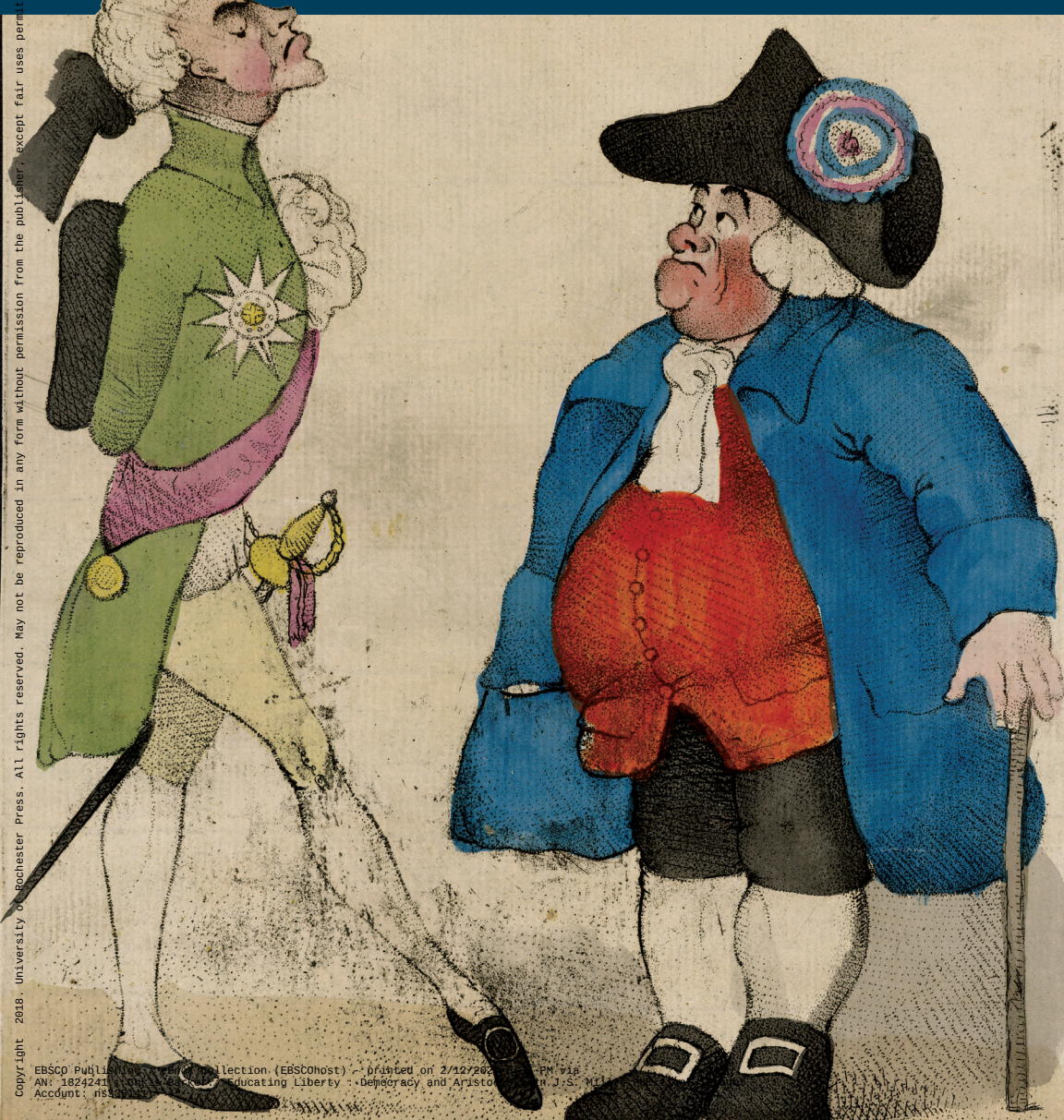
Educating Liberty

Democracy and Aristocracy in J. S. Mill's Political Thought

CHRIS BARKER



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Contents

Acknowledgments

Anyone writing a personal preface to a scholarly book should probably bear in mind Nietzsche's warning about arriving at that "point in every philosophy at which the 'conviction' of the philosopher appears on the scene."

Below, I offer an overview of Millian liberalism that places education at the center of his social and political science. It represents my attempt to stand within the contemporary distinction between continental and analytical philosophy, paying respect to both, and to acknowledge the tension between progressivism and conservatism by providing something more comprehensive than both. This overview may not represent a philosophical synthesis of the principles of modern life, but all the elements of a full synthesis are there: individualistic emphasis on interior culture; attention to patterns of life in the family and in the workplace; and attention to the formation of opinions in science, politics, and religion. At the very least, this is an improved and transformed liberalism, rather than the nonanswer of a liberalism of the intellect that is left to guide itself (*intellectus sibi permissus*).

I would like to thank the excellent teachers of the University of Toronto for their instruction in social, political, and classical thought. I would also like to thank the faculty of the Claremont Colleges and of Claremont Graduate University for their seriousness, generosity, and vigor. Since this is a book about education, I would be remiss if I did not suggest that these institutions offer a liberal education. I would also like to thank the colleagues and students with whom I have worked at Harvard University, Boston College, Ohio University, and Southwestern College. I have been lucky to share the halls of academe with you.

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Finally, I wish to thank my family.

Introduction

An Educated Life

This book offers a new interpretation of Mill's social and political thought. As I argue below, Mill wants above all to educate society. But through the experience of reading and debating with less moderate authors, he learns that education is a power, and that educative power cannot be permitted to direct society at the expense of individual agency. Since it is the case that the power of traditional authority and the "unspeakable" power of education are so great, education must be done without "principling" students and without requiring them to think "by deputy," or the power of education becomes the power of custom and tradition.[1] Educating without imposing first principles is the best way to increase aggregate mental power. This insight is at the heart of Mill's theory of civic education.

Across all his writings, and in part because of the special circumstances of his own indoctrination as a Benthamic Utilitarian, Mill limits educative power only to as much power as is consistent with "individuality of power and development," which in turn is justified as a "necessary part and condition" of "civilization, instruction, education, [and] culture."[2] A reasonable education in morality, not militantly secular or theologically voluntarist; instruction in independent thinking, beginning with a basic education in reading, writing, and arithmetic, and culminating in a social scientific and dialectical toolbox for adult citizens; a civil religion that is not a "political" religion; a political education emphasizing the importance of participation, and in particular the importance of voting well—all these are elements of Mill's theory of public instruction and enlightenment.[3]

According to Mill, every society needs something "permanent, and not to be called into question; something which, by general agreement, has a right to be where it is." This is the constitutional ethos, or piety, of a society.[4] Challenging custom may seem like an impractical and quixotic

task, but change as Mill understands it is already within reach. The remedy for many political errors is to change majority opinion, not to seize power through minorities and exert influence and make decisions in that way. One changes majorities by educating them, and one educates majorities by changing their experience of power, both as they wield it and as it is exerted on them.

The Millian subject would greatly benefit from, but does not have to study, logic and the social sciences. With the more modest expectations about the changes in mental power that he anticipates, Mill proposes that the heavy lifting is already being done by two changes in his (and our) time. The first and greatest change that Mill anticipates is the equality of men and women, and especially the lifting of legal disabilities on married women, followed in second place by the equality of economic actors (owners, workers, managers) across classes and the end of inherited social classes of workers and owners/managers. Both of these changes will do most of the work in transforming society in the direction of mental independence. These changes in the power of thinking are discussed in chapters 1 and 2. In chapters 3, 4, and 5, other crucial aspects of modern equality are analyzed from the vantage of their educative effects: the important contributions made to political judgment by social scientists, and the danger posed to educative liberty by thinking of social scientists as a cadre able to predict and direct social progress; the contribution made by politicians to the refinement of public opinion, and the danger of elitism; and the importance of religion for social unity, and the danger of new types of theistic conformism.

Conservative and Progressive

Mill is different from almost all of his contemporaries in looking at new ways of abusing power from almost all angles, and with the help of a dizzying and humbling variety of disciplines, including logic, political economy, political theory, gender theory, and political theology. As a result, some readers interpret Mill as hopelessly divided against himself. Others find Mill to be coherent but ultimately mistaken in his vision of the good society. Here, I briefly introduce these critical responses to Mill.

Conservative scholars argue that under the influence of moral progressivism, Mill, who went through a conservative phase of intellectual development during the 1830s, increasingly thought that a just society required a great deal of intervention.[5] Each citizen would be called to act on a "direct impulse to promote the good."[6] For noninterventionists, including some conservatives as well as classical liberals, this impulse drives what some critics characterize as Mill's moral totalitarianism.[7]

Some conservatives argue that Millian liberal Utilitarianism ironically undermines each particular liberty "by invalidating all these other principles—history, tradition, prescription, law, interest, nature, utility, prudence—which once served to validate particular utilities."[8] A related criticism sees Mill as also becoming enamored of a fuzzy romantic theory of agency, leading him toward a "self-defeating" and "expressive conception of excellence" defined by a negative and emancipatory relationship to traditional society. In this view, to be free in Mill's fashion is to be unmoored from any external standard or internal logic.[9] Finally, in perhaps the most familiar conservative criticism of Mill, Millian liberalism is trusting and optimistic about the self-cultivating and self-directing capacities of individuals. Society needs command, restraint, and law; Mill offers only advice, persuasion, and individual freedom.[10]

For libertarian and classical liberal thinkers, Mill's point of departure is classically liberal, but Mill gradually becomes less committed to the liberal protection of the individual against misrule and more committed to the protection of groups, often at the expense of individual liberty, both in his burgeoning feminism and in his turn toward cooperative economics.[11] For the most part, twentieth-century libertarians who put property rights at the center of their theory of liberty do not look on Mill as a fellow traveler but as an apostate from a proper understanding of liberalism.

Progressive liberals are also divided about the meaning and worth of Mill's projects. A typical criticism is that Mill does not sufficiently understand the extent to which individual culture requires a very powerful, redistributive, and interventionist state to advance the goals of personal emancipation. Although Mill starts to travel along the path from classical liberalism to social democratic thought, he fails to go far enough.[12] Alternatively, some progressives find in Mill a congenial thinker who promotes restraint of population, feminism, and the end of inherited (unearned) wealth. This argument deemphasizes *On Liberty* and argues that Mill's *Principles of Political Economy* offer a realistic, cooperative, progressive, interventionist liberalism.[13]

The very young Mill called his preferred method "practical eclecticism," and a group of more or less friendly critics think of Millian theorizing as *mere* eclecticism.[14] For them, Mill is a practical reformer—a debate-club activist first and a political philosopher second. Mill is sometimes cast as an engaged public intellectual whose emphasis is on public "voice" and for whom political theory is of secondary importance.[15] Although Mill clearly admires the Germano-Coleridgean "philosophy of society" precisely for its empirically informed attempt to see "beyond the immediate controversy, to the fundamental principles involved in all such controversies,"[16] these thinkers hold that Mill himself never arrives at a principled destination.

This book provides one way of understanding the various puzzles of the "two Mills," and one explanation of the apparent contradictions or tensions in Mill's Utilitarian defense of individual liberty and development. In the improved world that Mill thinks we inhabit, he tries to persuade his reader to defend the aspects of modernity that are worth defending. In this respect, as I argue in chapter 4, he is a theoretical conservative concerned with social stability, order, and historical continuity, and a theoretical progressive heartened by the evidence of recent social progress. As is often the case with Mill, after looking at several sides of a question, he offers a theoretical principle that by virtue of "superior comprehensiveness" can be adopted by charitable thinkers on both sides of a question.[17]

The root of the controversy over interpretations of Mill's social and political thought is often merely thought to be the tension between order and liberty. A secure society requires order, but the price of imposing order is typically the "passive obedience" of citizens subject to government's power. Instead of order imposed by the state on its citizens, Mill argues that a system of education or "*restraining discipline*" is required in a good society.[18] As I will argue, this education must be liberal: hence, educative liberty. Mill gives us (roughly) two parts to the complete education of the thinking human being: the largely negative education in scientific logic and philosophical dialectic whose rules free individuals from fallacies, customs, norms, and their own vanity; and the various departments of practical ethology that describe the conditions needed for liberty. Logic provides the rules of thinking; education provides the arts that bring the science of thinking into the political and social world.[19]

It may be objected that Mill is explicitly materialistic; that he is primarily a political economist; and that he gives lack of mental cultivation second place to the main goal of progressive politics, namely an ever more equal satisfaction of material needs.[20] But Mill never argues for the redistribution of goods and power divorced from the question of education. Even the selfish desire to predominate in one's family is a problem primarily because of its narrowing and cosseting effects, both for the putative master and for the mastered.[21] The same is true, according to Mill, of the place of workers in the workplace; they should not trade independence and equality for material comfort. Technology and expertise, political representation, religious consolation—in each of the main areas of social and political thought on which Mill writes, his theory is remarkably consistent. Mill gives mental independence something like lexical priority over material needs when assessing our place in the world (the subject of the *Autobiography*), the relations of men and women (*The Subjection of Women*), our economic lives (*Principles of Political Economy*), our lives as producers and consumers of knowledge (the subject of *Auguste Comte and Positivism*), our

political lives (*Considerations on Representative Government*), and our lives in relation to universal religion (*Three Essays on Religion*).

Mental Power and Education

In order to understand Mill's theory of education, it is helpful to consider whether Mill offers a "civic education." To my knowledge, this exact phrase does not appear in Mill's works. For Mill, it cannot mean the direct intervention of the state to improve the political judgment of citizens, since Mill thinks that state-directed education simply reproduces the traits of the most powerful class.[22] Education is the means to the formation of individual, collective, and national character, as Mill explains in his address to the students of the University of St. Andrews. Education in this broader sense is anything that forms character, whether directly or indirectly, and whether "by laws, by forms of government, by the industrial arts, [or] by modes of social life."[23]

Descriptively, character is a consequence of those influences. Mill also has a normative theory of character that is one of the most famous aspects of his corpus of writings. It emphasizes the possession of "open, fearless characters" and "logical, consistent intellects."[24]

As is true of Mill's emphasis on education, it is quite shocking, when one starts to look for it, how often Mill discusses power in both his major and minor works, and the extent to which a principled political theory does not get off the ground without an account of power. I argue that the coherence of Mill's works—not always obvious on the surface—depends on his elaborating a persuasive theory and a practical account of what an educated person generally must know in order to *cultivate* mental power, and thence to *exercise* power over others, and to be the object of their powers. Liberty, Mill says, is opposed to the exercise of power, but this statement belies the many positive references to power that Mill makes.[25] Thinking is a form of power.[26] Democracies have been successful in diffusing the "knowledge which is power," that is, the power over the "habit of forming an opinion, and the capacity of expressing that opinion."[27] At various points in this book, I discuss the genuine power that is an alternative to education by cram (e.g., in this introduction and the conclusion to ch. 1, p. 49). Mill is one of the great analysts of the changes in the ways that power is exercised over and by individuals. There is a massive amount of observational evidence that the inclusion of women and workers has transformed political association and civil society, just as Mill thought it would.[28]

In the interpretation of Mill's theory of education that I offer here, Mill works out the proper institutional organizations that comport with educated liberty and mental independence. When his theorizing is straitjacketed by systems, such as his mechanical application of Comte's stadial

theory of history to the creation of the conditions needed for liberty in British India, his theory of education fails the test of practice. In contrast, when, as he explains in *Utilitarianism*, knowledge is achieved through "practised self-consciousness and self-observation, assisted by observation of others," he successfully explains why the modern democratic subject has power, and should be trusted to wield power.[29] It is precisely when Mill sticks to his method of rigorously identifying principles in light of actual empirical evidence about existing and foreseeable social states that he remains one of the crucial guides of modern life and *the* crucial theorist of educated liberty.

Mill's System

Mill's understanding of citizens' mental power stands in contrast to the desire to simplify social and political power found in his two key interlocutors, Jeremy Bentham and Auguste Comte.[30] Mill wholly rejects Bentham's love of "systematic unity."[31] The problem with the search for unity is that one misses the interaction among principles when trying to create a system.[32] Mill similarly remarks of Comte that Comte never even considers asking, "why this universal systematizing, systematizing, systematizing?"[33] Mill finds support for his own approach in a variety of sources, from whom he learns the crucial importance of the clash of adverse principles. They include François Guizot's theory that liberty requires "systematic antagonism" between the following sources of power: (1) "the general power of knowledge and cultivated intelligence"; (2) "the power of . . . religious teachers"; (3) "the power of military skill and discipline"; (4) "the power of wealth"; and (5) the power of the majority ("numbers").[34] All these sources of power except the military are discussed at length below. (Mill perhaps mistakenly represents military power as preindustrial and less relevant to mental independence than other powers.) Tocqueville's writings on democratic tyranny bring Mill to see that a "new kind of liberal" is needed for the nineteenth century.[35] The influence of Mill's wife, Harriet Hardy Taylor Mill, is also crucial in evaluating what must be considered a shared project of individualistic cultivation. Finally, the above-mentioned Germano-Coleridgian school offers an empirically informed philosophy of history that seeks to explain actual institutions and practices rather than deducing institutions from principles of human nature.

Mill's refusal to write philosophical systems does not mean that political philosophy is not radical, or that Mill merely anticipates future thinkers who more carefully and rigorously systematize a liberal political theory. As Mill writes in one of his most important statements on his philosophical maturation in the *Autobiography*, he adumbrates "no system"

and instead works from "a conviction, that the true system was something much more complex and many sided than I had hitherto had any idea of, and that its office was to supply, not a set of model institutions, but principles from which the institutions suitable to any given circumstances might be deduced."[36]

Mill does not immediately make it clear whether his refusal to systematize connotes cautious practicality, or whether he intends to address root problems more radically than any existing system would allow, but there is evidence that he is a radical thinker in two ways. First, he thinks that all existing systems are one-sided and in need of reform. Second, he is hyperaware that theorists are the source of one-sidedness. Mill opposes the thoughtless feeling that creates the "all but universal illusion" that one's own opinion is the foundation of any possible future consensus.[37] Putting together this criticism of intellectual self-love with a criticism of the systems it creates, one is better able to make philosophy "worldly" rather than simplistic, by seeing the world as it is.[38] Although Karl Marx and Mill are very different thinkers, both counsel their reader (in Mill's words) to "take formulas for what they were worth, and to look into the world itself for the philosophy of it."[39]

Thus, Mill comes into the world not primarily as an apostle (although he uses that term) of an absolute truth but as a "mediator" of competing opinions about the good society.[40] An unsystematic political philosopher may arrive at radical social and political explanations not by attempting to deduce theorems from a single principle, or even by nesting secondary principles under the umbrella of utility, but through highly contextual, granular analysis of existing persons and institutions, where the ultimate aim is to advance the aggregate of human happiness. Thus, Mill's method is also Socratic: fools know only "their own side of the question," whereas Socrates knows both sides.[41] Finally, Mill's method has "principles" in the plural and is not merely a system of one absolute and ultimate principle. "The real character of any man's ethical system," Mill writes in a crucial passage of an 1833 review, "depends not on his first and fundamental principle, which is of necessity so general as to be rarely susceptible of an immediate application to practice; but upon the nature of those secondary and intermediate maxims, *vera illa et media axiomata*, in which, as Bacon observes, real wisdom resides."[42] Having a full set of primary and secondary principles vastly increases the power of thinking.

Thinking Power and Education

The basic insight shaping Mill's view of liberal education is that thinking is not a spontaneous process but a power needing guidance. Thinking

requires training, which is to say that liberty, to be enjoyed, requires educational intervention. Millian education requires intervention in someone's affairs against their will, but for their own good, prior to their coming of the age of majority. The power of society to do so is "absolute," Mill says, simply passing over the need for checks on misguided educative projects.[43] But, of course, checks are needed, as Mill knows from direct personal experience with Utilitarian pedagogy.[44] By way of summary, one can say that Mill subscribes to the educational guidance of Bacon, the logician, and Socrates, the dialectician. Like Socrates, Mill rejects what Bacon calls the *intellectus sibi permissus*, or the uncritical "vague generalities" and "popular phraseology" of the person who has not analyzed their own patterns of thinking. We typically call such a person uneducated, but Mill's point is precisely that they are thoroughly, but badly educated.[45] The rejection of the unimproved, "natural" state of the human mind is also absolutely foundational for Mill, and his contempt for the unimproved and uneducated extends from individual persons to entire political and social states. An unimproved and uneducated sociopolitical state is, to repeat the point, not Millian liberty. Once one holds Mill's view, there are no spontaneous, savage, authentic, or uneducated examples of the exercise of activity and character that are not based on "reckless abandonment to brute instincts."[46]

Mill's embrace of a heavily qualified principle of paternalism permits education and training during nonage, and includes the compulsory education of children, marital laws attempting to restrict childbirth, pressure to reduce family size, and inheritance laws restricting the unearned wealth that can be bequeathed or gifted to children. These restrictions are intended to transform the socioeconomic playing field, so that each child has a fair opportunity to be recognized for his or her contributions and to become a citizen, living under laws as an equal to others.[47]

If this sounds like outright paternalism, it is not. Mill's normative theory of individuality has as a central commitment the idea that liberty is an inviolable sphere wherein individuals have the mental "power to form opinions of their own." In Mill's usual terminology, this sphere is one of "power over. . .character" and the "power of self-formation."[48] This image of a sphere of absolute liberty is confusing unless it is understood to refer to mental power. Mill uses the image of a sphere to illustrate his point about the centrality of individual liberty in a well-functioning democracy. He calls it "absolute" in *On Liberty*.[49] If we imagine an impermeable bubble in which individuals live protected from others, Mill's emphases on compression and education and opinion make no sense. Liberty not only permits but also requires contact and activity within the sphere. Since power over one's own character cannot be exerted in the complete absence of regard for "external" conditions, these too become relevant when theorists analyze the circumstances in which education occurs. What Mill means is

that the sphere is absolute as regards mental power, meaning that no trade-off in comfort or material ease justifies diminishing the mental power of the mature individual.

