in Bernard Semmel, *The Governor Eyre Controversy* (London, 1962). See also Kinzer *et al.*, *op. cit.* pp. 190ff.

⁵² *CW* XXVIII, p. 93.

⁵³ *Ibid.* pp. 94–95.

⁵⁴ *Parliamentary Debates*, 19 July 1866. ‘One can imagine Disraeli’s glee’ [at scoring such a point off Mill], comment Kinzer *et al.* (*op. cit.* p. 195).

Disraeli added that appropriate action would be taken by the government if and when necessary. The Committee did not ultimately succeed in prosecuting any of the men involved; however, Mill felt that a precedent had been set that would deter any repetition of such brutality in the future.⁵⁵

9.4 After Westminster

Following Mill's unsuccessful bid for re-election in November 1868, he returned to the private life of his pre-parliamentary days and to the literary occupations he had previously planned. His step-daughter Helen Taylor had assumed the role of his companion after her mother's death. She often entered into correspondence on his behalf as well as writing articles under her own name.⁵⁶ Together, they continued to support the principles of 'advanced liberalism' which Mill had propounded as an MP, dividing their time between England and Avignon. The issue of the equality of women and female suffrage had been brought onto the political agenda by Mill in 1867, and both he and his step-daughter continued to play an active role in support for the women's movement during the remainder of their lives.⁵⁷

⁵⁵ James Fitzjames Stephen was one of the barristers who acted for the committee and eventually advised that the case should be dropped. The committee did not take his advice and instead Stephen was dropped from the case, largely, it would seem, on Mill's insistence (see Semmel, *op. cit.*, pp. 158–59). For more on the relationship between the two men see the appendix to Chapter 6 of this thesis.

⁵⁶ Including one on the issues surrounding religious tolerance and freedom of expression ('The New Attack on Toleration', *Fortnightly Review*, December 1871, pp. 718–27). This article is generally a loose repetition of Mill's arguments.

⁵⁷ For his speech to Parliament of 20 May 1867 proposing 'The Admission of Women to the Electoral Franchise', see *CW XXVIII*, pp. 151–62.

In 1869 Mill published *The Subjection of Women* which, according to the *Autobiography*, had been written some years previously.⁵⁸ The tone of the essay from the very outset closely echoes that of *On Liberty*, and themes and even phrases of the earlier essay recur throughout the *Subjection*.⁵⁹ Mill argues that the opinion which prevails against women is based not on reason but on feeling, commenting that:

So long as an opinion is strongly rooted in the feelings, it gains rather than loses its stability by having a preponderating weight of argument against it. For if it were accepted as a result of argument, the refutation of the argument might shake the solidity of the conviction; but when it rests solely on feeling, the worse it fares in argumentative contest, the more persuaded its adherents are that their feelings must have some deeper ground, which the arguments do not reach; and while the feeling remains, it is always throwing up fresh intrenchments of argument to repair any breach made in the old.⁶⁰

On the surface, this passage seems to provide a telling argument *against* the notion that opposition to the received opinions is necessary to facilitate the discovery of truth and to ensure that the received truths are held in a lively manner. Here Mill says that opposition simply causes an opinion to become more ingrained rather than less so. However, a closer reading reveals that it is far from contradictory. Mill believes that opinions which are not rational are held in the manner of a prejudice. In such cases, freedom of discussion has a valuable effect not on those whose prejudices are reinforced but on

⁵⁸ *Autobiography*, CW I, p. 290. *The Subjection of Women* is at CW XXI, pp. 259–340. Originally planned as part of the ‘pemmican’ which spawned *On Liberty*, it was written in 1860: see John Robson’s textual introduction to CW XXI, pp. lxviii ff.

⁵⁹ Cf. the opening lines of *Subjection*, ‘The object of this essay is to explain as clearly as I am able’ with the famous pronouncement from *On Liberty* ‘The object of this Essay is to assert one very simple principle’.

those who listen to and observe the debate in action: as in *On Liberty*, 'it is not on the impassioned partisan, it is on the calmer and more disinterested bystander, that this collision of opinions works its salutary effect'.⁶¹ Thus, Mill's argument is that the issue of the equality of women is not one which is generally considered in a rational manner by those who oppose it; discussion is more likely to have the effect of prompting into thought those who are not yet prejudiced against it rather than to convince those who are irrationally biased against it (although, of course, it may occasionally serve to bring round some of those sceptics, should they listen to the arguments of their opponents). Here is a practical example of the notion of progress, of once-rejected ideas becoming accepted over time. While Mill makes clear that he is conscious of attempts to over-rationalise situations, he is much more wary of the prevailing nineteenth-century tendency to label as 'instinct' anything in human nature which is not readily comprehensible:

It is one of the characteristic prejudices of the nineteenth century against the eighteenth, to accord to the unreasoning elements of human nature the infallibility which the eighteenth century is supposed to have ascribed to the reasoning elements. For the apotheosis of Reason we have substituted that of Instinct; and we call everything instinct which we find in ourselves and for which we cannot trace any rational foundation.⁶²

Not blind to the accusation of over-rationalisation, Mill is attempting to avoid the prejudices of both centuries in his work.

⁶⁰ *The Subjection of Women*, CW XXI, p. 259.

⁶¹ *On Liberty*, CW XVIII, p. 257; see also pp. 243ff.

Looking back on his life, Mill commented more than once in 1869 and 1870 on the many changes in opinion that had been wrought in society since his youth. In the *Subjection*, for example, he speaks of the principles put forward in *On Liberty* just ten years previously as being the accepted norm of society, that ‘the freedom of individual choice is now known to be the only thing which procures the adoption of the best processes, and throws each operation into the hands of those who are best qualified for it’.⁶³ Indeed, he goes so far as to state that ‘After the primary necessities of food and raiment, freedom is the first and strongest want of human nature’.⁶⁴ Moreover, he maintains that ‘the communities in which the reason has been most cultivated, and in which the idea of social duty has been most powerful, are those which have most strongly asserted the freedom of action of the individual – the liberty of each to govern his conduct by his own feelings of duty, and by such laws and social restraints as his own conscience can subscribe to’.⁶⁵ Thus individual liberty continues to be that which Mill holds as most beneficial to the general happiness. Yet, the dynamics of history and progress may not be as simple as he had once hoped or believed. In the *Autobiography*, for example, Mill admits that many of the opinions of his youth had gained acceptance during his lifetime, but comments:

These changes had been attended with much less benefit to human well being than I should formerly have anticipated, because they had produced very little improvement in that which all real amelioration in the lot of mankind depends on,

⁶² See *The Subjection of Women*, CW XXI, p. 263.

⁶³ Ibid. p. 273. In the text here Mill contrasts this notion of individual freedom with the previously-accepted notion that paternalism is the best mode of maintaining society, reinforcing the point that the doctrine of *On Liberty* is primarily anti-paternalistic in its origin, construction and focus.

⁶⁴ *The Subjection of Women*, CW XXI, p. 336. Cf. *Utilitarianism*, CW X, p. 251, and Mill’s 1868 pamphlet *England and Ireland*, which speaks of ‘the primary interests of subsistence and security’ (CW VI, p. 532).

their intellectual and moral state.... I have learnt from experience that many false opinions may be exchanged for true ones, without in the least altering the habits of mind of which false opinions are the result.... I am now convinced, that no great improvements in the lot of mankind are possible, until a great change takes place in the fundamental constitution of their modes of thought.⁶⁶

These reflections originate in the early drafts, written in the early 1850s, and probably before the composition of *On Liberty*. The 'single truth' of that essay regarding 'the importance, to man and society, of a large variety in types of character, and of giving full freedom to human nature to expand itself in innumerable and conflicting directions' can be seen as an attempt to rectify the imbalance which prejudice had wrought.⁶⁷ Moreover, in a passage which appears to have been added to the manuscript in 1870, Mill says, 'More recently a spirit of free speculation has sprung up, giving a more encouraging prospect of the gradual mental emancipation of England'.⁶⁸ Mill himself would appear to have played no small part in accomplishing this change.⁶⁹ He had even allowed himself the possibility of continuing in such a role after his death. A codicil added to his will on 14 February 1872 bequeathed his copyrights, should Helen Taylor not survive him, to John Morley 'Upon trust to apply the proceeds thereof in aid and support of some periodical publication which shall be open to the expression of all opinions and shall have all its articles signed with the name of the writer'.⁷⁰

⁶⁵ Ibid. p. 336.