Although there are many ways to describe Mill's method, in the simplest terms that remain useful, liberty is analyzed into three zones: an inward domain of conscience, thought, and feeling, and a "practically inseparable" domain of free expression; an outward domain of application of one's tastes and plans; and an outward domain of association with others.[50] Freethinking (zone 1) begins with the exercise of the "power of analysis," which is an "essential condition both of individual and of social improvement." Mill's insistence upon this point of departure is the clearest indication that his theory never becomes romantic and antirationalist.[51] As Mill says in his criticism of Bentham, "Nobody's synthesis can be more complete than his analysis," and the first stage of identifying the component parts is crucial.[52]

There are many potential problems in the zone of freethinking. Philosophical analysis itself can become a habit (the "power and habit of analysis" in the "Early Draft"), with either liberating or enslaving results. Mill wants liberal citizens to get in the habit of analyzing statements and parsing arguments, but he complains in his commentary on his own education that the habit of analysis may destroy a thinker's sound practical orientation.[53] To avoid this end, it is crucial to analyze human behavior as it is observed, and not to reduce it to a simple principle.

Empirically speaking, not everyone may be capable of the same power of analysis, or, at least, analysis may come more or less easily to different persons. Innate differences in mental powers may have important political consequences, and, in some individuals and in some societies, these differences may lead to less independence and less completeness of thinking than Mill hopes for.[54] This is a further justification for instruction and education, with all the risks that come with trying to make children into the type of citizens that they cannot easily become (zone 2). As opposed to the French and English radical egalitarians for whom complete natural mental equality was axiomatic, Mill does not expect that mental differences will disappear any time soon; but Mill, like these thinkers, believes that in principle "education and cultivation" can be made "the inheritance of every person in the nation," although doing so will be "very difficult" and the process will be "slow."[55] This battle over public instruction, science, and the church is discussed below in chapters 3 and 5. Suffice it to say here that reasonable, public instruction is in theory open to all.[56]

As with analysis, even the educative power to persuade others (zone 3) can become, in the liminal case, a "power of compression" or a "noxious power" overtaking and suborning self-direction.[57] No mode of education, no matter how good in theory, is absolutely good in practice.[58] To avoid illiberalism, education cannot be wielded as an obedience-inducing "social power" over

mature adults, or even as an educative power to "principle" persons in the right way of living. This, of all Mill's lessons, is the crucial one. Mill learned it from reading John Locke. "It is the grossest abuse of the powers of an instructor," Mill writes, "to employ them in principling a pupil, (as Locke calls it in his *Essay on the Conduct of the Understanding*,) a process which tends to nothing but enslaving and (by necessary consequence) paralyzing the human mind."[59] As Mill theorizes it, civic education is a power *of* minds that cannot safely become either a power *over* minds or a power in society. Unfortunately, political discourse often consists of just this sort of rote learning and partisan thinking "by deputy."[60] Whatever Mill teaches about democratic citizenship, and however we learn those lessons, his primary commitment is a refusal to make the noun, "principle," into a verb, "to principle," and a refusal to subject adults to "principling," as if they were passive objects of education. The native intellect is naive, but the mechanically principled intellect is worse off: unintellectual, thoughtless, and disempowered.

In sum, direct social and political power over others is undesirable and unjustifiable, and permitting others to extent their social power over you is equally undesirable. However, mental and thinking power is desirable and even necessary to cultivate, both as a social duty to others and as a duty to oneself. As Mill writes, the "power of coercion and compulsion" over others is a snare, whereas the power of "moral and intellectual influence" is always desirable when wielded educatively.[61]

As described, Mill's method makes sense of the greatest puzzle in Millian liberalism, which is that his liberty requires a thorough and if need be severely repressive education. The acknowledgment of the need of repression and compression is most obviously signposted in *The Subjection of Women*, and this text has led some critics to claim that Mill is not a liberal, or that he is more a civic republican than a liberal.[62] "It is wholesomer for the moral nature to be restrained," Mill bluntly writes, thinking about the power of men to dominate women, "even by arbitrary power, than to be allowed to exercise arbitrary power without restraint."[63] Is this still a liberal doctrine? The answer is affirmative. It is so because Mill's preferred form of restraint is not equivalent to "social control." Compression is an acceptable tool insofar as it *develops* active character and mental independence.[64] Although passages in Mill can be found that read paternalistically, or that argue for reducing the aggregate amount of arbitrary power, even if the exercise of arbitrary power is required to do so, the commonsense reading of Mill is that educative liberty is an alternative to dependency-producing abuse of power, and that a liberal society restrains individuals by retraining them.

Because it is educative, liberty ought to be rescued from its interpretation as simply negative or positive and receive the definition it deserves. It is the development of the "human faculties of perception, judgment, discriminative feeling, mental activity and even moral preference" under

our own partial agency.[65] Ironically, "severe compression and repression" are needed to challenge the ubiquitous Idols of the Tribe, Cave, and Market-Place, freedom from which is crucial to the art of judgment.[66] With the clarity of hindsight in the years following his mental crisis, Mill also argues that the great educational task of "training the mind itself" requires self-direction.[67]

In a practical register, the dual commitment to liberal self-direction and to mental training is the one that binds Mill to his particular sort of interventionist liberalism; to feminism and civic participation within equal societies; and to administrative despotism for unequal, custom-bound societies; to an "Akbar or a Charlemagne" for British India, where a unique caste system makes liberty impossible, and to a "stout Despotism" for Ireland, which requires deep land tenure reforms to break the spell of economic aristocracy and prepare the way for democratic self-rule. As I argue elsewhere, Mill is likely more wrong than right about the character and needs of Ireland, India, and other preliberal states.[68] He provides little evidence that canceling local or "native" agency is the most effective means to achieve educated liberty. But when he errs, he does so with his own principles in mind, rather than through chauvinism or racism, and through avoidable errors of overgeneralization and systematization, rather than by reaching the wrong judgment after observation and practice.

In one of his more important but overlooked statements on practical methodology, Mill describes the domain of political science as the "slippery intermediate region" between "ultimate ends" and the "practically attainable."[69] Somewhat unusually, Mill thinks that certainty lies in the extremes of abstract principles or applied practices, but that real thinking requires the risk-taking and uncertainty that comes from always-incomplete and partial applications of principles in the intermediate region. As an illustration of his view, he writes in a newspaper article on French politics that "principles of government are not laws of eternal nature, but maxims of human prudence, fluctuating as the mind of man and the exigencies of society. A truth in politics which is no longer suited to the state of civilization and the tendencies of the human mind, has ceased to be a truth."[70] This slippery region is the territory of political science, according to Mill, and the five substantive chapters of this book present Mill's synthesis, falling, as it always does, in the slippery region between abstract first principles, such as utility or equality, and mere practices (laws, customs, patterns of behavior).

Summary of This Book's Chapters

Mill's emphasis on mental culture as the leading feature of stability and progress in late modern society explains what should otherwise be

considered bizarre oversights and overemphases in his applied ethology, such as his justification of ancient slavery, his embrace of plural balloting, his refusal to extend political justice fully into the domain of the household, and his embrace of Comte's religion of humanity. It also explains why one-eyed teachers whom one might not want to *be*, such as Thomas Carlyle and Auguste Comte, are considered by Mill to be progressive instructors despite their narrow and sometimes ill-considered views.

The first two chapters of this book examine gender relations and economic cooperation, that is, liberty and equality in the household and in the economy. As Mill remarks in a private letter, "The emancipation of women, & cooperative production, are, I fully believe, the two great changes that will regenerate society."[71] To speak with perhaps unnecessary crudeness, reforms in the production of children and in the production of goods are the foundation for well-educated liberty. In keeping with the liberty principle, the reforms Mill seeks are not accomplished through coercive laws or direct civic education by the state. Instead, and consistent with the "doctrine of circumstances" that he explains in the *System of Logic* and *Autobiography*, Mill thinks that changing the circumstances in which men and women associate together, and in which laborers and owners/managers work together, will result in spontaneous changes in society and politics.

In chapter 1, I argue that Mill is one of the earliest and most important liberals to reject marital inequality and to theorize the basic marital equality that is at the core of his well-educated liberty. In some sense, Mill's feminism is not surprising, in that it is only for extrinsic reasons that other philosophical radicals concerned with the abuse of power did not see the inconsistency in denying legal equality to men and women. Mill is aware of the incoherence of British practice and seeks the immediate release of women (and men) from the imposition of a gendered legal hierarchy. As usual, Mill does not give his reader one principle to apply, and he instead suggests that an ideal of marital friendship provides an influential way of thinking about how to experience marital equality. He provides an open-ended exploration of the household division of labor and the type of mutual respect (inspired by classical conceptions of friendship) that makes mutual enjoyment of married life more likely. Marital friendship is thus Mill's way of preserving intimacy while reorganizing the family to limit its size and to limit gendered hierarchy within the household, both of which changes are crucial in the advancement of a happy society.

Chapter 2 explores Mill's preference for a cooperative economic order over a narrowly laissez-faire system of economic liberty. Promising to square the circle of liberty and association, a Millian economy combines "the freedom and independence of the individual, with the moral, intellectual, and economical advantages of aggregate production."[72] Capitalist economic association can easily slide into industrial oligarchy; Mill argues

that cooperatively organized associations between capitalists and workers *may* be a way to interrupt the patterns of domination that emerge from the unregulated industrial division of labor. Whether the cooperative principle succeeds or not is an empirical question, and Mill encourages experimentation in cooperative organization. These experiments may or may not prove attractive to workers, given the costs and risks associated with economic self-direction. After all, economic self-management requires prudence and a tolerance for risk, and may lead to short-term decreases in wages. Although he does not have a clear answer to the empirical questions surrounding cooperation, Mill embraces competition and voluntary cooperative organization, largely unaided by the state. He predicts that production will continue to change in ways that benefit the moral and intellectual qualities of workers, and, looking beyond productivity, that the advancement of workers' moral and intellectual capacity should become the focus of a future economically stationary state. Mill's argument for cooperation within competition is often derided as a compromise that no one would choose, but his economic writings remain an important and defensible element of his theory of education.

In the new progressive scholarship on Mill's liberal Utilitarianism, it often seems as if we will achieve the ends of Mill's reform project if and when population is restrained, feminism is embraced, and cooperative production is made possible. Although the reform of the family may be the most radical change that Mill theorizes, in an early letter he argues that liberalism is not simply about ending conquest (the dominion of man over man), or managing production (the dominion of man over nature).[73] Beyond his radical plans for the liberty of the family and the liberty of workers and capitalists, Mill's vision of genuine popular power and a better version of the democratic principle is advanced in writings on the political power of a new class of experts ("Auguste Comte and Positivism"), the political power of politicians and participatory majorities (*Considerations on Representative Government*), and the educative effects of civil religion (*Three Essays on Religion*). Chapters 3 through 5 confront the charges that Mill defends expertocracy, elitism, and an exclusively secular humanism, and show instead that his theories of scientific association, representative government, and civil religion are driven by a concern for educative liberalism.

Chapter 3 turns from owners and workers to social scientific experts, invested with "spiritual power" over an intellectually unproductive mass society. I argue that Mill's flirtation with scientific sociology threatens to derail his democracy of diversity, experimentation, and character development. However, in Mill's theory, social science is not opposed to liberty, and, as is often the case with his development, his liaison with antidemocratic defenders of expertise contributes to his development of a clearer conception of liberty. Mill's key interlocutor is Auguste Comte, who

advocates a "clerisy" of positive social scientists who are to end a divisive period of revolutionary political change by organizing European society from behind a screen of wealthy industrialists. In two long and important reviews of Comte's writings, and in an important epistolary correspondence, Mill analyzes Comte's scientism as a competing theory of illiberal education. In the shadow of Comte's devotion to intellectual orderliness, and then in the light of his own mature method, Mill develops and shapes his own contrasting liberal approach to education and experimentation.

In chapter 4, I examine Mill's theory of political representation. The main point of contention in Mill's writings on representation is his purported elitism. Mill is often thought to favor the prudence/competence of the few over the participatory equality of the many. Mill's main interest is in combining (by exactly balancing) expert political knowledge, which is often underrepresented in democracies, and popular sovereignty. The means Mill employs is a theory of voting that tries to square the circle of participatory liberty and inclusive equality. Everyone has a right to vote, a duty to vote, and a further duty to vote well, according to Mill, subject to the following additional constraints: voters should vote publicly, and proportional representation should be preferred over a first-past-the-post system. Mill also defends weighted voting in order to ensure the equal representation of the instructed.

With education in mind, it becomes easier to understand Mill's view that cognitive diversity is so important to an educated polity that "affirmative action" for intellectual elites may be required in order for a democracy to remain liberal. Mill's practical suggestions about democracy's future shape in America and Britain may be tin-eared, given that democratic legitimacy requires equality, but his emphasis on the usefulness of hearing diverse voices helps to explain how "open" regimes such as the United States have managed to avoid an intellectually stationary state.

Chapter 5 examines democracy's religious future. The central question in Mill's religious writings is whether consensus about the "utility of religion" cancels and replaces revealed religious truths. To the surprise of fellow liberals, Mill argues that there is a permanent place for religion in liberal democracy. Revealed religion helps to organize society; however, Mill thinks that nineteenth-century Christianity is not the best tool to be used in pursuit of civic education. Mill considers theological voluntarism (the belief that something is good because God wills it) to be a particularly illiberal dogma, and his theory offers two alternatives. The religion of humanity that Mill advocates is compatible with some forms of theism, namely with the view that God is benevolent but not all-powerful, but incompatible with obedience to an omnipotent God. Mill therefore imagines a rich future for theism, but one that is importantly constrained by the demands of religious reasonableness. However, Mill is strikingly resistant

to the suppression of new or old religions by force or by law, even in cases where religions appear to offer bad educations.

In evaluating liberalism by its compatibility with the conditions needed to achieve its aim of mental independence and educated liberty, this book provides a novel interpretation of a responsible and educated majority's freedom. This book accepts that democratic majoritarianism will remain an important and perhaps a leading feature of modern regimes. The route toward an improved liberal democracy is clearly not through practicing bare eccentricity and nonconformism, which, as Mill emphasizes, is the *mere liberalism* of the individual *sibi permissus*. Instead, citizenship in any civilized country requires a system of education, and Mill continually emphasizes that the "one main and incessant ingredient" of any educational system is "restraining discipline."[74] Mill recognizes that education requires retraining and restraining adults, but he avoids advocating oppressive social control and seeks only to provide the *conditions* of independence.

To tie the themes of this introduction together, the proper domain to theorize about the conditions of educative liberty is not the arid world of abstract principle or mere policies, laws, and habits, but a combination of theory and practice. Mill calls this the "uncertain and slippery intermediate region" between first principles and everyday policies and practices.

Chapter One

The Aristocracy of Sex

What sort of education does a society need in the area of relations between men and women? One might argue, as Tocqueville does in describing the American household, that democracy's liberty is predicated on the traditional household. For women, this involves a dark compromise: the freedom of American society is advanced by relying on women to live cramped and other-directed lives, in spite of the fact that women's liberty is enlivened by educations that permit them to see beyond the artificial and perhaps unnecessary walls of nineteenth-century society.

For Mill, women's education as presently constituted is an example of a performative contradiction in plain sight, where the "masters of women" turn the "whole force of education" toward rendering women submissive.[1] Mill's own solution is legalistic and, on the surface, conservative. Change the laws of marriage, he proposes, and you change the relations between men and women, and between a woman and her children, and perhaps (this is discussed at length below) the relation between women and their work. For this contribution, Mill is said to be the founder of first-wave feminism. But Mill's claim that he only seeks to deal with the juridical problem of gender inequality under law is intentionally misleading. Buried under the topsoil of his narrow concern about the legal status of women are a number of concerns about identity formation that make up the bedrock of second- and third-wave feminism. The reader does not have to dig too far to find them, and the radical education that Mill promotes in texts such as *The Subjection of Women* forms a crucial part of his broader theory of educated liberty.

Custom, or the degree of Mill's contempt for the traditionally constituted household, presents the key question here. Just how much of a threat to a just and well-constituted liberal regime is the power of the male head of household, and how much must the traditional patterns of hierarchy in the household change to liberalize civic education? In the interpretation

offered below, Mill does not argue for (or against) radical changes in the composition of the nuclear family or for a wholesale rejection of the traditional household. Instead, he argues for changes in the arbitrary patterns of authority that prevail in the household. His aim is to influence the next generation of citizens by providing a more adequate education in meritocratic equality, and a more enjoyable liberty for married women and men.

The historical explanation of gendered hierarchies is that superior physical strength was understood to license the domination of the weak, including women. This justification is sustained in the medieval "morality of chivalry," and in Mill's time the voluntary restraint of men in dealing with the weak is valorized, and men are encouraged to protect, not victimize, women. The morality of justice replaces both force of arms and voluntary restraint as the guiding principle of relations between the sexes.

Now that (for Mill) it is widely accepted that the use of force against others is never justified, the voluntary restraint of more physically powerful men must be seen not as a choice but as a duty.[2] Moreover, the new morality does not merely release women from physical subjection; it advances the education of men, women, and children by criticizing subjection (willing subordination to others) *and* subjugation (involuntary subordination to others). As Mill and Harriet Taylor write in a coattributed paper that illuminates the main theme of this book, "All persons, men and women, in the present age, are entitled to mental independence."[3]

As I argue below, liberalism as mental independence requires more than mere legal equality. Individuals must be free to form their own character, and couples must be free to form their own projects, independent of the governing "social power." As Mill writes about gendered relations, "The earliest state of human relations is all liberty on one side, all obligation on the other: the next step is into reciprocity of obligation, but it does not therefore follow that the final step may not be into equality of freedom; and this is the final destiny of the institution of marriage."[4] Equal freedom requires couples to be free to allocate their resources and form their partnership in a way that suits their particular capacities and aims.

Theorizing the Family

Mill is an important theorist of the family for two reasons. First, he anticipates the absolutely crucial turn in contemporary liberalism toward the family, household, and marriage.[5] This turn began somewhat before Mill wrote—in, for example, Mary Wollstonecraft's *Vindication of the Rights of Women*. The new turn is perhaps most evident in the writings of English and French utopian socialists and communitarian authors.[6] This theme is so important for Mill that he calls family power relations "more important

than all others taken together."[7] Second, as with all of the other social and political institutions described in this book, Mill does not offer a model of marriage in which one can thoughtlessly participate. Once liberal society has rejected coverture (the investment of a woman's legal personality in that of her male spouse, who "covers" her with legal protection) and the "sentimental family," Mill, inspired by a vision of marriage as a meeting of minds between friends, theorizes what is commonly called companionate marriage. However, Mill realistically rejects the idea that one model of marriage suits all men and women. He thus accepts that the educative aspects of marrying for the special form of equality connected with friendship are limited by the liberty principle, or, to put it differently, he thinks that the freedom to choose and to live by the contours of one's own marriage is crucial for mental independence.

For example, when Mill writes of the liberty to assign marital roles in *The Subjection of Women*, he argues that "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."[8] He goes even further by arguing that in some intimate choices, even advice is overly intrusive. In the choice between the rhythm method and artificial contraception, for example, Mill writes, "My opinion is that the morality of the matter lies wholly between married people themselves."[9] Because he thinks that people should work out the balance between liberty and equality for themselves, *The Subjection of Women* does not dwell on particular marital laws. Instead, it is a teaching text on the importance of the respect between men and women as equal partners in marriage, even or especially when their practices, roles, and wishes differ. Marriage is always rooted in the particular, and, as in the case of other institutions Mill describes, a theory of marriage is pragmatic. Thus, Mill writes that the division of labor internal to a household "neither can nor should be pre-established by the law, since it must depend on individual capacities and suitabilities."[10]

As I understand Mill, he is not arguing that there should be no power in families, or even that we should try to do away with inequalities of power. It is proper for parents to have power over children, and for parents to "command" their children's obedience.[11] What must be avoided is the assumption that one parent has by nature or convention power over the other; and, as always, the power to advise and improve is acceptable; the power to command and to correct other adults is undesirable and unnecessary.

Thinkers and Theories Prior to Mill

Much has been written on the rhetorical intent of *The Subjection of Women*. Scholars ask, for example, why it is not as radical as it could be on some

issues, and why it is radical on other issues.[12] This is a crucial type of question, as Mill himself recognizes in another context: "Why go so far; and, since you go so far, why not go farther?"[13] One reason is that Mill's book does not dignify the view opposed to his own with a full response. In fact, *The Subjection of Women* is almost devoid of engagement with patriarchal legislation and with the most recent antipatriarchal laws of the age of reform. For example, Mill points to only two legal reforms affecting marriage, and these only in the footnotes of *The Subjection of Women.*[14] He also skips arguments (especially for a right to divorce) that one would expect to find in the body of that work.[15] Why focus on voice to the exclusion of exit rights? The reason for these oversights is likely that he is practicing a sensible rhetorical restraint. Mill does not want to yoke the question of women's liberty to a potentially fruitless argument for the complete dissolubility of marriage, for fear that he would lose the war if he lost the battle over divorce. As Mill himself admits in a letter, he "thought it best not to discuss the questions about marriage & divorce along with that of the equality of women," in part because he does not want to associate gender equality with divorce, and in part because the question of divorce should be left until women have the power to vote on it, and until the experiment with marital equality has generated enough data points for women to decide whether complete freedom to divorce is useful to their liberty.[16]

There are related reasons for Mill's silence about recent reforms under the law; for one, he is trying to persuade an audience of men and must therefore exhibit caution in what he says to them about divorce and equality. Mill also might have passed over recent legal reforms in order to *deepen* the rhetorical contrast between unreconstructed coverture laws and the morality of justice. (After all, recent progressive changes in marital law weaken his picture of the despotic household.) Although these reasons are persuasive, Mill's uncertainty about the utility of divorce should be noted, and it should be remembered that the conditions for the proper evaluation of divorce were very slow in developing.[17]

A threshold problem in evaluating Mill's claims about the family and marriage is that analysis of marriage and the household are shockingly missing from English political theory. Canonical thinkers of the English Enlightenment, such as John Locke, do raise the question of power in the household while dissolving a false analogy between paternal and political power.[18] In doing so, for example, Locke argues that the paternal power is fundamentally an educative duty by which the father is obliged to support and educate his children during the "weakness and imperfection of their Nonage." After the nonage of the children, the paternal power is completely void. The male spouse enjoys the power of moderate correction of his wife and authority over her within the domestic sphere, but this paternal power is said to be "very limited." It does not reach a wife's "Life or Property."[19]

Other philosophical thinkers who wrote about English marriage were not much more helpful. David Hume rather loosely remarks that "married people in particular mutually lose their property"; however, in practice, only married women lost legal title to their property.[20] Adam Smith hardly talks about the relations of men and women.[21] In Bentham's writings, sexual and familial relations are relatively unexplored, according to Mill.[22] However, Jeremy Bentham was an early feminist, as Mill himself notes, and published on the rights of women a decade prior to Mary Wollstonecraft's *Vindication of the Rights of Women*. He rejected the legal subordination of women as early as 1759.[23]

It is quite possible that when Mill wrote dismissively of Bentham on the family, he was using Bentham as a stalking horse to criticize his own father's views on women. For James Mill, males are the "natural Representatives of the whole population." As the elder Mill famously elaborates, "the interest of almost all" women is "involved either in that of their fathers or in that of their husbands."[24] In a famous line from the Early Draft of the *Autobiography* that was dropped from the final, published *Autobiography*, J. S. Mill claims that in James Mill's large body of writings, the paragraph defending the disenfranchisement of women was "the worst in point of tendency he ever wrote."[25] But whether Mill was fair to Bentham and to his father or not, he observes of his time that one half of the population remains dominated in an "aristocracy of sex." The United States, the leading democracy of his day, still relied on aristocracies of race and sex.[26]

Mill does not unpack the implications of these criticisms of social power for British and American democracy, but they are of paramount importance. If there is a deep-seated and unjust gender hierarchy that parallels the unjust socioeconomic hierarchy that prohibits the liberty principle from functioning in countries such as Ireland and India, it follows that Britain and the United States are also incapable of self-government in Mill's day. To admit this would be to retard the cause of progress rather than to advance it, but this appears to be the major sociological implication of *The Subjection of Women*.

Mill's criticism of the traditional family is not conceptually innovative but rather an outgrowth of the liberal tradition's concern for irresponsible power. In hindsight, the absolute power granted to men is an error of application. In his review of Samuel Bailey's 1835 philosophical radical book, *The Rationale of Political Representation*, Mill quotes Bailey's sharp criticism of married women's property laws and especially the relations of power holding between married men and women. As Bailey correctly observes, "one of the fundamental maxims on which representative government is founded is, that irresponsible power will be abused."[27] To extend the radical criticism of arbitrary power to its proper compass, Mill includes the absolute power wielded by men within the existing family as a "school of

despotism," and he tries to render British political theory more self-consistent by theorizing the family as a "school of the virtues of freedom."[28]

During the nineteenth century, the world that was made by coverture laws was being replaced in America, beginning with New York State's Married Women's Property Act of 1848 and the public moralizing of Elizabeth Cady Stanton and Susan B. Anthony.[29] This change was not driven by judges. Traditionally, American law courts had refused the invitation to "go behind the curtain" concealing actions in the household from state intervention.[30] Mill recognizes and rejects this type of noninterventionism when he complains in *On Liberty* that the law seems to think that children are "literally, and not metaphorically," a part of a man and subject only to his control.[31] He rejects the same tutelary power over married women.

During this period, arguments from traditional sources of authority—jurists' interpretations of the common law, the arguments of theologians, and the invocation of nature and custom as moral standards in public discussion—were in flux. If I may simplify, theologians addressed questions of who could and could not marry. The common law addressed questions about what rights, duties, and privileges married spouses would enjoy—usually in favor of the male head of household. "Why" questions were addressed by appeals to nature and custom. These multiple sources, influencing the practices of marriage for differing and sometimes contradictory ends, produced the thick but incoherent social institution that Mill's writings aim to liberalize.

Legal Domination and Marital Justice

In Mill's modern world, "aristocracies of colour, race, and sex" are collapsing.[32] Insofar as the *undeserved* privilege of one human being over another is diminishing, Mill holds out the hope that morality is progressing, and he emphasizes the end of legal disabilities, occupational liberty and the freeing of women's "power of earning," divorce (with the aforementioned qualification), and female suffrage.[33] In one essay, Mill claims that he disapproves of the "whole character of the marriage relation as constituted by law"; he reserves his most powerful criticism for coverture laws.[34] In Blackstone's characterization, coverture means that "the husband and wife are one person in law"; thus, "the very being or legal existence of the woman is suspended during the marriage, or at least is incorporated and consolidated into that of the husband; under whose wing, protection, and *cover*, she performs every thing."[35]

For the most part, a wife performs her functions as her husband's subordinate, a fact that is inconsistent with the idea of the *union* of man and woman in marriage. As one nineteenth-century text describes the

institution, coverture "involves two ideas: (a) on the one hand, the husband's supremacy; (b) on the other, the wife's subjugation, –both creating what are called her disabilities."[36] "Legislation," in the condemnatory words of yet another mid-nineteenth-century writer, "has been less kind than society" in the disposition of women's rights. Since a woman could not sue her husband, she was not protected from abuse. Prior to the 1870 Married Women's Property Act, the common law largely disabled married women's property rights, an asymmetry that Mill rejects as conceptually incoherent.[37] Custody of children in all cases of divorce was granted to the husband and his family.[38] Marriage is supposed to join property and legal personality, and yet, as Mill wryly observes, "what is yours is mine but what is mine is not yours."[39] Mill's comment is a send-up of coverture as Blackstone famously defends it, since, for Blacksone, "even the disabilities, which the wife lies under, are for the most part intended for her protection and benefit: so great a favourite is the female sex of the laws of England."[40]

Although the basic story of English marital law is one of asymmetry in power passing under the name of unity, usually to the detriment of married women, the average case is neither complete "union" nor "disunion" but instead a mixture.[41] Some legal asymmetries actually work in a married woman's favor. For example, a husband became liable for all of a woman's debts, concealed or announced, as long as coverture lasted (i.e., while she lived and the marriage remained intact).[42] But the advantage a woman might gain in one or two areas of marital law does not justify the deficits, and it does not make it right that an adult woman is arbitrarily divested of her property, or of property jointly possessed with her husband. Shockingly, a husband is free to bequeath his wife's personal property under the color of bequeathing their common property, even to his own illegitimate children.[43] The female spouse's access to and control over common property exists only as long as the wife acts as her husband's agent when he is otherwise occupied. Her expenditures are honored when husband and wife live together, on the presumption that he approves them, but he can challenge her authority. Thus, he *delegates* power to her, and her purchasing decisions temporarily stand for his decisions. To interpret marriage in this way is to make the *feme covert* a lower status than a *feme sole*.

There are demoralizing but instructive nineteenth century accounts of the dependence- and vulnerability-inducing effects of economic disabilities on women's economic liberty. One memorable account, detailed in a letter written to a "member of the Legislature," describes a woman who works to support her husband, an out-of-work printer, by making straw hats. Her business thrives through her industry, whereas her husband uses up the profits in music, writing, and swimming lessons; and for a French master and a riding master. She, meanwhile, is unable to divorce her dissolute husband, who eventually absents himself "for four

or five months together, returning only in the daytime to take the proceeds of the business."[44] The inevitable end of the charade occurs when the husband returns to claim various paper wealth (stocks, titles) that she had tried to keep from him while he supported another woman with her money. He returns on a Friday, convinces her to hand them over, and is gone Sunday, leaving her to rely on neighbors' charity in the absence of any legal recourse to her own property.

To these legal disabilities and inequalities other disabilities concerning contract also pertained. Since a husband could not legally contract with his wife (that is, with himself), she could not legally protect her property against her husband, even in cases of settlements (prenuptials), without relying on male trustees to intervene on her behalf. Even in those cases, the husband could simply flee abroad with his wife's money in order to avoid the legal actions of the trustees. Relief could be had through the equity courts, but that direction was not available to the poor. In any event, equity is supposed to follow the law, not to overturn it. Moreover, the wife's disabilities permitted lawyers as well as trustees to attain undeserved power over her—ironically, as protectors of her own property.[45]

Social power was also unequally distributed under the law. It was possible for husbands to prosecute those taking an interest in their wives for "criminal conversation," which implied damage to the husband's honor. A wife was not permitted to give evidence for the defense; as one would expect, the consequence of even an unsuccessful prosecution was the destruction of a woman's character.[46] The author of the pamphlet on divorce law, Caroline Norton, was involved in such a suit, brought by her husband George Norton against England's prime minister, Lord Melbourne. Melbourne was acquitted. Caroline Norton's reputation was ruined.

The point of reciting this litany of disproportions between the rights and powers of men and those of women is to show the deep inconsistency between the English dogmas of individual security and property rights and actual practice. If, as seems likely, the protection of individual property rights is one of the most important mainstays of the liberal tradition from John Locke to Adam Smith to J. S. Mill, the inconsistency is noteworthy. Both with respect to property and to extensions of property such as reputation, a married man is arbitrarily given a different weight than a married woman.[47]

What is true about abuses of property rights under coverture laws is also true of the absence of adequate protections of the persons of women. Exit rights (e.g., divorce) did not exist prior to the 1857 Matrimonial Causes Act. Prior to the act, a marriage could be dissolved only by the "clumsy" expedient of a private bill.[48] For males, this was very difficult and expensive to obtain, and required prior success in an ecclesiastical court that had found a separation from table and bed (separation *a mensa et thoro*) and a verdict at law against the adulterer who had ruined the marriage.[49] As for a

wife seeking divorce, she simply could not obtain a private bill except when a husband's adultery was of a particularly socially unacceptable (incestuous or bigamous) type.[50] What this implies is that the harm of adultery that is done to the wife—or the harm of physical violence, for that matter—is not sufficient to dissolve a marriage unless the adulterous harm violates some independent social norm, as for example the scriptural prohibition of incest. It seems, then, that Blackstone is wrong: the married woman is not a favorite of the law, and the laws do not intend or advance her protection and benefit.

As the jurist Friedrich Savigny wrote in the 1830s, marriage belongs half to law and half to custom. "If, at any time," Savigny elaborates, "a decided and commendable tendency be distinguished in the public mind, this may be *preserved*, and confirmed, but it cannot be *produced* by legislation."[51] This is, at most, half right. Changes in legal status can in turn motivate changes in public opinion that affect laws and their execution. As Mill correctly observes, laws "convert what was a mere physical fact into a legal right, [and] give it the sanction of society." *Mutatis mutandis*, declaring something prohibited by law can withdraw a social sanction. Applying this general insight to marriage, Mill argues that "the legal subordination of one sex to another is wrong in itself, and now one of the chief hindrances to human improvement."[52]

With due credit to the utopian socialists and to Mary Wollstonecraft, Mill is one of the first political theorists to lift justice's blindfold in order to examine the economic, political, legal, and social status of unmarried and especially married women. Mill finds a massive inconsistency in the function of the social unit that liberal society relies on to train and educate citizens. For this criticism of legalized gender inequality, Mill is correctly characterized as the founder of first-wave feminism.[53]

Marriage Beyond Law

Although the institution of marriage can be destroyed by bad laws, marriage is not only or primarily a legal contract, as philosophers have recognized. Even John Locke, in his very contractarian conception of marriage, recognizes the place that must be given to mutual care and affection in marriage. In his "Second Treatise on Government," Locke writes that conjugal society "is made by a voluntary Compact between Man and Woman: and tho' it consist chiefly in such a Communion and Right in one anothers Bodies, as is necessary to its chief End, Procreation; yet it draws with it mutual Support, and Assistance, and a Communion of Interest too, as necessary not only to unite their Care, and Affection, but also necessary to their common Off-spring."[54]

In his typical analytical fashion, Immanuel Kant's *Metaphysics of Morals* echoes the contractarian vision, arguing that marriage is little more than a mutual contract to share the use of one's sexual organs exclusively with another person. The decision to enter such a contract is a free, unencumbered choice confused by few of the aspirations for closeness, intimacy, permanency, and even self-transcendence that a folk theory of marriage assumes.[55] However, to many critics, contractarian marriage misrepresents the institution of marriage. For example, Georg Wilhelm Friedrich Hegel and Wilhelm von Humboldt—the former not an author whom Mill admired, the latter a crucial influence on Mill during the years that he was drafting *On Liberty*—both advance an alternative interpretation of marriage that sacralizes the natural, monogamous pair bond. Hegel reinterprets marriage in terms not of a consensual contract or a right of sexual access but as an ethical relationship that has much in common with Mill's own theory of marriage. For Hegel, marriage is "essentially an ethical relationship," not an institution protecting sexual relationships. Hegel contends that "it is equally crude to interpret marriage merely as a civil contract, a notion which is still to be found even in Kant. On this interpretation, marriage gives contractual form to the arbitrary relations between individuals, and is thus debased to a contract entitling the parties concerned to use one another." Finally, Hegel criticizes a "third and equally unacceptable notion," namely the sentimental interpretation that "equates marriage with love; for love, as a feeling, is open in all respects to contingency, and this is a shape which the ethical may not assume." To be understood properly, as Hegel (and Mill) understands it, marriage is "defined more precisely as rightfully ethical love, so that the transient, capricious, and purely subjective aspects of love are excluded from it."[56]

If Mill had carefully read Hegel's social and political philosophy, Hegel's transformation of natural pair-bonding, contractual pair-bonding, and merely sentimental pair-bonding into ethical love surely would have gained Mill's approval. Instead, though, Mill's thoughts on marriage, as outlined in *On Liberty*, take their explicit point of departure from a less likely source, namely the Humboldtian, libertarian view of marriage.[57] In Humboldt's view, marriages vary across individuals, and since so much variety exists, it "must have the most harmful consequences when the State attempts to regulate it by law, or through the force of its institutions to make it rest on anything but simple inclination."[58] Humboldt's view is radically libertarian. Anticipating the spontaneous enjoyment of the best of both worlds, morality and liberty, Humboldt concludes that the "State should entirely withdraw its active care from the institution of matrimony, and . . . leave it rather wholly to the free choice of the individuals."[59]

Recognizing just how thoroughgoing this libertarian position is, Mill pulls up well short. There are several reasons for his hesitation. The most

important has to do with the children of a married couple, although Mill also recognizes the moral force of duties of care that spouses develop toward each other. In *On Liberty*, where Mill writes critically of Humboldt's libertarian correction to the folk theory of marriage, he says that "a new series of moral obligations arises on his part towards that person" whom he has married, and "obligations arise on the part of both the contracting parties towards those third persons [which they have birthed]." Thus, even "if, as von Humboldt maintains, they [obligations] ought to make no difference in the *legal* freedom of the parties to release themselves from the engagement (and I hold that they ought not to make *much* difference), they necessarily make a great difference in the *moral* freedom."[60]

According to the Millian conception of marriage, people grow to adopt shared plans and projects that allow other persons (children and also spouses) to make moral claims on each other. Mill concludes that it is liberty preserving to think that shared plans and projects that require a great deal of mutual accommodation and effort establish moral obligations on the parties involved. In this crucial area, discussion and communication would presumably shape the particulars of the commitment and the expectations and obligations of a couple. Otherwise, we would expect Mill to argue that couples ought not to divorce or to undertake risky experiments with their relationships, but this is not what he argues. Instead, he argues for caution in experiments, and accepts that precisely the loftiest minds may become demoralized by the risks they undertake in marital experimentation. He does not carve out specific liberal rights of experimentation, and he does not suggest that moral considerations should dictate how spouses use legal tools such as prenuptial agreements. Presumably, in these intimate moral decisions, reflective spouses, not laws or well-meaning philosophers, know best.

The Law and the Morality of Justice

As we observed above, Mill does not openly defend divorce in *The Subjection of Women* because (it seems) he did not want his case against the subjection of women to rest on men's acceptance of divorce. If a letter from William Dougal Christie, who was a friend of Mill's brother, is accurate about Mill's intentions, Mill privately wanted to publish even more radical arguments in Albany Fonblanque's *Examiner* that were "not dissimilar from [John] Milton's" defense of no-fault divorce in his divorce tracts. Fonblanque, however, refused to publish these arguments.[61]

Presumably, these arguments or something like them are the ones Mill makes in the 1832–33 essay "On Marriage." In this unpublished essay, Mill treats marriage as a voluntary contract, depending for its continuance

on the wishes of the contracting parties. However, even in this essay Mill makes some very important concessions to stability in marital relations that track the more familiar argument that he makes later in *On Liberty*. This personal essay, in which Mill clarifies his views on marriage to Harriet Taylor, a married woman whom he wishes to marry, helps us to understand his normative political theory of marriage and of the household, as elucidated in his public writings, but it cannot be understood to represent this theory. This essay has a different rhetorical strategy; its arguments must be taken in context. However, the essay is worth examining for Mill's personal, not-quite-libertarian conception of marriage, which consists of three main points.

First, the essay argues that it is better for couples to remain married in cases where there are children to care for. Children "*must* be better cared for . . . if their parents remain together."[62] Perhaps in a socialistic future, an Owenite community would permit couples to divorce while society shouldered the care of the children as a collective burden. But since this type of community does not exist in the present social state, the care of children remains, for the foreseeable future, in the hands of the married couple. Second, Mill worries that divorce is demoralizing for all couples, including or especially those enlightened couples who think of their marriage as a form of friendship that should not be undone for transient passions. Mill therefore worries that ending a marriage may cancel "all sense of any peculiar duties or of any peculiar sacredness attaching to the relations between the sexes."[63] Such a concession admits, of course, that conjugal association is not simply a contract to be severed at will. Finally, Mill makes the pragmatic observation that most human beings mistake how unhappy they are and overestimate how happy they could be if they could only change their partner. In some cases, dissolving a marriage will not make the parties to a marriage any happier, and it may well make them less happy. Thus, the freedom of no-fault divorce may hinder, not advance, the liberty of forming one's own plans and projects.