⁶⁶ *Autobiography*, CW I, p. 245.

⁶⁷ Ibid. p. 259.

⁶⁸ Ibid. p. 247.

⁶⁹ See John Morley's obituary of Mill (*Fortnightly Review*, 1 June 1873, pp. 672–73), cited in this thesis at Chapter 1, note 2.

⁷⁰ CW XXXI, Appendix A, p. 334.

9.5 Conclusion

To the end of his life, Mill continued to support the notion that liberty held the key to the ongoing happiness and continuing improvement of humanity. As conscious beings, the essential ingredient underpinning the necessity of human liberty is intellectual freedom. Freedom of thought and discussion was fundamental to Mill's overall scheme of liberalism. Regarded as a political tool, such freedom is essential in the working out of democratic institutions and the prevention of despotism. However, Mill's defence went more deeply into human psychology than the ideas of James Mill or Bentham. For John Stuart Mill, the essence of true human happiness lay in the potential of the human mind to explore and discover all that was open to it, and to do so freely and unhindered. That potential is often inhibited in democratic society, when conformity and stagnation are not only expected but encouraged, where freedom to think and to discuss all topics openly is often discouraged, and sometimes prohibited, by those whose ambition is to control society and direct it to their own ends. Mill encouraged people to break out of this mould, to think and speak freely and to stimulate others to do likewise. Once such freedom is achieved, the possibilities for human development become endless. As a utilitarian, he was building on a practical tradition of politics which placed the expansion of human happiness as its ultimate goal. For Mill, intellectual liberty holds the key to accomplishing that utilitarian goal.

CHAPTER 10

CONCLUSION

A recent assessment of freedom of speech by Alan Haworth has concluded that Mill's defence of freedom of thought and discussion in *On Liberty* is but a reiteration of Milton: 'It is the 1644 edition with minor alterations and a few marginal notes added'.¹

If such were the case, it is reasonable that one would expect an acknowledgement of this source, if not in Mill's public works then in his private letters. Mill, after all, was not slow to acknowledge his intellectual debts. However, the index to the *Collected Works* indicates that the *Areopagitica* is mentioned just once in the entire thirty-three volumes.²

In one way this is not surprising: Mill's mature attitude to freedom of thought and discussion should not be separated from his defence of the freedom of the individual which *On Liberty* defends. This defence places the value of intellectual freedom not primarily on the increase of truth within society, but on the richness of individuality which such freedom can bring to society. In doing this, it draws on sources much broader than the *Areopagitica*. In fact, his Radical inheritance afforded John Stuart Mill an identity which he believed was totally at odds with Milton, 'a man whom I so totally disrespect... who with all his republicanism had the soul of a fanatic a despot & a tyrant'.³

From James Mill and Bentham, John Stuart Mill inherited a healthy disrespect for the presumed superiority of any ruling body. He also inherited a model of society governed ultimately by the interplay of interests. For Mill, the interest which matters most is that

¹ Alan Haworth, *Free Speech* (London, 1998), p. 136. The 1644 text is, of course, Milton's *Areopagitica*.

² At *CWXX*, p. 165.

³ Letter to John Lalor, 27 June 1852, *CW XIV*, p. 91.

of being allowed to pursue our own good in our own way, providing that others are not prevented from doing the same. From James Mill and Bentham he first learned to appreciate the role of a free press as a first principle of democratic society. For Bentham, 'whatsoever evil can ever result from this liberty, is everywhere, and at all times, greatly outweighed by the good'.⁴ Free public debate 'would provide subjects with their essential "securities against misrule" by ensuring prompt exposure and elimination of government abuses and by making it the interest of governors to fulfil their duties'.⁵ For James Mill, the press 'lays a foundation for human improvement that cannot fail, because it ensures a state of progression in every country in which it can operate at all; and increases its power in proportion to the progress which it has made'.⁶ In both instances, the emphasis is not so much on the value of abstract truth as on the practical value of liberty of the press to society. Mill built on this foundation as he watched the political ideas of his father and Bentham assume the form that shaped modern democratic society.