In the everyday world, the divorce question also involves other concerns beyond romantic and sexual inclinations and the protection of property. One such concern is the physical protection of the female spouse, an aim about which a Millian morality of justice refuses any compromise. In a series of newspaper articles published in the popular press, Mill and Harriet Taylor visit and revisit some of the more lurid legal cases of domestic violence in the England of their day.[64] They note one case where a man who beat his wife to death is sentenced to six months' imprisonment; they speculate that if the victim had been another man's wife (or another man), the sentence would have been transportation for life or hanging.[65] Mill and Taylor question whether all-male juries, or at least those composed of males of the lower class, can correctly judge cases in which wives are

accused of murdering their husbands.[66] They question guardianship cases where the custody of children, on their father's death, is awarded to the female relatives of the husband rather than to his wife.[67] Most disturbing, they note a pervasive tendency to punish property crimes more stringently than cases of domestic violence against women.[68]

Mill writes about these cases of assault not only as a feminist but also as a liberal who is concerned with the "demoralizing" effects of corporal punishment on the bodies of women, children, and servants.[69] The evidence of domestic abuse that Mill and Taylor bring to light in their newspaper writings is as horrifying as it is instructive. It is very difficult to read these vivid descriptions of the effects of assaults on women and servants without a strong sense of physical revulsion. The head of Susan Moir, who was beaten to death by her husband, a baker, is said to have become a "perfect jelly" after sustained beatings—an image that is hard to unremember. Mill's evidence for the abuses allowed and even encouraged by legal impunity is compelling and voluminous, suggesting that a category error had been allowed to exist in English jurisprudence. Although jurists recognize four basic legal categories—the rights of persons, things, private wrongs, and public wrongs—the actual laws, combined with selective legal enforcement, confuse these categories. The massive and often salutary respect given to property rights in the English tradition opens the door for the fundamental mistake of coverture laws, which protect property by giving married women's person and property to the person deemed most capable of defending it. Unfortunately, by doing so, the laws generate a selfish interest in controlling a woman's property through marriage. In the bad case, the law makes a delinquent husband into the enemy of a propertied woman. In the worst case, as in that of Susan Moir, the law makes a woman's very person her husband's property.[70] Even where legal protections exist against the worst sorts of assaults, the laws are not properly enforced. "The whole state of the law on the subject of offences against the person," Mill and Taylor conclude, "urgently requires revision."[71]

Nature, Power, and Gender

Mill's rhetorical strategy in *The Subjection of Women* raises the following fundamental question: Must law and society liberate men and women from their natural gendered differences in order to achieve a more perfect equality? In other words, do individual liberty and social progress require putting an end to many prevailing customs and patterns, such as women's propensity to act as primary caregivers for children?

If we are to assess the historical and, as it were, metaphysical questions involved in gendered power relations, it may help to note first that it is

anachronistic to think that present-day conceptions of "natural" gender patterns also pertained in Mill's day. In Mill's time, the father controlled minor children and had de facto custody in cases of separation. It was progressive to think that a woman's special connection to her child should give her primary care duties; Mill, at least, explains that he adopted this view under the influence of his wife.[72] In several places Mill argues that men and women are equally deliberatively competent, but he does not always say so. He sometimes says that women are naturally equal to men, sometimes that by nature they are equally free as men, and at other times that women are different from men in ways that would suggest that they are unequally suited to some employments and social roles. This apparent inconsistency should not be surprising: the "law of nature" and "natural rectitude" were held by Bentham's school to be "dogmatism in disguise," and a means of imposing one's own sentiments on others through catchy phrases.[73] Thus, "nature" does not have the same metaphysical status that it does in the natural rights tradition. When Mill uses the language of what is right by nature, he does so with the guilty linguistic conscience of someone who thinks that natures are continually changing.

Is Mill naive about power and gender, and in particular about the persistence of long-standing power relations created by gender differences? He is decidedly not naive about the propensity of human beings to use force. His writings make a conscious choice to deny the morality of the law of the strongest; the inevitability of the use of force, Mill thinks, is a historical reality that *others* are beginning to ignore. "The truth is," he writes, "that people of the present and the last two or three generations have lost all practical sense of the primitive condition of humanity. . . . People are not aware how entirely, in former ages, the law of superior strength was the rule of life."[74] Mill enters into the amount of reform that he recommends with eyes open, aware of the tendency not only of "stronger" men to molest and assault "weaker" women but also of the legal and social culture that provide cover to physical coercion and domination.[75] The traditional family also confuses the proper understanding of power, and that confusion has inevitable social consequences, so that one born into mastery plumes himself on "the possession of unearned distinctions" and is proud of merely "accidental advantages." This context, Mill writes, is an "Academy" of arrogance.[76] Mill is not only eloquent on this point but also a particularly close and insightful observer of the sociological implications of unmerited power.

Mill is also not naive about the constructivism that he embraces. According to his doctrine of circumstances, "We are exactly as capable of making our own character, *if we will*, as others are of making it for us."[77] "Though we cannot emancipate ourselves from the laws of nature as a whole," Mill writes at a high point of his constructivism, "we can escape from *any*

particular law of nature, if we are able to withdraw ourselves from the circumstances in which it acts."[78] The practical judgment concerning which laws we should avoid opens the door for experiments in channeling or suppressing (or acting on) sexual desire, so much so that Mill imagines a future where anyone who is not "a slave of the animal appetites" will be liberated in comparison with most men and women today.[79] Moral power over ourselves conflicts with the power of sexual attraction to determine our relationships.

Beyond the legal equality that Mill espouses, his empirical theory of gender relations also recognizes some gendered differences that he presents as natural or at least typical. These are hypothetical differences and not given much normative weight. For example, Mill tendentiously notes the rapidity of female judgment, the higher nervousness of women, their inability to sustain trains of thought, and the smallness of their brains.[80] Fortunately, he does not put much stock in these crude generalizations. However, as an empiricist, he believes that whatever gendered differences there are must be analyzed by political theorists. It is especially important to understand natural differences in the way men and women learn and behave; however, it is equally important not to overgeneralize from a small number of cases or to exaggerate the practical lessons that one can draw from alleged gender inequalities. It is a common error for men to generalize about women from the characters and competencies of their own wives—a fault of which Mill is sometimes accused.[81]

Marriage and Work

Mill was apprised by Charles Eliot Norton, one of his North American interlocutors, of the relatively advanced state of gender relations in America.[82] Today, a century and a half after Mill published his major works, women are no longer "deputy husbands."[83] Women in liberal democracies work, vote, and hold office, and, with some exceptions, coverture has been mostly dissolved. Mill clearly played an important role in the transition from coverture to the equality of women. However, Mill is often criticized for imagining that most women will voluntarily choose not to work outside the home. As a political economist, Mill thought that labor outside of the household was a key way to overcome selfishness and atomism in the education of working-class men. Why did he not also believe this to be the case for women? Is Mill misunderstood? Or was he biased in favor of the sentimental household?[84]

To answer the question about the "proper" role of women and about women's work, one must turn to the intersection of Mill's writings on political economy and his writings on women's issues. In Mill's time, there

was real concern about the double shift, or the propensity of women who worked outside the home to shoulder most of the responsibilities of household management. Low wages and harsh conditions for domestic servants and menial laborers were also concerns for progressives.

As liberal democracies make the transition to knowledge economies, it is hard to imagine that some types and amounts of work are not intellectually and even morally cultivating. Even if the work itself is not cultivating, contact with strangers in the workplace advances at least a degree of cultivation and independence. The march of universal education has also changed the conditions of work. If he were alive today, Mill's prediction about women's work likely would change as well. Still, some feminists raise a plausible challenge to Mill's writings on marriage when they contend that Mill's vision of marriage subtly incorporates the patriarchy of the sentimental household. For example, they argue that Mill legitimizes the male role of primary breadwinner by seeming to make gendered roles an element of his theory of companionate marriage.[85] Whether Mill's theory conservatively reinforces or creates gendered roles in the household is extremely relevant when it comes to deciding on policies in the slippery region between principles and practices, such as employment insurance and child care benefits or higher education, access to which depends on whether women are understood to be workers bearing the full tax burden with men or (at the other extreme) as caregivers experiencing profound fluctuations in paid employment. Other feminists and liberals have argued that Mill's basic theory of gender relations is sufficiently emancipatory to advance radical values of freedom, equality, and self-development, although even these scholars often observe that Mill fails in very specific ways to live up to the demands of his own theory.[86]

As modern-day survey evidence suggests, the American public recognizes the commonsense truth that a personal income is an important conduit to independence. To recognize this is not to devalue domestic (unpaid) labor.[87] However, the justice of the marital division of labor, and dissatisfaction with it, remains a real concern.[88] The normal workweek does not suit those who raise children, nor does it take their need for flexible schedules into account; women get paid less than men; and the entrance of women into certain job markets actually "devalues" those markets, making "pink-collar" jobs less prestigious and less well remunerated.[89] This gap between the experience of men and women in the workplace imposes significant burdens on women.[90] A more radical version of this argument blames men for these burdens. The forty-hour workweek and minimally flexible work schedules are said to represent "implicit male bias" in the category of work.[91] Mill is criticized because he "does not look for alternatives to this entrenched sexual division of labor."[92] Even if Mill aims at perfect equality between men and women

in his theory of companionate marriage, actual equality "requires a more radical rethinking of gender roles than Mill provides."[93]

It is useful to offer a Millian response to these criticisms. The best place to start is with the most widely challenged passage of Mill's theory of gender relations. Mill claims, "In an otherwise just state of things, it is not, therefore, I think, a desirable *custom*, that the wife should contribute by her labour to the income of the family. . . . Like a man when he chooses a profession, so, when a woman marries, it may in general be understood that she makes a *choice* of the management of the household."[94] This may simply be a bad passage among many good ones.[95] Whether it is or not, it is not a slip of the tongue, since Mill makes almost the same claim in the essay "On Marriage," written over thirty-five years earlier.[96]

By way of explanation, one can reply that Mill is speaking about employment practices as customs and about what holds in general. The differences among working for pay, working in the home, and working at home may become less sharp in an era of general education and in an information economy. In fact, Mill may have written about this "custom" primarily to relieve women from the expectation that they will essentially have two careers: working for wages outside the household and being the primary care providers within it (the double shift). Mill's view on the subject is also hardly as monolithic as some authors contend.[97] And, as Mill writes in "On Marriage," "The first and indispensable step . . . towards the enfranchisement of woman, is that she be so *educated*, as not to be dependent either on her father or her husband for subsistence."[98] Still, why is Mill as a moralist not more progressive? And why does he not see that progressive change in custom and opinion demands the presumptive inclusion of women in the workplace? Moreover, as a political economist, why does he not actively celebrate the increased autonomy that women could achieve through increased financial independence?

It may be that Mill is deliberately underselling his radicalism. However, this cannot explain his actual statement, either as it is made in the personal essay "On Marriage" or as it is given in *The Subjection of Women*. His prediction about women's choice of career is something that would hold true in "an otherwise just state of things."[99] This latter admission makes his statement about women's not choosing to work comparatively strong and a component of a normative gender theory rather than an observation about the current state of Victorian England. It is certainly plausible to conclude that Mill is guilty of a "misapplication of theory to practice."[100] As I show in chapter 2, some critics of Mill's political economy hold that he deemphasizes the intellectually and morally cultivating effects of free economic participation in general, and that this deemphasis may work to bad effect in his feminist writings. However, neither of these explanations is satisfactory.

Mill is working along two not always parallel tracks, as a normative political economist and as an analyst of education. What confuses matters are the two different questions at stake: the empirical facts surrounding women's productive labor in the mid-nineteenth century, and Mill's normative political economy of the household.[101] It is at least plausible to think that Mill is not disputing the moral importance of labor for self-development but instead observing that women do not need a school of cooperation so much as men do.[102] As a political economist, Mill is also concerned with the depressive effect that women's entrance into the workforce will have on wages. In his 1832–33 essay "On Marriage," he argues that it "is not desirable to burthen the labour market with a double number of competitors."[103] This point is weakened by Mill's recognition, made elsewhere, that Chinese exclusion from the United States is defensible from a "purely economical" point of view, but that it is unjust to withhold the potentially cultivating good of American norms (and especially compulsory education) from the Chinese.[104] Also, and independent of the concern for depressed wages, two factors support Mill's economic concerns about the relative fruitfulness of female wage labor. One is the strikingly high census numbers for women employed as domestic servants—according to the 1841 British census, 54.5 percent of women were so employed. The other is the large wage disparity in Victorian England—women's wages were one third to one half of men's wages. Mill may also be arguing that children will not be cared for properly if women do not do it. This is not to say that women *should* take sole charge of the upkeep of the household and the care of children. Instead, Mill may mean that parents have a moral duty to care for their children, and that women are more immediately aware of this than men. Men, as they are currently educated and perhaps even in a just state of affairs, do not participate in at least some aspects of child-rearing. Finally, the cultivating effects of bearing and rearing children should not be overlooked. Mill's comments on the selfishness of working-class men suggest that he sees a gap in cultivation between men and women. The educative effects of providing for and rearing children explain at least some of that gap. Again, if the cultivating aspect of work is a remedy for selfishness, women may have less need of such a remedy.

Mill's point about the duty to educate one's children can be made even more strongly. Mill expects male householders to take responsibility for their children's book education, but there is much to be learned at a mother's knee. As a brute matter of fact, Mill's recognition of the needs of children may, in this instance, trump his concern for the freedom of women, just as his concern for the welfare of children trumps his concern for the legal freedom of the poor to marry, the legal freedom of fathers who neglect their children's education, or the moral freedom of couples with children to divorce. From a purely economic view of the family, it

would appear that women should seek remuneration outside of the household; however, Mill thinks that there are "perhaps no practical questions, even among those which approach nearest to the character of purely economical questions, which admit of being decided on economical premises alone."[105] From a moral point of view, the question is complicated by the rewards of rearing children and the dangers that result when women do not do so. And, again from a very practical point of view, Mill observes that without the help of the female spouse, "the management of the household is likely to be so bad, as even in point of economy to be a great drawback from the value of the wife's earnings."[106]

All three of the above arguments are rooted in empirical considerations but still leave unclear what Mill means when he predicts that women will not do remunerative work in "an otherwise just state of things." Mill's full statement makes it clear that he is not making a normative statement that women should not work, as he is often thought to be. Instead, he makes an empirically grounded observation about the tension between employment freedom and other goods—women's health, women's autonomy, and the lives of their children—that may pertain even in a "just state of things," when a liberal polity may well continue to place heavy burdens on women. On this point, Mill may have underestimated the cultivating effects of unusual forms of intellectually challenging labor, effects not readily available to women in Mill's time. He may have underestimated or not fully anticipated the technological changes and the higher standards of living that make childbirth and child-rearing more compatible with work outside the household. He may also have underestimated the long-term importance of increased economic liberty for women, and the utility of the individual sacrifices that women make in order to create norms advantageous to subsequent generations of women. In any event, he does not do so under the impression that the "morality of justice" *demands* that women stay at home.

Further evidence about Mill's position on female labor can be found in the *Principles of Political Economy*. There, commenting on the Factory Acts, which were maximum-hours legislation for women and children, Mill rejects the paternalistic control of women's labor. As Mill writes about the 1844 law, "For improving the condition of women, it should, in the contrary, be an object to give them the readiest access to independent industrial employment, instead of closing, either entirely or partially, that which is already open to them."[107] In this context, Mill clearly argues that *more* choice, not less, is the best way to improve the social position of women. It is not clear whether this statement can be fully reconciled with the above-quoted statement on women's work, but Mill may intend to draw a distinction between the cultivating effects of factory work versus the "drudgery" of certain forms of domestic work. Thus, even if Mill has real concerns

with the noncultivating aspects of industrial labor, as I argue in the next chapter, factory work may be better than the alternative. In fact, about the justice of Factory Laws, Mill concludes as follows: "Let women who prefer that occupation [livelihood "as a wife and mother"], adopt it; but that there should be no option, no other *carrière* possible for the great majority of women, except in the humbler departments of life, is a flagrant social injustice."[108] In other words, excluding women from factory work is the worst-case scenario, although it is plausible to think that a double shift at the factory and at home is not much more attractive.

Should the state do more to ensure economic freedom and equality across genders? If a "minimum of wages" is combined with population controls so that there are enough jobs to meet demand, Mill is willing to accept this set of laws. But he rejects either a minimum wage law that does nothing about the supply of jobs, or a law supplementing low wages, which would burden taxpayers too heavily to be useful.[109] As for more radically egalitarian steps, Mill is sometimes enlisted to defend equalizing conditions by providing a guaranteed income to women who work in the household. In a fascinating contribution to the literature, Nancy Hirschmann argues that a minimum income to compensate unpaid household labor is entirely consistent with Mill's feminism and perhaps required by it.[110] Hirschmann defines labor done in the household as "mediate production" that generates indirect value for society. Since, as Hirschmann argues, unmonitored free agreement has not protected women's entitlement to their fair share of goods, women should be guaranteed a minimum subsistence dividend. Unlike a guaranteed minimum income, this dividend would recompense women for carrying out the labors of the household and would thus correspond with the principle of distribution (merit) defended by Mill and discussed in the next chapter.[111] The minimum subsistence dividend could be taken from the male spouse's income, or it could be paid to women directly by the state, thus ensuring that women who manage households have income independence.

Although the recognition of "mediate production" is an important conceptual advance, it is not clear that it is practical to substitute the state's remuneration of mediate production for the unmonitored agreement of spouses. Mill himself does not get to the merits of this question, and what he says in the *Principles* appears to work against it. The closest Mill comes to commenting on this is to write that the "labour and expense" of having and raising children "are usually incurred from other motives than to obtain such ultimate return [the economic benefits that accrue as children become productive adults], and, for most purposes of political economy, need not be taken into account as expenses of production."[112]

Mill may be wrong to overlook instances of uncompensated labor. Still, there are four practical problems with administering pay within the

household that appear to decide the moral argument against remunerating household work. First of all, a minimum subsistence dividend may encourage women to leave the paid workforce. This was a key criticism raised against 1970s-era feminist movements that lobbied for compensation for the "free" labor of women. The Lotta Feminista movement inspired the international Wages for Housework movement but drew the criticism mentioned above that wages for household work may actually set back the cause of women's independence.[113] Second, a minimum dividend requires the state to make a difficult judgment about what is "fair" rather than what is "shared" in the household and to put a price on household labor. It is not clear that the state can or should make coarse-grained rules that would apply to all families and their internal division of labor. (In response to this concern, some feminists sensibly call for the "socialization of domestic labour" rather than its monetization. Remuneration, they argue, would stifle the household's cooperative aim by conflating the household member and the [factory] worker.[114]) Third, in order to satisfy the desert principle of Mill's morality of justice, the dividend would require an authority to decide whether or not the labor had actually been done. It might therefore introduce "household spies and kitchen police" into the family.[115] State oversight of the domestic sphere, however impartial and well meaning, could (and probably must) lead to regulation—from occupational safety and health regulations to fraud prevention. As Okin concludes in a very Millian vein, "Advocating justice within families is not equivalent to saying that justice should be directly enforced by law."[116] Finally, if the subsistence dividend is drawn from the earnings of the male spouse, the husband may feel a sense of entitlement or managerial superiority vis-à-vis his spouse. He may be further disinclined to take part in the labor of a household composed of "his" workers. His enhanced or imagined control may undermine the agentic aims of Mill's feminism and defeat the "self-respect, self-help, and self-control" that Mill's feminism puts at the center of individual flourishing and social reform.[117]

Equality and Difference in the Household

The idea of remunerating mediate production raises crucial and interesting questions about the household: What is the household's function? Do women and men have assignable roles to play? Are these roles relevant to liberal citizenship? These questions are introduced in an essay that is (we think) coauthored by J. S. Mill and Harriet Mill. In it, they respond to the propositions "The proper sphere of women is domestic life" and "Women have nothing to do with politics" by arguing that both men and women are diminished if women are exiled from politics and constrained

to a more limited social and political sphere.[118] More important, Harriet Taylor radicalizes their joint conclusion in a piece in which she denies the propriety of any "spheres" of action to be decided by anyone for anyone else: "We deny the right of any portion of the species to decide for another portion, or any individual for another individual, what is and what is not their 'proper sphere.'"[119] In Harriet Taylor's ideal vision, it appears that marriage and the household do not come encumbered with roles, limitations, or disabilities.

In *The Subjection of Women*, Mill argues that "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."[120] In the household, it is not philosophers or legislators who should dispose of a couple's time and resources. Thus, in a nexus that is overlooked by the many critics of Harriet Mill and her influence on John Stuart Mill, feminism is directly tied to liberal nonintervention. However, Mill is willing to offer some qualified advice concerning the proper spheres and duties of marital association.

In marriage as well as in other aspects of life, Mill recognizes and accepts the ethical differentiation of "grades of existence" for which more or less demanding moral rules are appropriate. Sometimes, as when he disagrees with an advocate of paternalism such as Arthur Helps, Mill rejects "a 'just progression of nice distinctions of rank'" as wholly unsuited to a liberal society. More typically, Mill believes that the "highest abstract standard of social and distributive justice" requires the distinction between better and worse citizens.[121] (I revisit this controversial and easily misunderstood idea in each of the following chapters. Suffice it to say, Mill's stance is not antiegalitarian and relies on a principle of desert in distributive justice.) With respect to marital association, Mill is not willing to let go of the cultivating effects of compression and repression, fostered by association, but he emphasizes the impossibility of making the best morality into popular morality. Mill argues, "All the difficulties of morality in any of its branches, grow out of the conflict *which continually arises* between the highest morality and even the best popular morality which the degree of development yet attained by average human nature, will allow to exist."[122] One can take this statement as a sign of his impatience to transform society, or of the need for moderation in trying to make his theory of morality actual.