Following Mill's reassessment of his early beliefs in the aftermath of his mental crisis, there is little evidence to suggest that he changed his attitude towards the freedom of the press. In his writings on contemporary events such as Catholic emancipation, turmoil in France, and the Great Reform Act, the importance of intellectual liberty and the freedom of the press is constantly stressed. There is also a new appreciation of the fact that political leadership is important, and that those with the talent and intellectual ability to lead should be recognised as such by others. Nowhere does Mill suggest that intellectual freedom should be confined to an intelligentsia, or that freedom of the press should be

⁴ Jeremy Bentham, 'On The Liberty of the Press', in *The Works of Jeremy Bentham*, ed. John Bowring (Edinburgh, 1843), vol. II, p. 279.

⁵ Douglas G. Long, *Bentham on Liberty* (Toronto, 1977), p. 201.

⁶ James Mill, 'Liberty of the Continental Press', *Edinburgh Review*, June 1815, p. 113.

restricted. He believed that leadership should aim to raise gradually the knowledge and education of all. This notion of leadership as a social phenomenon spanned political and intellectual society, acknowledging the divergences among individuals in a manner which was not evident from the younger Mill's writings. It was not dissimilar to Coleridge's notion of a clerisy, of which Mill had approved at this period in his life. In addition to the basic importance of the freedom of the press, he now began to appreciate that more was necessary if society was to improve and progress. Coleridge's ideas concerning the importance of holding beliefs in an intellectually active rather than in a passive manner, the distinction between toleration and mere indifference, and the value of genius all came to inform Mill's ideas. This is far from the idea that it is necessary for *all* people to be informed about *all* possible intellectual endeavours, or that there is a moral obligation to be so informed, as Haworth would have it.⁷ Rather, it is a recognition of the necessity of intellectual activity which must be fostered in conjunction with the development of other democratic institutions. In 1834 Mill proclaimed Coleridge as the one who had the deepest influence on his life. But Coleridge was soon eclipsed in that role by the woman who later became Mrs Harriet Mill.

Harriet's relationship with and influence on Mill coincided with the consolidation of his mature ideas and attitudes, around 1840.⁸ Mill now firmly believed in the priority of intellectual ideas in the process of social and political progress and improvement. With Harriet he discussed and wrote about issues concerning the recognition of individual rights, the role of women in society, the oppressive tendency endemic to society and the importance of diversity and difference. *On Liberty* was produced as the fruit of their

⁷ Haworth, *op. cit.*, p. 125.

⁸ *Autobiography*, CWI, p. 229.

intellectual union. According to Mill himself, 'The whole mode of thinking of which the book was the expression, was emphatically hers. But I also was so thoroughly imbued with it that the same thoughts naturally occurred to us both'.⁹ Throughout his life Mill was familiar with the various existing arguments for toleration and freedom of the press. He ventured on 'one discussion more' in *On Liberty* with arguments for freedom of thought and discussion which he acknowledged were in no way new but had, in fact, been used previously to defend freedom of expression in its own right, independently of the principle of liberty.¹⁰ Although his intellectual union with Harriet garnered ideas from many sources, Milton was never acknowledged as one.¹¹ Moreover, *On Liberty* was written to advance the idea that, in democratic societies, diversity is desirable and therefore mature adults should be allowed to pursue their own good in their own way. To regard its second chapter as little more than an update of Milton's plea for freedom to publish is to lose sight of the larger framework.

Mill held that intellectual liberty is the first liberty, that from which diversity, individuality and progress flow. Following his principle of liberty, society and government cannot interfere with the individual for the individual's own good, either physical or moral:

He cannot rightfully be compelled to do or forbear because it will be better for him to do so, because it will make him happier, because, in the opinions of others,

⁹ Ibid. p. 259.