Developing his point about the gap between what is and what could be in the domain of marriage in *The Subjection of Women*, Mill bluntly and realistically declares that marriage is not "designed for a select few. Men are not required, as a preliminary to the marriage ceremony, to prove by testimonials that they are fit to be trusted with the exercise of absolute power. . . . [T]here are all degrees of sensibility and insensibility to it [the tie of affection and obligation], as there are all grades of goodness and wickedness in

men, down to those whom no ties will bind, and on whom society has no action but through its *ultima ratio*, the penalties of the law."[123] Clearly, Mill is not saying that some particularly upright spouses may safely be invested with absolute power. Rather, he is saying that although marriage has an educative effect, marriage takes the members of the partnership as they come. For marriage in its present state to be improved, a few coarse-grained laws prohibiting violence, theft and misuse of common property, child neglect, and the spread of sexual diseases would help to reform marriage. For the worst types of men (and women), the laws are restraints where voluntary restraint is insufficient. In addition to these coercive laws against violence and domination, Mill also develops a theory of intimate friendship, which is an ideal of marriage well suited to some already cultivated men and women, and one that may attract the support of less cultivated types.

Of companionate marriage in the abstract, Mill writes that "this, and this only, is the ideal of marriage."[124] However, there is a gap between the statement of Mill's own personal preferences—he writes on his own authority, "I maintain that this, and only this, is the ideal of marriage"—and the ease with which the ideal can be made real. There may in fact be good reasons to resist the upward pressure requiring all marriages to be companionate marriage. At the very least, a liberal conception of marriage will reduce the normative pressure on those who marry for sexual attraction, for social or economic opportunity, or to aid the interests of their future (or present) children. When we examine the marital association in light of prudence and aesthetics as well as morality, values such as attractiveness, fitness of spouses, and spiritual compatibility find an important and even a necessary place in marriage. The acceptability of goals such as marrying a fellow Catholic ought to be acknowledged, especially where intellectual companionship is not the driving interest in marriage, owing to the lack of education or capacity of a given couple.

We find a good example of the illiberalism of well-intentioned, coarse-grained marital laws in the coverture laws. In his 1851 "Statement on Marriage," Mill renounces his assumption of his wife's legal personality as repugnant to her liberty.[125] However, fundamental law cannot be changed by private statement or contract, and Mill has no power to make his renunciation legally binding. Even if a husband renounced his privileges and his wife harmed someone, he would still be sued; if she were harmed, he would be the only party legally capable of suing on her behalf. Thus, in an irony that reveals something about the concepts of privilege and disability, state-designated privileges tragically blur the line between advantages and disadvantages, since the state assigns subordination to one party and mastery (or at least undeserved power) to the other, regardless of their characters or qualities or desires. Although disabilities clearly weigh more heavily on the female spouse, both spouses are constrained in their liberty by coverture.

Returning to the main point about the varied lives which the institution of marriage must serve, *The Subjection of Women* especially targets the lowness of the average husband (the concupiscent man who mistreats his wife) and the average wife (the power-starved woman who punishes her husband by a "shrewish sanction").[126] Presumably referring to the ability of men and women to be improved by discussion, Mill argues, "The time is now come when, unless women are raised to the level of men, men will be pulled down to theirs."[127] What this means in practice is that men and women, now living in close intellectual proximity, will be adversely affected by each other's voice and example. In one of Mill's bluntest lines, characteristically delivered directly to the parties most concerned at a rally of suffragetes, Mill declares that women are presently a "dead weight on men's public conscience."[128] Elsewhere, he says that the "social being" of men is harmed by their legally and politically superior position.[129] To repeat, the legal status of women gives men an opportunity to treat competent adult females as if they were possessions or children, thwarting the effort to raise a "superstructure of free government" by providing a "legal basis of despotism."[130]

It is still somewhat surprising that Mill does not describe the perfect marriage at any length. After all, the legal end of coverture offers a unique rhetorical moment, and one might expect Mill to fill the empty place left by coverture. In the view adopted here, Mill uses his writing on marriage to capture the basic liberty of marriage. It would be a contradictory effort if he then drew a ring fence around *the* ideal expression of marital self-direction. Thus, Mill consciously chooses not to "attempt to describe" what marriage can be—not, as it seems, out of any modesty about the value of his thoughts on marriage, but instead because his theory builds variation and particularity into itself.[131] Mill thinks that some form of companionate marriage is the next step forward in the morality of justice, and that marriage should typically aim at "sympathy with an equal in rights and in cultivation."[132] This does not mean that the partners in this relationship are exactly the *same* as each other, only that spouses ineluctably develop *some* crucial aspects of their characters together.[133] Mill leaves the "slippery region" of marriage for individuals to work out for themselves.

Friendship and Marriage

Being the head or cohead of a household requires forward-looking planning and responsible action in cooperation with another. One of Mill's chief criticisms of men, in particular, and people, in general, is that they do not share, cooperate, or reciprocate—that they do not want to, or do not know how to share a common project. They prefer to associate in ways that generate hierarchies and (in their view) favorable power relations.

The meaning of Mill's message that the household can be a school of liberty is closely connected with this absent spirit of cooperation, albeit with a twist. The difficult and humbling process of learning to recognize mutual equality and reciprocal superiority ultimately requires seeing that one is a social being and that performing one's social functions requires self-criticism, dependence, and even mutual subordination.

Mill thinks that women, by nature and by nurture, are better socialized in the arts of cooperation than men. Men stand more in need of being tamed—first, by being punished for using force against others; and second, by learning not to use their greater physical strength to suborn the physically less strong, even or especially when they are hidden from the watchful gaze of their physical equals. Men must learn that exerting physical strength over the physically weaker, especially children, is itself a sign of weakness. Even more important, marriage requires men to take advice and counsel from physically less authoritative but no less deliberatively competent intimates. This latter capacity—we might call it the ability to listen to reason—becomes increasingly important in the economies in the late modern world.

As noted above, Mill's basic idea of companionate marriage is not quite the contemporary ideal of marriage as an institution that protects a complete freedom of personal choices. This is an important point, although it can easily be overstated. Although he defends the liberty of self-direction in the sphere of sexual intimacy and family, Mill sees the household as a key domain in which compressive and repressive pressures can and should be brought to bear on individuals. As a hardheaded thinker who expects the household to transform the character of men, in particular, Mill would be inconsistent if he claimed that the family and the household are domains of free choice. So instead of reshaping the traditional sentimental family into a private sphere of sexual intimacy and individual autonomy, Mill instead emphasizes that the household is a public-spirited place of intellectual activity. Mill's own marriage is mildly antagonistic, parrhesiatic, and public spirited, as I show below. Uncharitably, one could argue that Mill and his wife are writers and public intellectuals, and that Mill sometimes speaks of marriage as if it were an intellectual partnership existing only to support these ends. I deal with these criticisms below. Here, it is simply worth noting that fostering intellectual friendship at home may be an important step toward educating male citizens.

The point of departure for Mill's ideal of marital friendship is the classical Greek notion of friendship, which dominated writing on the topic of friendship until at least the eighteenth century.[134] Mill was raised largely within the world of classical reception. The young Mill wrote an "abstract" (a fairly literal translation) of Plato's dialogue on love and friendship, the *Phaedrus*, and eight other Platonic dialogues. He was also familiar with

Aristotle's *Nicomachean Ethics*, the locus classicus for the ancient Greek theory of friendship, and texts by Cicero and Plutarch.

Mill agrees with Aristotle on the primacy of political over the domestic realm, but Mill argues that the good life is more dependent on reforming the traditional household than Aristotle thinks.[135] This does not mean, as some critics have argued, that the Millian household becomes a miniature civic republican *polis*.[136] Instead, Mills modifies and combines classical and modern sources so that his reformed household is a liberal and ethical version of Aristotle's domestic sphere, and more focused on building character than on satisfying material and physiological needs.

Where Aristotle remains helpful is in his theory of the best form of friendship, which is friendship for the sake of virtue, and not for political partisanship, for pleasure, or (ironically, given Mill's commitments) for utility. Mill likely borrows from classical philosophy the idea that friendship is in some ways a higher association than political association. In Aristotle's *Nicomachean Ethics*, *political* friendship is presented as instrumentally useful to political association. In sharp contrast, Aristotle argues that the more perfect friendship of intellectually compatible intimates serves the interests of the full human being rather than the interests of the mere citizen. Aristotle even controversially observes that there is no justice among friends, meaning, it appears, that friends do not have to observe the rules of political justice toward each other.[137] Mill does not go this far. Thus, he does not say that friends do not have to repay loans given by friends, or that they do not have to keep track of social, sexual, and economic obligations and rights as others do in civil society. As observed above, married couples must abide by the laws of marriage even when those laws do not adequately capture enlightened individual opinion. On the other hand, the idea of not extending a theory of justice into the domain of the household rests on this sense that married couples should not only be free to make the rules that suit them but that those rules may serve an aim of cultivation that is higher than the aim of any particular community.

Aristotle acknowledges that a relationship between spouses may be driven by the recognition of the other's virtue. However, in Aristotle's view of the household, the relations between men and women remain relations of inequality between superiors and inferiors.[138] Although Aristotle is aware of the possibility of marital friendship, he argues that participation in such a bond is between unequal parties. Clearly, Aristotle and Mill both agree and disagree on this point. Mill is typically thought to advocate for a masterless partnership of gendered individuals, male and female, neither of whom dominates the other. Aristotle characterizes and criticizes the masterless household as "democratic," which is for Aristotle a term of opprobrium.[139] However, although Aristotle would classify Mill's preferred household as "democratic," given that it is based in equal relations that are

"without power . . . or obedience,"[140] Mill and Aristotle actually agree on the impossibility of a *perfectly* democratic household. Aristotle assumes that male-female couples will naturally be ordered according to the superiority of the male.[141] Mill, in contrast, argues that authority will rotate depending on the circumstances of the household and on the relative competence of the individual spouses.

In developing his point, Mill implicitly relies on the republican conception of politics that Aristotle defends in the *Politics*. Marital equality, for Mill, is a rotation of domestic offices according to the relative strengths, intellectual or otherwise, of each member. This partnership is based on what Mill calls "reciprocal superiority"; in the *Autobiography*, he offers as an example the household of Samuel and Mary Bentham. In Mill's eyes, Mary Bentham was the "ruling spirit of the household, as she deserved, and was well qualified, to be."[142] The crucial conclusion is that order and power are exercised in even the free and equal family; however, power is not to be exercised according to one's natural gender but according to one's capacities. Moreover, the household is the place where late modern democratic citizens first learn and practice equality-as-reciprocal-superiority, or ruling and being ruled in turn and according to one's deserts.

The crucial place where Mill and a classical author such as Aristotle differ is on the function or work (*ergon*) of the sexes. Aristotle tries to account for the natures of men and women when describing their capabilities. Mill says that men's and women's functions *may* be different, and he briefly (and usefully) explores how and when gendered differences in capacities may result in the exercise of different functions (leadership, decision making, advising) within the household. For example, Mill characterizes female competence as practical and thus more suited to "what may be called the executive department of the leadership of mankind." This generalization, blunt (and odd sounding) as it is, means that women may well be suited for leadership in modern society quite apart from the typical claims made in this area, for example, that women are more cooperative and work better with others. Mill also argues that women have the quality that orators, preachers, and teachers have in abundance, which may mean that they are less suited to carrying out deliberative functions, such as judging and parliamentary work, and more suited to lead through communication. Men, according to Mill, are more logical but less capable and practiced in the practical domains of life.[143]

In making these sorts of generalizations, the key is to avoid generalizing from one's own experience, and, more broadly, to avoid generalizing from too few examples. Mill's distinction between the genders certainly reads as a faulty generalization from too few examples. It is as much a comment on himself and his wife as it is about the typical capacities of men and women. In any event, he reassures his reader that "infirmities incident

to their [women's] temperament" can be controlled by "training" women (just as men must also be trained) to carry out the tasks that they need to accomplish.[144] Mill is pragmatic and progressive in his interpretation of gendered relations in the household, even as he presents household relations as occurring between individuals bearing conventional and perhaps even natural gender distinctions.

Education and the Household

No account of Mill's conception of the household is likely to be complete without reference to Mill's own education within his father's household. This education resulted in the famous mental crisis described in chapter 5 of Mill's *Autobiography*. As Mill himself asks in the crucial question that summarizes the crisis of his early dissatisfaction with his father's Utilitarianism, "'Suppose that all your objects in life were realized; that all the changes in institutions and opinions which you are looking forward to, could be completely effected at this very instant: would this be a great joy and happiness to you?'" The "irrepressible" answer is, "'No!'"[145]

Mill's dilemma is that he was educated to live the life of a "democratic champion," an India House drudge, and the trained servant of the Utilitarian cause.[146] In Mill's case, his entire early educational context was provided by his father, as the redacted manuscript pages of the *Autobiography* argue. In those pages, Mill explains that he grew up "in the absence of love and in the presence of fear," an environment that led to the "indelible" stunting of his "moral growth" in consequence of the passivity taught him by an "energetic father." Mill writes that he "acquired a habit of leaving my responsibility as a moral agent to rest on my father, my conscience never speaking to me except by his voice." The result was "backwardness, of waiting to follow the lead of others, an absence of moral spontaneity, an inactivity of the moral sense and even to a large extent, of the intellect, unless roused by the appeal of some one else."[147]

It is sometimes said that Mill's criticisms of Bentham in the 1838 essay are actually criticisms of his own father, and it is also worth noting that Bentham was aware of the potential problems with his system of surveillance and discipline. Almost channeling Mill's later criticisms, Bentham asks "whether what is thus acquired in regularity [by education under Bentham's inspection principle] may not be lost in energy? . . . whether the liberal spirit and energy of a free citizen would not be exchanged for the mechanical discipline of a soldier, or the austerity of a monk? – and whether the result of this high-wrought contrivance might not be constructing a set of *machines* under the similitude of *men?*"[148] Nevertheless, for Bentham, surveillance ultimately produces utility, and the "subjection"

of children is useful so long as the "command" of the master is useful. J. S. Mill disagrees, calling his education a terrible "cram" that ground down ideas to "a convenient size."[149]

Mill criticizes an education from which James Mill banished (or omitted) aesthetic or virtuous friendship from the "plan of education," not so much by principle but nevertheless by design, not seeing how consistent it is with good thinking to learn how to act in cooperation with others.[150] At the close of his crisis years, Mill writes a poignant and even desperate letter to John Sterling (whom he ironically describes in the *Autobiography* as the "one of the most loveable of men"). In it, he observes to Sterling that there is "no human being (with whom I can associate on terms of equality) who acknowledges a common object with me, or with whom I can cooperate even in any practical undertaking without the feeling, that I am only using a man whose purposes are different, as an instrument for the furtherance of my own."[151] In the first sentence of the quotation, Mill complains that the philosophical anthropology of the radicals commits him to pursue merely political friendships—a sort of partisan commitment, not intimacy. By substituting agreement about the "great objects of life" for the merely political goal of becoming a Utilitarian apostle, Mill opens up his evaluation of trust and friendship into a more complex, aesthetic and individualized view of friendship, marriage, and the household. Mill later repeats himself in *The Subjection of Women*, restating that "*idem velle, idem nolle*" (wanting the same things, rejecting the same things) is "the recognised bond of any society" that actually is a society.[152]

To agree about the great objects of life is, of course, Mill's liberal Utilitarian dream, but it is crucially important to him that friendship and marriage do not reduce men and women to instruments of a "thinking power" or of a political project. Again, Mill does not enter into details, but friendship and marriage seem to be similar in being experienced as qualitatively different than other, lower forms of association, even when the agreement that is sought is the Utilitarian's just society.

Further support for the interpretation of marital friendship as compatible with Utilitarian theory can be found in Mill's relationship with Harriet Taylor. In Harriet, Mill found a woman whose excellence—what chiefly matters is what Mill thought, not what later commentators think—compared favorably with his own. He freely and repeatedly acknowledged her (reciprocal) superiority to him in the domains of moral virtue and sentiment, most notably at the beginning of *On Liberty*, where he dedicates the work to the "friend and wife whose exalted sense of truth and right was my strongest incitement, and whose approbation was my chief reward."[153] Mill says that these words merely express "some insignificant fraction of what I feel to the noblest and wisest being I have known."[154] Recall that in the rejected leaves of the "Early Draft," Mill calls his moral growth indelibly

stunted by the communicative failures he experienced as the son of his father, with whom he grew up in "the absence of love and in the presence of fear."[155] Harriet Mill corrects his insensibility and "instinct of closeness," of keeping one's thoughts secret from the world. Through Harriet, Mill found a way to plan his domestic circumstances in a way that he finds emotionally and intellectually balanced, however one sided she may have been on her own.

The relationship between Mill and his wife helps the scholar to tease out answers to some of the theoretical questions introduced above. As Mill somewhat paternalistically writes in "On Marriage," a wife may take on the intellectual and moral work of a husband. In actual practice, Mill describes and appears genuinely to conceive of "his" works as shared works, suggesting that he came to have a better understanding of the "great objects of life" through friendship and marriage. Although Harriet's part in the drafting of his works is contested, it would be hard to challenge the fact that she substantially altered "his" project, including the aim and content of his most important essays. Even without a systematic training in political economy, she clearly contributed to his economic writings, and especially to the progressive chapters of book 4 of the *Principles of Political Economy*.[156] The entire project of liberalism was *their* project—the literary product of "her mind with mine."[157] "His" work, taken generally, was "discussed between them in daily life" and realized "by processes pursued jointly."[158] If J. S. Mill thought that women such as Harriet should not work outside the household in an otherwise just state of affairs, he clearly does not intend in saying so to preserve the inviolability of the domestic sphere or to limit women's intellectual freedom. Harriet Taylor's intellectual sequestration would have been disastrous for "his" work. In actual fact, as I noted in the Introduction, *both* Mill and Harriet worked outside the household as writers exercising "thinking power" and the "power of writing," and they did so in a similarly public-spirited way.

Mill's relationship with Harriet Taylor was personally transformative. As he writes in letters to Thomas Carlyle when he is trying politely to explain his differences with that more charismatic and erratic thinker, Mill considered himself a logician and metaphysician advancing what he elsewhere calls "the science of science itself."[159] Crucial to the logician's life is the "interior freedom" from fallacies and error that a thinker such as Mill advances.[160] To be fully free, the logician's inner freedom must be given application, and this is the ultimate reason why Mill speaks so much of his debt to his wife. As a mere logician engaged in practices of interior freedom, he was able to enjoy a portion of freedom in his father's household, but as he writes of himself in the *Autobiography*, he was a "well-equipped ship" without a sail.[161] His wife is a "real majestic intellect, not to say moral nature," by which Mill likely means that she enjoyed a greater freedom, not

only of thought and conscience, but also of association and self-direction, than Mill himself. Thus, he describes himself as "but fit to be one wheel in an engine not to be the self moving engine itself."[162]

Logic may provide a deep structure for thinking freely, and freedom from fallacies may indeed be a necessary condition of freedom, but more than logic is required to *enjoy* freedom. Living out the truth of this observation, Harriet Taylor also contributed to the theory of self-dependence that helped Mill to resist his own tendency to trust in logic and expertise as ways to enjoy liberty. Thus, she seems not only to have embodied a balanced and sympathetic perspective but also to have aided in developing *On Liberty*'s emphasis on self-direction and association.

It must be emphasized that John's and Harriet's schedules of needs, their priorities, and their intransigence about public advocacy and intellectual service gave a specific shape to *their* marriage. Their activity (study and writing) was not tied to a specific geographic place, as would be the case in the work of most other couples, or to a specific work schedule. Although Mill worked at the India House, for which he was well remunerated, he was at least somewhat free to write and to engage in correspondence. Their marital circumstances were particularly well suited for the life of the mind, and it would be narrow to ignore the fact that other couples may have different priorities, based on their different talents and also different circumstances.

By recognizing the differences between marriages in Mill's theory and in his practice, one clears up another source of confusion, namely whether Harriet Taylor is an intellectual friend whom Mill happened to marry, or whether love and marriage improves and completes friendship. This is an important question. The schoolyard insight of the late modern world is that men and women cannot be friends, but it may be the case that men and women are different and perhaps better friends than same-sex friends. In chapter 6 of the *Autobiography*, Mill describes Harriet as a friend first of all: she is the partner in the "most valuable friendship of my life." It is plausible that Mill was able to be friends with Harriet in a way that was not available to him with other men; however, putting intellectual friendship before amatory inclinations is unlikely to appeal to many couples. Another and related question is the degree of similarity that married intellectual friends should aim at. In a just state of affairs, couples will both become more alike, just as men and women progressively view each other as more similar, but Mill also anticipates "differences of taste under any imaginable circumstances" of married life.[163] In *The Subjection of Women*, he argues that companionate spouses will assimilate each other's tastes without loss or diminution of capacity, "each acquiring the tastes and capacities of the other in addition to its own." Mill also expects, as a "general rule," "complete unity and unanimity as to the great objects of life."

Whether differences will diminish or disappear is an empirical question to be answered in the future; presumably a liberal society ought to have no ultimate answer about the degree of convergence. But, as in a good Shakespearian comedy, each spouse must be "a something" and not "a nothing" before they are something *with* another.[164]

As for Mill's personal vision of marriage, it is highly unlikely that it scales up to a workable theory of marital justice that would pertain for most couples. It is unlikely that most couples will seek—or in seeking it, be satisfied by—a marriage that is primarily public spirited, oriented on the same great objects of public use, and all for the sake of the mental independence that is necessary to live logical, free lives. On the other hand, it *is* astonishing how rhetorically powerful Mill's modification of the sentimental household is, even today. The reason for its appeal is that a basically liberal vision of relations between men and women is persuasive. Given the increasing life span of couples and the prospect of extending married life far beyond the child-rearing years, even a high divorce rate does not conceal the fact that companionate marriage captures an ethical ideal of intellectual stimulation and like-mindedness that is very attractive. Even where Mill himself speaks slightingly of sensuality and warmly of Malthusian restraint, his themes—child-rearing, family planning, women's freedom, intellectual friendship—always point back to education and intellectual development, ushered in by an end to the abuse of arbitrary power.[165]

Mill's Theory of Marriage

In his writings on marriage, Mill prudently declines to trace out all the consequences of his view of marriage from his egalitarian and liberal principles to the specific practices of actual married persons. As I have argued, the morality of justice requires a very basic and foundational equal liberty within marriages, so that marriage emerges from the false liberty of protective (but actually arbitrary and dependence-creating) coverture. For Mill, once the legal subjugation of women ends, the convergence of the tastes and interests of men and women begins. There is no single image or model of a just and liberal marriage at the end of this path. But there is a model that Mill prefers and seeks to live out in his own life, namely companionate marriage between equals who rule and are ruled alike in domestic affairs.

Liberty is not served by requiring couples (and perhaps other household units more socially and economically advantageous than couples) to reproduce the family unit of Mill's day. Accordingly, in this chapter, couples who are able to form equal and well-regulated marriages have been the primary object of interest. Mill also forms a rough-and–ready hierarchy of those able to care for and to raise children, from most to least capable,

with slightly different rules for each. Mill's lowest and least educated types are unable to control their impulses, and they should be restrained from outright domestic violence, domination, and even (for Mill) the improvident generation of children by punitive laws.

It is not clear how much legal constraint Mill seeks for improvident, addicted, or emotionally damaged men and women who are unable to care for their children. Gregory Claeys has convincingly argued that marital restrictions are a core element of *On Liberty* and indicative of the area, broader in scope than is usually thought, where "liberty is often granted" but where in actuality "it should be withheld."[166] However, the language of granting liberty to someone implies that there is an agent competent to grant it. Mill appoints no such authority, even where he agrees that liberty is limited unnecessarily by having large families. Moreover, it seems monstrous and therefore unuseful to impose marital disabilities on a class of unfortunates. As always, the expediency of restrictive laws is determined by "local circumstances and feelings," and not by a blanket subordination of the least capable and well off to their betters.[167] (Here, then, we are in a constitutional world where sentiments and opinions matter, and far from the censorious views of Kant, for whom a child born out of wedlock is stolen into the state and does not deserve the protections of the law.) But the case for permitting large family sizes remains less than clear in Mill's writings because the freedom of couples to make their marriages as they want is justified by the need to educate citizens in equality and cooperation alongside the need to respect the self-development and mental independence of the married adults. Mill's strong preference is for the family to educate citizens for the state, rather than for the family to take direction from the state. This goal is defeated if the state decides basic questions for individuals, such as family planning. Just as when Mill argues that the state should not provide an education lest it reproduce its own errors in all subsequent generations, the state should not direct the household, or it will risk reproducing its own imperfect knowledge in the next generation.

In Mill's time, the education of women was so little advanced that grand statements about reform were not appropriate. Mill hopes for (and despairs that England will ever achieve) a new national education requirement.[168] Free, compulsory education addresses a crucial civic problem, but not without risks. The context of Mill's epigraph to *On Liberty* from Humboldt is not often quoted, but it concerns education. Humboldt writes that "national education . . . is at least in many respects very questionable. The grand, leading principle, towards which every argument hitherto unfolded in these pages directly converges, is the absolute and essential importance of human development in its richest diversity."[169] However, if children are to become citizens, they must be adequately educated. Changing patterns of female education will do much to change the material conditions of

women, which deeply affect the social relations between men and women in the household. Conversely, changing the legal and social disabilities that weigh on women will make higher education more available and more desirable. Finally, any changes in the education and training of women must affect the education of their children and husbands.

Until significant changes in material circumstances occurs, Mill must anticipate that one member of the spousal relationship may be in a permanently preferred bargaining position because of inherited social position, inherited wealth, or innate biological differences. Part of a liberal solution to the problem is to give married partners a wide scope in bargaining over their respective responsibilities to employers, children, and each other, in the hope that over time, those who deserve equally well come to be treated equally well. Although it may seem naive to expect this transformation to occur spontaneously, one substantial contribution to the process of changing public opinion and relative bargaining positions is the dissemination of texts such as *The Subjection of Women*. Mill offers off-the-shelf arguments for the just equality of the spouse in the weaker position, shaming men into giving up arbitrary and oppressive power, and teaching women to read irresponsible power as oppressive and incoherent. Mill provides persuasive reasons why the party with more economic or social power should see that its power is actually factitious privilege and not genuine power—the power Mill identifies as the product of the conflict between adverse intellects—at all.[170]

In many of the cases where one party is gifted with excessive power, Mill argues that the exercise of arbitrary power weakens and diminishes the possessor as well as the object of power, an insight that he presents as a core commitment of a new political economy and social philosophy oriented on justice. He might have been even blunter about the inconsistency of the prevailing British view of women, property, personal security, and rights, but to do so he would have had to align his argument with more explicitly radical premises. It is instead through the pricks of conscience, generated through discussion and debate, that Mill pushes couples to seek the type of lives "such as human beings with highly developed faculties can care to have."[171]

Chapter Two

Industrial Aristocracy

Arguing against the "aristocracy of sex," Mill rejects the claim that any person has a right to absolute power within the household. Mill instead supports an equality of basic rights in marriage, combined with liberty to organize one's household and divide the responsibilities of marriage and child-rearing as married individuals choose, guided by the recognition that power should not be unearned. This, Mill argues, is empowering for both men and women. For Mill, the equality and friendship of men and women discussed in the preceding chapter is the first great change in the education of liberal citizens, and the way for heretofore "one-eyed" men and women to learn to cooperate. This chapter considers the second great change that Mill observes in his day, a change that he expects to continue transforming society—the liberalization of relations between laborers and owners/managers. Mill's attempt to liberate economic classes from unearned wealth and privilege involves far-seeing changes not only in labor relations and cooperative production but also in intergenerational economic justice.

Like earlier thinkers in the classical liberal tradition, Mill appeals to social and moral principles even when he is thinking narrowly of merely economic problems. A key question is whether his manner of doing so is at odds with that earlier tradition. For example, Mill writes in a personal letter of 1852 that he regards "the purely abstract investigations of pol. economy (beyond those elementary ones which are necessary for the correction of mischievous prejudices) as of very minor importance compared with the great practical questions which the progress of democracy & the spread of Socialist opinions are pressing on."[1] This commitment to intellectual and moral development makes Mill a social and political thinker first and a political economist second.

Some critics find Mill's mature position to be incoherent, especially in light of the additional chapters on cooperation added to the third edition of *Principles of Political Economy*. For a classical liberal, Mill accepts an

untenable degree of intervention in social and economic affairs. This criticism would be apt if Mill's chief commitment were to a noninterventionist approach to economic regulation. Instead, Mill's central preoccupation is the education of working men and women and the reformation of the characters and habits of the owners, managers, and privileged classes who rely on unearned wealth.

It is his rejection of passivity and his emphasis on agency that makes Mill relevant and interesting to the debate over economic liberty, which too often becomes narrowed down to protecting producers and consumers from governmental intervention or to permitting government to direct economic activity. Mill deplores the reduction of the demoralized laborer to "a mere bought instrument" and imagines a future society where laborers and capitalists cooperate in the common project of production.[2] Mill expresses this perhaps most powerfully in *On Liberty*, in which he offers a prescient counterfactual that anticipates some of the most important present-day questions concerning technology and agency: "Supposing it were possible to get houses built, corn grown, battles fought, causes tried, and even churches erected and prayers said, by machinery—by automatons in human form—it would be a considerable loss to exchange for these automatons even the men and women who at present inhabit the more civilized parts of the world."[3] Economic cooperation will transform character "both in the uncultivated herd who now compose the labouring masses, and in the immense majority of their employers."[4] A just distribution of wealth—following the basic maxim of distributive justice, "treat all equally well who have deserved equally well"—combined with "the greatest personal freedom" possible, is the way to foster the active character and mental independence that industrial reorganization promises and an unreformed capitalist system at times impedes.[5]

Increased productivity, then, is not the key desideratum of liberal political economy. Mill maintains that the *laws* of production are "scientific" laws and not responsive to human value judgments; about those facts of production, greater prudence and intelligence are needed.[6] Distribution, in contrast, is a social relation that responds to moral and political considerations. This dichotomy is too stark; thus, 20/20 hindsight shows just how morally and politically salient technological changes in production are. In any event, Mill imagines a time when sufficient production, rising wages, and cooperation lead to an improved economy, by which he does not mean a constantly expanding economy. Mill combines attention to the extraeconomic, character-centered benefits of cooperation in production with a meritocratic emphasis on desert in distribution.[7] In short, he offers a balanced resting point where character-development matters, not as a way station along the slippery slope to government-directed economies or complete individual economic liberty, but as an end of economic activity.

Basic Assumptions

Mill provides a long, granular account of distributive justice in a chapter of the *Principles* on the cooperative principle. This chapter, mentioned above as the work of Harriet Taylor, is book 4, chapter 7. It stands as an important addition to the explicit discussion of cooperation in book 1, chapter 8 of the *Principles*. It is not the central teaching of book 4. Recognizing this, William Ashley calls Mill's discussion of cooperation a "prophecy" that has "little or no connexion with what goes before."[8] However, Ashley's evaluation is precisely the wrong one. In the books of the *Principles* preceding book 4, chapter 7, Mill is concerned with improving the external circumstances of citizens. In the chapter on cooperation, his focus is on the character-building effects that he anticipates from a partnership of workers and capitalists. His vision sounds, in fact, quite familiar. He anticipates a stationary state consisting of: (1) "a well-paid and affluent body of labourers; no enormous fortunes, except what were earned and accumulated during a single lifetime; and (2) "a much larger body of persons than at present, not only exempt from the coarser toils, but with sufficient leisure, both physical and mental, from mechanical details, to cultivate freely the graces of life, and afford examples of them to the classes less favourably circumstanced for their growth."[9] Thus, the chapter on economic cooperation in the *Principles* returns us to the basic concerns of Mill's liberalism: liberties of thought, self-direction, and association, all of which when enjoyed have an educative effect, both directly and indirectly.[10]

Mill's economic theory seeks to transform what, using an often-quoted line from Shakespeare's *Julius Caesar*, he calls the "shallows" and "miseries" of the stationary state. Mill rejects the idea that the system's proper function justifies any amount of stress on the individual, and rejects the triumphalist idea that the need to increase profits justifies a life of "trampling, crushing, elbowing, and treading on each other's heels."[11] This is at most a third-best way of life. Better, to some degree, is the life of struggle and competition that includes everyone on a level playing field, but even better than life as rat race is an educated life, where increase is not presumed to be the primary goal, unless it is increase in knowledge and improvement of character.

In order to understand Mill's economic theory in the context of his desire to advance the mental power of workers and owners/managers, it is useful to see that his economic theory is neither communist nor capitalist, nor a defense of *Homo economicus*, nor a classical liberal or laissez-faire theory. Those who do not care for this sort of ground-clearing can skip to the next section, but Mill says quite a bit about what his economic theory *is* when he explains what it is *not*.

Neither Communist Nor Capitalist

The solutions offered by socialism and liberty are allied and aligned, according to Mill.[12] In contrast, neither communism nor capitalism are desirable options for economic organization. In the first edition of the *Principles of Political Economy* (moderated in subsequent editions under the influence of post-1848 readings and of his wife),[13] Mill explains the basic problem with communism: it abstracts from self-interest and saps one of the sources of the drive to develop oneself. Mill writes that the "monotonous routine" of "a life spent in the enforced observance of an external rule, and performance of a prescribed task: in which labour would be devoid of its chief sweetener, the thought that every effort tells perceptibly on the labourer's own interests or those of some one with whom he identifies himself" is disastrous for the individual.[14] If a communist regime assigns employment to individuals and holds rewards constant in spite of variations in effort and results, such a regime violates Mill's highest principle of distributive justice: that each should be treated as he or she deserves. In such a regime, it is impossible to enjoy the degree of self-direction and association that Millian liberty requires.

Having said this, the lower tier of industrial jobs and the conditions of labor for the "inert" agricultural classes in capitalist regimes raise similar problems. In the chapter on property from the second edition of the *Principles*, Mill analogizes the position of the lowest capitalist worker to slavery. Thus, at their extremes, the problems of the two systems converge. Mill admits, "The generality of labourers, in this and most other countries, have as little choice of occupation or freedom of locomotion, are practically as dependent on fixed rules and on the will of others, as they could be on any system short of actual slavery."[15] Note Mill's concerns—diversity of occupation, occupational liberty, freedom of locomotion, and self-direction and independence. These values are at risk in both putatively liberal and collectivist economic organization.

Not Based in *Homo economicus*

For Mill, "there is no more certain incident of the progressive change taking place in society, than the continuing growth of the principle and practice of cooperation."[16] To neglect cooperation, fraternity, and sympathy in pursuit of an unlimited market where profit is the only aim, or to think of participation in the market solely as a vehicle for extending the moral benefits of cooperation, is to argue for one-sided forms of liberty.

Arguing for a many-sided economic liberty requires Mill to resist the appeal of *Homo economicus*. As Joseph Persky has posited, thinkers such as John Neville Keynes mistake Mill's theory when they read him as basing his economic theory on a narrow, self-interested anthropology of the

utility-maximizing economic actor. Mill sometimes employs self-interested utility maximization as a useful abstraction, but interests across Mill's oeuvre, and not just in feminism and national character, clash with the instrumental rationality of *Homo economicus*.[17] Mill could, of course, accept the basic abstraction and try to shoehorn his noneconomic concerns into an economic theory based on utility maximization. However, there is a great deal of evidence that Mill places moral development in something like a lexical priority over purely economical principles. For example, speaking about the advantages and disadvantages of peasant proprietorship versus large industrial/agricultural enterprises, Mill remarks: "in the moral aspect of the question, which is still more important than the economical, something better [than individual prosperity] should be aimed at as the goal of industrial improvement."[18] In another passage, Mill argues that the good life consists of more than perfecting the productive "arts of living"—employment, savings and investing, household economy, and so forth.[19] These are the merely "material arts of life."[20] As Mill attractively recognizes, these material arts, although very important for happiness, serve mental, moral, and social advancement as means to these ends.[21]

It is not easy to pinpoint the source or key influence behind Mill's emphasis on moral and intellectual qualities. Early letters dating to 1830 suggest that his care for "intellectual and moral development," as he describes it on the first page of the much later *Autobiography*, is present *ab initio* in his early education. Mill quotes Tocqueville approvingly in his first review, in which he criticizes the state of affairs where the "democratic revolution has been effected only in the material parts of society, without that concomitant change in laws, ideas, habits, and manners which was necessary to render such a revolution beneficial."[22] In his "Inaugural Address" at the University of St. Andrews, Mill makes an important distinction between "the two main ingredients of human culture," intellectual and moral excellence. Mill prefers intellectual culture to business sense, and even moral culture to narrowly intellectual culture.[23] Thus, although morality and economic prudence are important and interrelated constituents of any philosophy of life, developing the moral being, especially (speaking in socioeconomic terms) of the "lower class" men who are disinclined to cooperate, provides more long-term social return on educational investment than developing their instrumental rationality and productive capabilities.[24]

Cooperation promises complication, which Mill hopes will interrupt the rigid laborer-owner dyad, in which poorly educated workers get locked into the *Homo economicus* model, "labouring either each for himself alone, or for a master," but in either case unhappily.[25] A crucial problem is that cooperating with the less well resourced as equals is unattractive to those who are more educated and better off.[26] Mill insists that the laboring

classes are presently very imperfect cooperative partners. He cites the "unprepared state of mankind in general, and of the laboring classes in particular; their extreme unfitness at present for any order of things, which would make any considerable demand on either their intellect or their virtue." Nevertheless, Mill rejects the suggestion that workers needs protective hierarchies, such as guilds, or any type of contractual relations in which permanent hierarchies protect workers. These "permanent moral unions" are "evil" in any circumstance where workers are able to use "reason and free choice" to make "voluntary" arrangements for alienating their labor.[27] So, as I also show in chapter 4, Mill promotes the (voluntary) association of the more educated with the less educated, even if this burdens the more well-resourced members of society.

Above, I stated that Mill's economic liberty is neither negative nor positive. Instead, the aim of Millian economic liberty is for economic actors to have a liberal character—to be at liberty. Mill, a gradualist at heart, aims to smooth out the accidental privileges of birth, which he thinks cannot be rationally justified, and usher in greater opportunities for economic cooperation. His aim is to do away with the separation of society into two distinct and to some degree hereditary classes and to curb the dependence of the working class on owners and managers.[28] The improvement of character that is sought has two aspects, alluded to above. Associations of workers and owners should increase the providential, forward-looking behavior of the average person, who is typically biased to favor present gains over long-term benefits. Mill calls the capacity to "have pursuits and objects," even at the expense of present pain and labor, "intellectual" virtue. Second, economic association should achieve the more important aim of facilitating "moral" virtue.[29] It should be noted that Mill often discusses intellectual and moral virtue in the same breath, alongside "prudence, temperance, and self control," and that the virtues are blended together.

In addition to the normative aim of advancing cooperation, Mill also adds a strategic aim of fostering economic experimentation, which promises not only to make material improvements in economics but also to reconcile embittered workers to the justice of an imperfect market system. In this important move, Mill imagines that the best way to defend the justice of a partially just capitalist system is not to appeal to abstract principles but to encourage workers to experience the risks of putting up their capital as entrepreneurs. By experiencing the difficulty of launching and managing a corporation, and by feeling the pains as well as the rewards of investment and self-direction, workers will come to see why high returns on capital and high managerial salaries are justified.[30] The ability to experiment entrepreneurially is a lesson in the truth that some return on capital is required by the qualities required to put capital to work: abstinence, risk, and exertion.[31] Workers who better understand their business will also

come to identify the problems facing their company or trade as their own. That is, wage earners who understand the workings of a corporation will feel involved in the outcomes of the company as symbolic partners rather than as mere functionaries. This insight, which is part of Mill's broader theory of representation, recognizes a substantive and symbolic connection of workers to their company that is very real and quite important to the dignity of employees. The legitimizing and cultivating effects of understanding a company's highs and lows from the inside is another example of Mill's theory of education, in this case applied to economic production.

Not Twentieth-Century Classical Liberalism

Some critics of Mill write that "labor and ownership have no intrinsic connection to liberty in Mill's sense." On this view, Mill thinks that economic activity "is not an expression of liberty."[32] This characterization, much like the view that an anti-enterprise and anticommercial spirit animated Mill more or less strongly throughout his life, is not plausible for two reasons.[33] First, Mill mounts a robust defense of the security of property rights on a Utilitarian basis. In this respect, he is not unlike Bentham, whose early Utilitarianism is almost triumphantly classically liberal.[34] In a letter from 1870 when Mill is assessing the extent to which he is willing to challenge the right to moveable property, Mill affirms the connection between economic liberty and happiness, explaining that the "feeling of security of possession and enjoyment, which could not (in the state of advancement mankind have yet reached) be had without private ownership, is of the very greatest importance as an element of human happiness."[35] Second, Mill recognizes the connection between economic activity and prudence or business sense in the *Principles of Political Economy*. Mill was writing at a time when individual rights were less well protected than property rights. However, he recognizes that if freedom of thought and speech are undermined, the right to participate in politics, to petition government, to lobby, to persuade fellow victims to seek redress disappear, and property rights along with them. If, conversely, liberty of thought, expression, self-direction, and association are protected, one can argue for one's property if it is taken.[36]

The irony behind these more or less libertarian criticisms of Mill is revealed when we compare them with progressive democratic criticisms of Mill. For example, John Dewey interprets Mill as the apostle of classical (noninterventionist) liberalism rather than someone who undermines it.[37] For Deweyan liberals, Mill's naiveté lies in the *exaggerated* connection that he draws between liberty and economic activity. For Dewey, the very conditions of individual flourishing are undermined by structural inequalities. True liberty requires a powerful, redistributive, and interventionist state to achieve the goal of personal emancipation, a goal about which Mill clearly

cares deeply. In a similar spirit, a present-day progressive interpreter concludes that Mill's economic program is coherent but "tentative," and based on "argument or . . . hope" regarding capital accumulation, and ultimately "too confining" to be properly progressive.[38]

These criticisms of Mill make sense only when one interprets Mill on the grounds that each individual is fully self-owning and possessed of inviolable, prepolitical property rights. Mill's liberalism also looks like a half measure to socialists and economic progressives attracted by the power of a state to meet demands for internal improvement, economic stimulation, and increased social welfare. But the fact that Mill is criticized by different groups of thinkers for being far too classically liberal, and for being far too progressive, should give scholars pause when they try to paint him as either a classical liberal or a progressive.