¹⁰ Ibid. p. 227

¹¹ Stuart Justman in his *The Hidden Text of Mill's Liberty* (Savage, Maryland, 1991), p. 135 conjectures that Harriet may have 'had a hand in suppressing the resemblances between *On Liberty* and the "Areopagitica" of Milton, famed as an antifeminist'. However, the infrequency of Milton's name throughout Mill's overall corpus, coupled with Mill's own pro-feminist stance, suggests that such action would have been

to do so would be wise, or even right. These are good reasons for remonstrating with him, or reasoning with him, or persuading him, or entreating him, but not for compelling him, or visiting him with any evil, in case he do otherwise. To justify that, the conduct from which it is desired to deter him must be calculated to produce evil to some one else. The only part of the conduct of any one, for which he is amenable to society, is that which concerns others. In the part which merely concerns himself, his independence is, of right, absolute. Over himself, over his own body and mind, the individual is sovereign.¹²

Nobody in a democracy can claim the right to determine what other people can and cannot hear. Mill's proposal is anti-paternalistic in character, as indeed is the actual principle of liberty itself. In this manner *On Liberty* can be read as providing a consistent and complete argument, with freedom of thought and discussion based on the same anti-paternalism. *On Liberty*'s defence of freedom of thought and discussion can therefore be seen to build on a tradition which may well include Milton but which had definitely followed in the tradition of James Mill and Bentham. This fact is not appreciated by commentators such as Willmoore Kendall who contends not only that the younger Mill had broken sharply with them, but also mistakenly holds that:

Not only had no one ever before taught his doctrine concerning freedom of speech. No one had ever taught a doctrine even remotely like his. No one, indeed, had ever discussed such a doctrine even as a matter of speculative fancy.¹³

unnecessary. Haworth actually identifies parallels in passages between *On Liberty* and the *Areopagitica* – see Haworth, *op. cit.*, pp. 224–28.

¹² *On Liberty*, CW XVIII, pp. 223–24.

¹³ Willmoore Kendall 'The "Open Society" and Its Fallacies', *American Political Science Review*, vol. 54, December 1960, repr. in Peter Radcliff (ed.), *Limits of Liberty* (Belmont,

Similarly, the importance of intellectual freedom throughout Mill's life is not acknowledged by such commentators as Mark Francis and John Morrow who maintain that Mill lacked a coherent set of ideas linked to a general principle throughout his lifetime.¹⁴ The principle of freedom of the press and freedom of expression is one issue on which he appears to have maintained consistency throughout his life.

The fact that Mill utilised inherited arguments in his defence of freedom of thought and discussion in *On Liberty* goes some way towards explaining why it is that its second chapter seems to stand alone, and perhaps why commentators have contended that it does precisely that. However, to identify a separate principle of freedom of expression or to maintain that the chapter rests on the primacy of truth rather than the primacy of individuality misses the point. Freedom of thought is a necessary condition for the growth of individuality. But unless ideas can be compared and contrasted in discussion, freedom of thought cannot be utilised to maximise the happiness of every individual (which in turn maximises the general happiness).¹⁵ Truth can be discovered through discussion, but much if not most truth seems to materialise in its raw form initially as the product of great individual minds. Where free discussion prevails, such products of individuality can then be shared with the community and the merits and demerits of the opinions discussed, perhaps resulting in other truths, perhaps shedding light on or reinforcing older truths.¹⁶ In this context it is important to note that Mill's examples are all of great individuals –

California, 1966), p. 160. The comment that he had broken with his father and Bentham is made at p. 161, n. 3.

¹⁴ Mark Francis and John Morrow, *A History of English Political Thought in the Nineteenth Century* (London, 1994), p. 146.

¹⁵ See Mill's explanations of *Utilitarianism* to this effect, discussed in Chapter 9 above.