Where both neoclassical and more egalitarian liberals tend to agree is in their rejection of Utilitarianism, but this rejection also is hasty. In the Utilitarianism that Mill develops after his father's death in 1835, the opportunity arises for: (1) a new theory of politics that softens the "harder & sterner features" of philosophical radicalism and Utilitarianism; and (2) a neoradicalism that brings to bear a different democratic theory, based on a Utilitarianism that "takes into account the whole of human nature," including thoughts and feelings.[39] It is worth recalling that for Mill, there is no "universal solution" to questions about the scope of government and the liberty of the individual.[40] The classical liberal will blanch at the flexibility of Mill's theory, rightly thinking that the commitment to improvement will sometimes override individual liberty. Mill's adaptable position draws him toward apparently conflicted policies, including, to cite the most unsettling and repellent example, the defense of slavery as a temporary measure in an era of progress.[41] However, the "highest abstract standard of . . . distributive justice" remains the principle of merit, and at least some of the unpalatable aspects of Mill's economic theory, such as his nonabsolutism about ancient slavery, reflect his commitment to education. (Ancient slavery did not forbid the education of slaves, a fact on which Mill places undue emphasis.)

Not Laissez-Faire, but Not Big Government

Although it could be useful simply to discard the phrase "laissez-faire," it is more useful at the outset to be clear about what this phrase means and to what extent it applies to Mill. Mill, like Smith before him, is not a doctrinaire laissez-faire thinker.[42] Mill clearly states his rejection of laissez-faire as a matter of descriptive political economy in the *Principles*, where he argues that *no* economist in his day is a consistent adherent of laissez-faire. Laissez-faire advocates typically restrict "the province of

government . . . to the protection of person and property against force and fraud," Mill observes. This is "a definition to which neither they nor any one else can deliberately adhere, since it excludes . . . some of the most indispensable and unanimously recognised of the duties of government."[43] (These are discussed below.) In his discussion of Auguste Comte's positivism (examined in ch. 3), Mill argues that "the *laissez faire* doctrine, stated without large qualifications, is both unpractical and unscientific; but it does not follow that those who assert it are not, nineteen times out of twenty, practically nearer the truth than those who deny it."[44] It is difficult, then, to decide whether Mill would want to toss this phrase aside or continue to use it as a symbol of an approach that advances individual liberty. As I explain below, the best solution is to nest the language of both laissez-faire and progressivism within Mill's broader, liberal argument for mental independence and educational liberty.

In recognizing a large scope of governmental action in the first of the two quotations above, Mill has in mind practices such as coining money. Arguing in an era prior to cryptocurrencies, Mill observes, "No one, however, even of those most jealous of state interference, has objected to this [coining money] as an improper exercise of the powers of government."[45] It is also generally accepted that governments superintend a wide range of activities for the sake of "general expediency." Mill's list, which is not exhaustive, includes the power to set the procedures of justice and to mediate between parties in civil disputes; to keep public registries of births, marriages, and deaths; to coin money; to prescribe weights and measures; to pave, light, and clean roads; to make and improve harbors and lighthouses; to survey land; and to raise dykes and embankments.[46] Under the justification of "general expediency," Mill also thinks that the "admitted functions of government embrace a much wider field than can easily be included within the ring-fence of any restrictive definition." There is in fact no definite limiting principle to governmental power outside the protection of individual cultivation, and even this educational aim is superseded "when the case of expediency is strong."[47]

Mill's inability to provide a theoretical statement of the limits of government appears to be at odds with *On Liberty*'s "simple" principle and will vex some of his readers, but his defense of mental power and independence is where theory meets practice. Mill predicts that the "theory of dependence and protection" in economic affairs is nearing its end.[48] This system is premised on the notion that "the lot of the poor, in all things which affect them collectively, should be regulated *for* them, not *by* them. They should not be required or encouraged to think for themselves." "The rich," Mill further explains of this system, "should be *in loco parentis* to the poor, guiding and restraining them like children. Of spontaneous action on their part there should be no need."[49] In a typically critical observation, Mill

argues that economic elites have not played their educative and tutelary role with sufficient generosity and enlightenment, and there is no reason to think that future elites will do any better. However, although elites haven't changed, the poor have. "The poor have come out of leading-strings," Mill concludes, "and cannot any longer be governed or treated like children."[50] The "so-called protectors" of the poor, he writes in terms that are reminiscent of his criticisms of husbands under coverture laws, "are now the only persons against whom, in any ordinary circumstances, protection is needed."[51] This type of insight explains Mill's sharply critical comments, not about elites as elites, but about those who have one-sidedly sought only their own economic liberty.

As for the proper scope of government, Mill argues in 1852 before the parliamentary Select Committee on Income and Property Tax that a principle of justice can do no more than give a rough estimate of fair amounts of taxation, although he does say that "whatever it [government] can do *usefully*, which will be different in different circumstances, it ought to do."[52] When asked to provide an example, Mill says this: "the establishment of schools and universities; that cannot be called the protection of person or property; it is not in all cases a thing which I think the Government should do; but in many cases it is. It seems to me a matter of judicious discrimination in each case, what the Government can do for the benefit of the community."[53] Consistent with this, Mill would argue that any governmental action that tends to "weaken the stimulus to individual effort" should not be done. Very concretely, in 1862's "Centralisation," Mill argues that because of the threat that governmental action poses to the development of individual competence, "*nothing* should be done by it [government] except what has been clearly proved to be incapable of being done by other means."[54]

As for the role of the public, a constant theme of this book is that even narrow questions of policy cannot be decided in the abstract without thinking of whether and how policies are regarded and supported by the public. In an interesting statement from the same parliamentary testimony quoted above, Mill acknowledges that the quality of a policy depends upon its fit with the people, where "fit" in turn depends not only on the values of an existing public but also on the "clearness and authority" with which the real grounds for that policy are presented to the "public mind." The question is whether the people will be able to accept and understand a progressive tax policy that exempts lower-wage workers and places greater burdens on those with more resources. Mill concludes that progressive taxation principles can "be made intelligible to reasonable people." But to unreasonable people, "they would never be intelligible."[55]

If these statements are reconcilable with Mill's theory of educated liberty, as I think that they are, the analysis of economic policy depends not

only on contextual elements, such as the needs of the poor and the values of the existing majority, but on the power of government to communicate the reasons for its policies. Seen in this light, even narrow economic questions raise political, rhetorical, and moral questions.

Mill also discusses different styles of governmental intervention. The range of options includes governmental advice to those at liberty to act for themselves, public options that compete "side by side" with private solutions, and exercises of exclusive governmental power limited to a particular domain.[56] Of these styles of intervening, Mill favors an advisory role for government—once again, because he has the individual's mental independence firmly in mind. Direct government intervention disengages local knowledge and undermines practical reason. In some cases, direct governmental action is appropriate and valuable: for example, when consumers cannot judge of the worth of a product; in cases where management is appropriately delegated to governmental actors; in situations where it is appropriate to control labor relations; and where public benefit may accrue, for example, through the working of the Poor Law administration.[57] Typically, though, advice and liberty is superior to command and governmental action.

It is somewhat confusing but in principle not wrong for government to regulate social acts, such as marriages, or trade, or the sale of noxious goods. In perhaps the most discussed passage of Mill's analysis of the scope and appropriateness of economic regulation, he affirms that the principle of liberty does not presumptively bar economic regulation, because "trade is a social act" coming within "the jurisdiction of society."[58] As Mill explains in this passage, the crucial problem is that restraint of trade does not typically achieve what it aims at. Thus, although society is competent to restrict trade, insofar as it affects the interests of other parties than the ones involved in the transaction, it typically should not do so.

Mill's point is hard to interpret. To borrow an example developed by Samuel Hollander, consider the production and sale of alcoholic beverages. Choosing to consume alcoholic beverages is an act that is "not social, but individual" and thus ought not to be regulated; however, trade in these beverages is a "social act."[59] In *On Liberty*, Mill argues that unless he is a soldier or a policeman on duty, or someone who has previously been in trouble with the law because of his drinking, someone consuming alcoholic beverages should have "perfect freedom, legal and social, to do the action and stand the consequences."[60] As for the person who has harmed someone while under the influence of an intoxicant, it is "perfectly legitimate that a person, who had once been convicted of any act of violence to others under the influence of drink, should be placed under a special legal restriction, personal to himself."[61] Presumably, this person's individual bad behavior has transformed their individual act into one with social

consequences, and he may thus be regulated by fine-grained restrictions applying to repeat offenders.

Mill also argues that the state should be able to tax "injurious" products, such as stimulants, "up to the point which produces the largest amount of revenue (supposing that the State needs all the revenues which it yields)."[62] The justification of this exercise of the tax power is twofold: the inevitability of taxation, and the state's ability to decide "what commodities the consumers can best spare." Here, progressives tend to lament what they see as Mill's habitual timidity in using the tax power to achieve egalitarian prosperity, a timidity they characterize as an "unfortunate residue of his classical liberal origins."[63] For Mill, the state should also centralize information about so-called experiments in living. It is a valid exercise of power for the state to serve as the "central depository . . . of the experience resulting from many trials."[64] But it should not allow majorities to impose the public's "abstract opinions, and even its tastes, as laws binding upon individuals," as sumptuary taxes tend to do, and at times explicitly aim to do.[65]

How can we reconcile Mill's view of the state as a mere repository of experimental evidence with his apparently more robust vision of the state as empowered to enact social regulation in the form of consumption taxes on goods such as alcohol? First, Mill argues that to restrict trade in alcohol is actually a covert prohibition of its use and possession. Increasing the cost of acquiring alcohol by taxation or by controlling the outlets at which alcohol is sold is a violation of liberty because it infringes on the personal liberty of consumption. For example, Mill charges that "the State might just as well forbid [a person] to drink wine, as purposely make it impossible for him to obtain it."[66] As Mill admits, "every increase of cost is a prohibition, to those whose means do not come up to the augmented price; and to those who do, it is a penalty laid on them for gratifying a particular taste."[67] But this means that the regulation of an inherently social act, such as selling alcohol, is governed by the principle of liberty protecting self-regarding acts, such as consuming intoxicants. Putting *On Liberty* and the *Principles of Political Economy* in dialogue with each other generates confusion over the scope of acceptable regulation. As Samuel Hollander (from whom I borrow this case study) observes, "it is difficult to say what precisely Mill had in mind . . . [because] *any* form of control must inevitably raise the cost to consumers, monetary or otherwise."[68]

It is conceivable that Mill is confused, but it is more likely that he is mixing descriptive and normative economy. If what Mill describes in *On Liberty* are the conclusions of his normative political economy, his argument that the social act of trade may be regulated is heavily qualified by his view that individuals are more than "consumers." Individuals have an uninterrupted right to enjoy goods and services in private, and it is illegitimate for states to use taxes—or health regulations, as Mill argues in the case of the

Contagious Diseases Act—to advance the moral opinion of government or of popular majorities.[69] This is true for all consumers, and especially for the poor. By this logic, if there are consumption taxes on stimulants, those taxes must be low in order to respect the ability of the less well off to decide for themselves how to use their money. Mill does not intend to create "one rule for the rich and another for the rest," although it is understandable to infer that he does.[70] If the successful businessman wants to waste his surplus on opium (or painting lessons or some other less objectionable but potentially frivolous entertainment), Mill prohibits interference, which is liberal. But he does not provide support or fix prices in order to enable the poor to have access to these desirable goods. If it sounds as if the poor's actual ability to exercise their liberty of taste, judgment, and self-cultivation is theoretical rather than real, this is because in many cases it is.

Mill's Economic Radicalism

The critics of Mill who argue that his approach to economics is incoherent or antiliberal typically focus on Mill's separation of production and distribution in the first two books of the *Principles*, and on Mill's examination of property and competition in book 2.[71] These interpreters maintain that to Mill, competition is something to be lamented, and that absolute property rights are unjust insofar as they confer an unjust "power over other human beings."[72] Thus, the "slippery slope" critics say that Mill's understanding of distributive justice *requires* a large role for governmental action in order to reduce competition and to reduce the injustice of private property. This contribution paves the way for later big-government liberalism.[73]

However, unlike socialists, for whom competition is a "system of extermination" of the people, Mill maintains a quite constant commitment to competition and private property from the first edition of the *Principles*, through his reviews of works on economics, through the later editions of the *Principles*, to the posthumously published *Chapters on Socialism*.[74] In theory and in practice, property requires public justification, according to Mill, and he argues that justice may require curtailing rights to landed property. A natural right to property is not altogether wrong, but it is also not *simply* right, as I noted above when summarizing Mill's similar criticism of the doctrine of laissez-faire. A natural right to property is merely "a first appearance of right" and "a perception of fitness . . . to be corrected or controlled by the considerate judgment."[75]

By returning to the meritocratic notion that reward should follow contribution, we can make sense of Mill's position on landed property and the shared ownership of the means of production. The meritocratic principle is itself justified by Mill's concern for cultivation and mental independence.

People should reap only the economic rewards of improvements to land, and they should benefit only from the fruits of improvement generated by their own labor and enterprise, because the preservation of desert is the best lesson one can learn about the need for and usefulness of work.[76] In the famous passage from the *Autobiography* about socialism, Mill emphatically states that it is "injustice" "that some are born to riches and the vast majority to poverty."[77] Mill criticizes the existing state of affairs, which rewards individuals for accidents of past generations' success in accumulating property.[78] Why criticize a self-owning society with large inequalities of unearned wealth that is gained by inheritance, if not because of its ultimately stultifying effects on the recipients of that wealth, and the degrading example they offer to workers who abide by the principle of earning what they have?

Ideally, in Mill's improved economic theory, all economic actors would start "fair in the race," if not on "perfectly equal terms." In the reformed theory, private property has no necessary connection to social evils and may therefore be permitted.[79] As for landed property, although some scholars argue that Mill's treatment of landed property becomes more radical in the years prior to his death, and there are changes in Mill's statements of his theory, it is not clear that those differing statements mark a change in his principles. Specifically, there is not enough evidence to conclude that the meritocratic principle takes a subordinate position to another competing principle such as cooperation or fraternity in Mill's later writings.

Cooperative Economic Activity

Mill concludes his famous chapter on the probable futurity of the laboring classes, which first appeared in the 1852 edition of the *Principles* through the inspiration of Harriet Taylor, by arguing that "every restriction of it [competition] is an evil, and every extension of it, even if for the time injuriously affecting some class of labourers, is always an ultimate good."[80] If we make this conclusion consistent with the theory of *On Liberty*, laborers affected adversely by competition may be injured, but they are not harmed. Whether or not this verbal distinction is convincing, further clarification is required regarding Mill's broader defense of competition, which, although "indispensable," stands in tension with his very critical view of English citizens, whose character he criticizes for selfishness, pecuniary jobbing, and narrowness of interest.[81] The creation of educated liberty occurs partly in the crucible of economic competition, when economic actors labor for the sake of gain, take risks, and endure the consequences. This character-building education cannot be separated from liberty, property, and competition, yet Mill writes very critically of the type of character that this economic education typically produces.

In thinking about what Deirdre McCloskey calls the "bourgeois virtues," it is easy to slip into the trap of thinking that Mill regards economic activity as merely a means to overcome hunger and disease, and that it does not offer anything cultivating to the character of the worker.[82] What this criticism misses is the interplay—really, the mutual dependence—of the moral and intellectual elements of active character and educated liberty.[83] The positive elements of social progress (the growth of power over nature, the increase in personal security, the increase in productive power, and the increase in overall business capacity) outweigh the negative aspects of industrial power, which are many. As a whole, modern society flourishes at the expense of the individual's loss of capacity; however, these individual deficits in good business sense and practical reason are more than made up for by the "greater capacity of unified action," including, in general, the capacity for planning, the subordination of caprice, and the rise of cooperative association.[84] Modern individuals are in many ways weaker in their character and capacities than the cream of earlier crops, but modern societies are vastly more powerful and capable than earlier societies. More crucial, modern societies cultivate moral characters that are more just than the pleonectic, honor-loving characters favored by the ancients, or the modern, sharp-elbowed acquisitive types favored by capitalism.

Nevertheless, for the individual in an industrial occupation, the increase in modern society's social power is an ugly trade-off. As Adam Smith's famous discussion of the pin makers in *The Wealth of Nations* shows with trenchant clarity, the drudgery of an industrial division of labor is very real. Following in Smith's footsteps, Mill recognizes and laments that the pursuit of prosperity often comes at the *expense* of moral and intellectual cultivation.[85] Workers' increasing "inferiority of faculties" is partially compensated by increases in prosperity, but following this path to its conclusion would ultimately lead to mass democracy, consumerism, and dystopian stupidity. As observed above, Mill recognizes this outcome as akin to "actual slavery." Adding mental power and refining independent judgment in "those who now have only hands" should be a key aim of a liberal market society.[86] The question is how to do so.

Just as in Smith's *Wealth of Nations*, Mill sees that deliberative deficits may result from the engagement of industrial workers in assembly-line labor, a problem that is only partially ameliorated by piecework, which justly rewards innovation but may not develop broader self-ownership skills. Writing of Louis Blanc's tailors, who adopted piecework after originally experimenting with a total absence of profit motive, Mill emphasizes that mutual surveillance created a condition of servitude within the workshop that was quite untenable. Mill is emphatic in his defense of the justice of piecework: "Dislike to piece-work in itself, except under mistaken notions, must be dislike to justness and fairness; a desire to cheat, by not giving work in proportion to

pay."[87] But piecework is not the solution. Mill holds out hope that compulsory education will become an important means to workers' improvement as human beings, not just as workers.[88] But Mill's argument for elevating the character of capitalism is more ambitious than these reforms and rests on his hope for new forms of corporate economic activity.

Shared enterprise will foster a fuller set of the bourgeois virtues. Mill variously cites "probity and fidelity . . . integrity and trustworthiness" and "integrity, good sense, self-command, and honourable confidence" as the crucial virtues of economic liberty.[89] Cooperation will also reduce the present tension between social and economic classes. Mill is always looking for ways in which the liberal state can find advisory schoolmasters for its citizens, ones that will help to enlarge the orbit of citizens without substituting the judgment of obliging elites.[90] Alongside participating in the transaction of public business, Mill thought that he had found a cultivating association in the cooperatively organized corporation.

Utopian, But Not Socialist?

Before addressing the minisocialism of corporate and cooperative ventures within a market society, it is useful to distinguish Mill's preferred approach from the more familiar option, state socialism. Why does Mill prefer small-scale cooperation over state-sponsored socialism? This is a crucial question, especially in hindsight, and some controversy surrounds Mill's answer. In one view, market democracy has default settings, such as competition and private property, that Mill becomes increasingly interested in abandoning. Mill also becomes increasingly interested in socialism as a moral ideal. Thus, the "democratic socialism" and "egalitarianism" of his "later writings" conflict with his earlier market-oriented writings. In another variant of this interpretation, critics state that the change should be attributed to the influence of his wife, the "femme fatale" of political economy. Although Mill himself recognized that Harriet Taylor "greatly overrate[d] the ease of making people unselfish," Mill nevertheless found himself unable to be free of her pernicious influence.[91]

These readings of Mill are supported by a key passage of Mill's *Autobiography*, where he argues that he became a socialist in his later life. As usual, the pivot in Mill's thinking reflects his concern for education. "We [Harriet and John] were now much less democrats than I had been," Mill reports in the *Autobiography*, "because so long as education continues to be so wretchedly imperfect, we dreaded the ignorance and especially the selfishness and brutality of the mass: but our ideal of ultimate improvement went far beyond Democracy, and would class us decidedly under the general designation of Socialists."[92] The switch from democracy to socialism does not mean that Mill embraces state socialism. Instead, he

rejects the complacent acceptance that (as he thinks) democrats show about existing economic classes and existing character-destroying economic hierarchies. Mill's new position, as he describes it in the 1852 preface to the third edition of the *Principles*, imagines a different state of education, combining "the greatest personal freedom with that just distribution of the fruits of labour which the present laws of property do not profess to aim at."[93] As he explains in a letter of that same year, the contemporary deficits of workers' morality and conscience prohibit association with the educated.[94] He suggests a variety of experiments in living aimed at improving the morality and business sense of the working classes. For this reason he might better be described as an educational reformer and experimental utopian, rather than a mid-nineteenth-century democrat or a twentieth-century socialist.