¹⁶ Gertrude Himmelfarb once again does not seem to appreciate this role of truth when quoting from a letter written by Mill in 1833 to the effect that truth is the product of an

Socrates, Jesus Christ, Marcus Aurelius, Luther – and that he is, after all, offering a defence of individual liberty, which comprises ‘first, the inward domain of consciousness; demanding liberty of conscience, in the most comprehensive sense; liberty of thought and feeling; absolute freedom of opinion and sentiment on all subjects, practical or speculative, scientific, moral, or theological’.¹⁷ Mill is aware of the limits of freedom of discussion, admitting that ‘the tendency of all opinions to become sectarian is not cured by the freest discussion, but is often heightened and exacerbated thereby’. Individuality is prior to discussion, not the other way around. Yet it also relies on discussion to maintain its own existence. The free expression of opinions is necessary ‘to the mental well-being of mankind (on which all their other well-being depends)’.¹⁸

It seems to be misleading, therefore, to place the emphasis of chapter two of *On Liberty* anywhere other than with the individual’s well-being. Mill is not interested in truth for its own sake, but in truth as contributing to the greatest happiness – ‘The truth of an opinion is part of its utility’ not the other way around, and thus ‘In the opinion, not of bad men, but of the best men, no belief which is contrary to truth can be really useful’.¹⁹ Intellectual liberty is, for Mill, the basis of all other liberties. This principle emanates from the necessity of allowing every individual to pursue his own good in his own way if utility is to be maximised overall. To possess such liberty involves interaction with others who possess an equal right to discover truths and interpret experience by comparing and contrasting their thoughts and opinions with others. Mill is interested in the discussion of opinions as an aid to individuality. That is what chapter two of *On Liberty* promises from the outset. To construe a principle of freedom of expression separate from the principle of

individual mind rather than the product of the collision of opinions – see her *On Liberty and Liberalism* (New York, 1974), pp. 47–48.

¹⁷ *On Liberty*, CW XVIII, p. 225.

¹⁸ *Ibid.* p. 257.

liberty seems to contradict Mill's purpose and aim entirely, complicating and clouding the one very simple principle and thereby calling into question the intellectual integrity of the whole essay.

Haworth and others who regard Mill as defending freedom of thought and discussion on the basis of the value of truth, therefore, have misplaced their emphasis. It is not abstract truth for its own sake that Mill defends but, rather, the discovery of truth for the sake of individuality. The second chapter of *On Liberty* regards the achievement of truth as desirable for the progress of society. But if truth is ultimate, the intellectual activity of each individual's pursuit of truth becomes secondary, and the entire thesis of *On Liberty* is therefore undermined. However, where the right of each person to pursue their own good in their own way is recognised, the right of each person to hear – and therefore to express – all opinions is also paramount. No single person, society or government can interfere in this right without thereby decreasing the general happiness. Thus freedom of expression is part of 'The grand, leading principle... the absolute and essential importance of human development in its richest diversity'.²⁰ To construe it otherwise is to rob Mill's argument of its richest ingredient.

¹⁹ Ibid. pp. 233–234.

²⁰ The motto used by Mill for *On Liberty* from von Humboldt's *Sphere and Duties of Government*: CW XVIII, p. 215.

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Vol. I, Items 14–15 (two unpublished letters from James Stephen to Mill, dated 3 and 13 May 1845)

Vol. IV, folios 6–78 (correspondence between Alexander Bain and Helen Taylor regarding Mill's death, his will and the publication of his *Autobiography* and other works)

Vol. VIII, Item 87 (unpublished letter from Fitzjames Stephen to Helen Taylor, following the death of Mill, undated)

Vol. XLVIII (correspondence, including a draft of his 6 August 1859 letter to Alexander Bain)

Box III (miscellaneous writings, including Harriet's essays)

Box V, Item 6 (Fitzjames Stephen's article from the *Pall Mall Gazette* of 10 May 1873)

Vols II, VII, XLV (miscellaneous manuscripts and cuttings)

Cambridge University Library, unpublished letter from James Fitzjames Stephen to Mill, dated May 1865, Add Ms 7349/11/4

London Library, *Common Place Book*, James Mill

Representative Church Body Library, Dublin, three unpublished letters from Mill to James Fitzjames Stephen, dated 25 and 31 May 1865, and 26 February 1867, MSS253/2/54–6

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