The term *socialism* must also be understood in the context in which Mill drafted his *Autobiography* and his *Chapters on Socialism*. For all of the leading theorists of socialism (Charles Fourier; Claude Henri de Rouvroy, the count of Saint-Simon; and Robert Owen), true individualism is possible only when individuals abandon selfish, Enlightenment-style atomism (*individualisme*) and embrace the cooperative, organic unity of the individual and society.[95] At mid-century, in the context of the reformers' hopes for revolutionary change in 1848 France, socialism was not necessarily opposed to market democracy, as later became the case. An article in the *Westminster Review* describes socialism as no more than "mutual cooperation for the interests of all."[96] Another article in the same periodical offers a description of the two core socialist tenets, which "any sane person would affirm." "They are, that associated industry is the most powerful agent of production" and that "the principle of association is one susceptible of further and beneficial development."[97] An article by Mill claims that socialism is the use of state power to "raise funds by taxation, and contribute them in aid of the formation of industrial communities on the co-operative principle." "This is Socialism," Mill continues wryly, "and it is not obvious what there is in this system of thought, to justify the frantic terror with which everything bearing that ominous name is usually received on both sides of the British Channel."[98]

The *Westminster Review*'s article on Mill's *Principles of Political Economy* did not consider Mill's position to be socialistic in the "bugbear" meaning of the term. The understanding was that Mill cut the leading strings that previously had bound the poor to the rich, but not to rabble-rouse for the interests of the lower class.[99] His position is presented as a moderate attempt to elevate the position of the lower class without further provoking class antagonism.[100]

In his review of the *Principles*, Walter Bagehot recognizes that Mill "is the first among great English Economists who has ventured to maintain,

that the present division of the industrial community into labourers and capitalists is neither destined nor adapted for a long-continued existence." The review, which discusses other topics at greater length, is rather hard headed about Mill's plan for the improvement of the working poor in England. Summarizing Mill's plan to make "the workman the partner of the capitalist," Bagehot is critical of Mill's approach as a question of political economy. For Bagehot, "it is clear the present rate of wages is too low to be sufficiently raised by any improvement in the mechanism of distributing. The additional amount produced would be quite insufficient to effect so great a change as is necessary."[101] Bagehot is correct about the problem of low wages, which Mill anticipates by arguing that the falling rate of profit will bring a stationary state, but Mill is optimistic about the moral effects that can be achieved in that stationary state by the cooperative reorganization of labor.

According to the *Autobiography*, Mill also came to believe that the lot of the poor could be improved by universal education, which would lead to more intentional family planning and freedom from pernicious influences such as bad religion.[102] By effecting this "change of character," the West will avoid a civil war between classes. Mill, however, remains empirical and cautious about the actual policies suited to this time, casting a critical eye at both progressives and conservatives in other countries, such as France after 1848.[103] Mill ultimately commits to the proposition that "the land and the instruments of production should be the property, not of individuals, but of communities or associations, or of the government."[104] But as he concludes in *Chapters on Socialism*, he is committed to this proposition not as an absolute fact, and certainly not as the fruit of violent revolution but (merely) as an empirical hypothesis.

Communism's Higher Justice

The attribution to communism of a "higher standard of justice" is, on its surface, also confusing.[105] This claim is made in political and economic texts that form the core of Mill's mature thought. However, if Mill thinks that economic justice consists of giving people what they deserve, as he claims in canonical texts such as *Utilitarianism*, why is communism's commitment to distributing the same portion to all a higher justice and not outright *injustice* according to Mill's "highest abstract standard of social and distributive justice"? The answer lies in the current state of the desert principle, which in Mill's view rests on the flawed ground of arbitrary privilege that undermines evaluations of desert made according to the merit principle.[106] Mill is thus consistently meritocratic about rewards for labor. In *Principles of Political Economy*'s discussion of communism, he writes, "No rational person will maintain it to be abstractedly just that a small minority

of mankind should be born to the enjoyment of all the external advantages which life can give, without earning them by any merit or acquiring them by any exertion of their own." "It is," he thinks, "impossible to contend that this is in itself just."[107]

Mill clearly rejects the undeserved privilege of a hereditary minority, but does this also make him a "luck egalitarian"? It is sometimes argued that Mill became progressively more radical in his criticism of economic and social inequality throughout his life, and a luck egalitarian in later life.[108] Although there is evidence of shifts in Mill's economic views, and certainly in shifting influences, Mill's statements in favor of a version of luck equality are scattered across decades of writings favoring radical equality of opportunity. In his 1862 essay "Centralisation," he employs a disturbing turn of phrase to argue that "in racing for a prize, the stimulus to exertion on the part of the competitors is only at its highest when all start fair, that is, when natural inequalities are *compensated by artificial weights*."[109] In his view in 1848, "The proportioning of remuneration to work done, is really just, only in so far as the more or less of the work is a matter of choice: when it depends on natural difference of strength or capacity, this principle of remuneration is in itself an injustice."[110]

An early, angry statement against economic inequality, which may reflect the beginning of romantic or socialist anticapitalistic influences, should lay to rest the idea that Mill is radicalized by his wife or that his luck-egalitarian leanings are a product of late learning. (Whether and when Mill was radicalized by exposure to utopian socialists is a more difficult question.) In 1831, Mill writes to John Sterling that he would "not care though a revolution were to exterminate every person in Great Britain & Ireland who has £500 a year. Many very amiable persons would perish, but what is the world the better for such amiable persons?"[111] In an 1839 review, Mill argues that philosophical radicalism anticipates the luck-egalitarian approach, asking "what is Radicalism, but the claim of pre-eminence for personal qualities above conventional *or accidental* advantages?"[112]

These radical statements are significantly earlier than any of Mill's luck-egalitarian statements vindicating the 1848 French Revolution, in the *Principles of Political Economy*, or in 1862's "Centralisation." At the least, these statements problematize claims that Mill was progressively radicalized by events and influences in the late 1840s, and they suggest a long-standing desire to attain a more strictly meritocratic distribution, which would constitute a "higher" standard of justice.[113] On the other hand, these statements do not fully resolve problems of applications raised in *On Liberty*, where, for example, Mill argues that the more talented *or* well prepared should remain "undeterred" (presumably in their useful efforts) by the effects that their economic participation have on less well prepared and less successful competitors.[114]

To achieve the aim of a more perfect equality of opportunity, Mill plays throughout his life with the notion of radically restricting inheritance. Inheritance creates intergenerational dependencies and permanent class hierarchies.[115] Mill's meritocratic theory of equal economic opportunity permits state intervention in the inheritance of landed property (as he often says) and moveable property (as he sometimes says). In the latter area, Gregory Claeys recently discovered a "virtually overlooked" development in Mill's theory of taxation. He argues that Mill expanded intervention from inherited landed property to countenance intervention in the case of all inherited property.[116] Because Mill made this qualification in his later writings, it is consistent rather than surprising that he ultimately decided not to protect inherited wealth from taxation. His justification is that it is cultivating to impose limits on the concentration of wealth in a few hands, thereby increasing economic opportunity and advancing the bourgeois moral and intellectual virtues. Mill may be wrong, but he is not inconsistent to think that educated liberty requires productive labor, or at least that cultivation and agency are undermined by undeserved wealth.

In 1861, despite his general misgivings about achieving widespread social improvement in a very imperfect world, Mill states that communism "may become" acceptable to the many, as it is in theory to the few.[117] Thus, the primary reason that Mill is not a communist is not that communism is impossible but that experiments in communism with which Mill is familiar are illiberal. Not anticipating the twentieth century's penchant for radical social and political experimentation with command economies, Mill writes that "the very idea of conducting the whole industry of a country by direction from a single center is so obviously chimerical, that nobody ventures to propose any mode in which it should be done."[118] This statement is both descriptive and normative. Whatever future prospects communism has, it is neither wise nor just to arrive at communism by passing through a stage of centralized economic control. In keeping with his cautious empiricism, Mill acknowledges that it is an "open question" whether "Communistic production is capable of being at some future time the form of society best adapted to the wants and circumstances of mankind."[119] He is certain, though, that renouncing liberty for the sake of equality, as communism does, or sacrificing self-control and self-direction for the sake of comfort and convenience, as capitalism tends to do, is incorrect in theory.[120]

Passing from communism's justice, Mill also turns a critical lens on contemporary socialism. In a series of "goldilocks" moments in *Chapters on Socialism*, Mill criticizes socialists for putting too little or too much emphasis on liberty of choice.[121] "According to Owen," Mill writes, "the able-bodied would share by turns all kind of necessary labour; the community deciding in general assembly, or by its elected officers, what labours are necessary."[122] This economic communitarianism is utopian. However,

it remedies one acute problem of capitalist organization: class division. The capitalist division of labor trains classes to learn that they have "separate and opposing interests, and different ranks and stations in society." It teaches class pride, the utility of deception in marketing goods, a passivity in waiting for buyers to emerge, and (in the case of middlemen) a greedy desire to carve out as much for themselves as they can.[123]

The Saint-Simonians propose a radically top-down, planned economy unified under the direct control of an industrial elite. As Mill describes it in the *Autobiography*, "the labour and capital of society would be managed for the general account of the community"; every individual in the community is required to labor as a "thinker, teacher, artist, or producer, all being classed according to their capacity, and remunerated according to their works."[124] This vision of society is defensible (the Early Draft of the *Autobiography* says that it is "perfectly rational").[125] However Mill criticizes the Saint-Simonians for thinking that wise social scientists can plan the economy and decide which persons are suited to which employments. Mill analogizes this mode of directed distribution to the Jesuits' educational experiments in Paraguay, which Mill describes as "voluntary despotism" over otherwise hopelessly improvident persons.[126] It is, as Mill complains, impossible that "one or a few human beings" could be "qualified to adapt each person's work to his capacity, and proportion each person's remuneration to his merits." No one or few persons can be the "dispensers of distributive justice to every member of a community," no matter how small the community or how well those social elites know the community members.[127]

Finally, Mill argues that the Fourierists expand occupational choice in an implausible manner.[128] Here, the problem lies not in an overly planned economy, but with the optimistic (and superficially Millian-sounding) presumption that individual economic activity is self-directing. Mill's observation about the Fourierists should be duly noted by all those who think that he seeks to maximize individual choice. Fourierists, for instance, encourage individuals to assign labor to themselves, for which they are remunerated at the same rate as others who labor in that sector. Without the market principle governing ineffective labor, however, labor will not be efficient, even if the Fourierists adjust compensation so that more popular job sectors that attract greater numbers of workers are paid less well.[129] Mill thinks that free riding and laziness are simply too intractable for this approach to work.[130]

Cooperative Socialism and Capitalism

Mill never uses the abstract noun *capitalism* to describe a category in his economic writings. Mill instead writes about the division of society into

capitalists, landlords, and laborers, arguing that current socioeconomic relations are insupportable.[131] Following earlier scholars, we can distinguish three levels of socialism in Mill's writings: communism/state socialism; socialism in small, self-contained communities or villages; and the socialism of cooperatively organized corporations that compete in a free market with other collectives or privately owned corporations. Mill's preferred route is to embrace cooperatively organized corporations that compete with other corporations.

An important (and largely correct) interpretation of Millian political economy holds that socialism "provided notions as to how reforms might be undertaken *within* capitalism."[132] The question that Mill raises is whether small-scale cooperative association is compatible with capitalism/market democracy, and, perhaps more important, whether cooperative ventures do *enough* to improve the economic justice of the capitalist system by encouraging departures from the market's strict profit motive. From a twentieth- and twenty-first-century perspective, the answer is likely negative, although the idea of a democratized, self-managing economy has been revived periodically since Mill's death. But once again, it pays to return to Mill's own argument to see how he integrates his educational aspirations with economic realities. Associating cooperatively will not necessarily empower workers by making them more able to earn and spend, which is one important path to social independence and power, but it may allow them to improve their *moral* situation as agents capable of self-mastery.

Moral improvement is what animates Mill. Here, we can draw an interesting parallel between marriage and economic association. Mill denies that voluntary economic associations require an "absolute master" and that "the law must determine which of [the members in a partnership] it shall be." In a passage from *The Subjection of Women* linking his feminism and his theory of normative political economy, he draws an analogy between marriage and business partnerships and rejects as unreasonable the idea that one business partner would contract with another who is given "entire control," so that "others shall be bound to obey his orders."[133] Individuals would not willingly enter into the sorts of associations that grant them the responsibilities of a principal but leave them with the powers of a clerk. Further, just as Mill reforms marriage to free women from the Hobson's choice of domination or nonmarriage, he theorizes an economic association where there are powers in charge and powers that are responsible, but no party that is by law or nature or custom the absolute master over the labor and property of others.

This is not to say, of course, that small, intermediate associations cannot act as factional drags on the public good, or that small-scale economic cooperation (and liberal marriages) will be the only educational

improvements in an improved society. But they can help to foster responsibility and agency. Responsibility combines the *moral* virtue of cooperation (where members work "under no inducement but their share in the general interest") with the *intellectual* virtue of a solid business sense (so that workers become "capable of estimating distant interests").[134] Responsibility is a key value in Mill's theory of education. Learning to be responsible for one's own labor becomes an alternative to direct, redistributive reforms intended to bring about social justice, and an antidote to the call for class-based legislation that targets the rich and powerful merely because they are rich and powerful.

Market-Based Cooperation

As we have seen above, Mill thinks that there are serious problems with state-directed economies and with small-scale experiments in communal organization, or "village" socialism. Some of these problems are better addressed through cooperative capitalism, whereby cooperative practices are advanced through self-directing enterprises that compete with traditionally organized businesses in a free market.

Although it is reasonable to try to liberate Mill's economic philosophy from the "policies and agendas that are of the nineteenth century and that are not commonly defended by twenty-first-century liberals," this is not the only or the best way of interpreting his social and economic theory.[135] Mill offers us practical examples of the policies that he thinks advance his educational project. These practical policies split opinion in Mill's own time and elicited his attention in publications that he intended to endure for generations. Moreover, his use of evidence—how comparative and how well versed he is in alternative approaches and policies, and where he does not bother to delve into the granular level of detail—tells us a great deal about how Mill understood himself. It is certainly interesting to ask whether Mill emphasized cooperation because he observed and studied its good effects in other countries, such as America or Holland, or whether he committed to the ideal of cooperation first, as seems to be the case, and looked to joint-stock companies and cooperatives as more or less practically effective ways to achieve his ends.

Limited liability is one way for workers to cooperate in self-management with other workers, and to attract capital investments by the property-owning class. For some Victorians, this sort of association "was a paradox, the mastery of one freedom by another, the overcoming of unlimited individualism by the larger freedom of groups to manage things in the way appropriate to groups."[136] That paradox neatly captures the clashing social and individualistic values of Mill's theory of economic liberty.

Limitations on liability became broadly available in England beginning in 1855.[137] Incorporation with limited liability allowed dormant partners to be responsible only for monetary losses up to the actual amount they had invested in a corporation. In cases of tort suits or other unexpected losses, investors' other holdings were secure. As one proponent of the law remarks, "It interferes with no individual self-action; it saps no individual self-reliance. It prolongs childhood by no proferred leading-strings."[138] Critics of this legislation, such as the author of an 1855 pamphlet on the subject, warn of the opportunity for "fraud and reckless speculation" that will occur in cases where silent partners put up capital, lulled by the promise of limited liability, allowing their funds to be used in a risky and irresponsible manner.[139] Mill, for his part, thinks that this is no reason to forbid limited liability corporations, subject to disclosure requirements to protect the potential business partner or investor who could be misled by the fame or reputation of an alleged full partner into trusting a corporation that is actually run by other interests.[140]

Prior to the reform, the English common-law approach to liability prior was, as one Victorian writer put it, "neck or nothing," a situation that discouraged speculative investment.[141] An investor was forced to fulfill his contracts "to his last shilling and his last acre."[142] In 1837, the Board of Trade was empowered to grant limited liability as a "legal indulgence."[143] The 1855 act made a crucial distinction between dormant partners and those who were liable for the company's actions. It required corporations to list the names of active partners with "limited" appended.[144] In the argument of a writer from the *London and Westminster Review*, to do so is to draw the appropriate "moral" distinction between active and dormant partners. Failing to do so ignores a "natural and innoxious right" to be responsible only to the extent that you are represented by a corporation.[145]

In Mill's moralizing reading of the statute, the Limited Liability Act of 1855 made it easier for laborers and benevolent capitalists to work together. This is the first step toward a more just form of cooperation. For the sake of protecting those who do business with corporations, the 1855 law retained burdensome transparency and disclosure requirements.[146] These requirements pushed out smaller, poorer corporations and defeated the interclass, cooperative purpose of the legislation. Be that as it may, Mill anticipated a future when the "association of the labourers themselves on terms of equality, collectively owning the capital with which they carry on their operations, and working under managers elected and removable by themselves" would be the dominant corporate structure.[147] If the first step was limited liability, the final step was the free association of different economic classes, workers and owners, as relative equals. For most commentators, it is how to link these steps that remains a problem for Mill's theory.

Before we consider those critics' views, we should place Mill's defense of corporate cooperation within a broader context of anticorporate distrust.[148] In *The Wealth of Nations*, Smith had already entertained problems similar to those Mill discusses. In book 5, chapter 1 of the *The Wealth of Nations*, Smith writes about uninformed owners who "seldom pretend to understand any thing of the business of the company; and when the spirit of faction happens not to prevail among them, give themselves no trouble about it, but receive contentedly such half yearly or yearly dividend, as the directors think proper to make to them."[149] Smith also writes about irresponsible managers who do not bother to watch over owners' capital "with the same anxious vigilance with which the partners in a private copartnery frequently watch over their own."[150] Smith's solution was to paint corporations (joint-stock companies) as a monopolizing force threatening the integrity of the system of natural liberty. Only in cases where the public would not be able to act on its own, as in the provision of services with prohibitively high start-up costs—such as insurance companies, water supply, banking, and canals—did he consider joint-stock companies a useful tool.

Mill acknowledges the threat posed by corporations, and he agrees with Smith about the danger of monopolies. However, in Mill's view, the corporation can be an association that educates and elevates those who would otherwise remain working within the individualistic and familial framework of *egoïsme à deux, à trois, à quatre.* As in Smith's *Wealth of Nations*, the joint-stock corporation fails this task by associating under conditions where not all share in the profits.[151] However, the cooperative corporation, conceived not as a highly morally demanding minirepublic such as the socialistic village-community, but merely as a "master-less" union of interests, can serve classical liberal and egalitarian ends.

As Mill argues in an 1868 letter, "the various forms of Cooperation (among which the one most widely applicable at present to production, as distinguished from distribution, is what you term the system of small percentage partnerships) are the real and only thorough means of healing the feud between capitalists and labourers."[152] Mill offers five benefits of this sort of economic cooperation. Cooperative corporations permit a just proportion between the wage of the most skilled worker and the manager, the latter of whom will be paid at a higher rate without (in theory) undermining the raison d'être of the cooperative, namely, profit sharing and the enhancement of the deliberative faculties of workers.[153] The advancement of these associations will cut down on intermediaries and will rectify the problem of the worker's feeling of alienation from himself and his labor, which was a concern for both liberal political economists such as Mill and for communists such as Marx.[154] Although Marx treated alienation in a different and deeper register, Mill conceived of the end of alienation as a "moral revolution" marking "the transformation of human life, from a

conflict of classes struggling for opposite interests, to a friendly rivalry in the pursuit of a good common to all." On classical liberal grounds, Mill argues that the workers' feeling that they are working with others, not working under them, promises "the elevation of the dignity of labour; a new sense of security and independence in the labouring class; and the conversion of each human being's daily occupation into a school of the social sympathies and the practical intelligence."[155] With these words, Mill reflects Marx's concern about "species-being" in the Millian terms of liberal moral education and individual freedom.[156]

Mill's classical liberal defense of cooperation leads to the optimistic-sounding prediction that cooperation will become widespread, creating the socioeconomic conditions for the realization in industry of the "best aspirations of the democratic spirit."[157] Mill thinks that in the not-too-distant future, the experiment of small-scale socialistic ventures will be entered by all workers, except for a minority for whom participatory economic involvement remains permanently unattractive and for whom voluntary, participatory self-education seems impossible.[158] Presumably, these latter would "stand the consequences" of their narrow self-interest and lack of enlarged views by remaining something of a lower class of dependents, relying on an owning and managerial class. This class of wage laborers would not be forced to participate in cooperative association, but Mill clearly thinks that their election of dependence makes little sense, at least when seen from the point of view of self-directing members of cooperatively organized businesses.

Whether Mill's vision can be realized through or in a capitalist system, and whether small-scale cooperation would do enough to improve the conditions of the worker, remain open questions. For Mill, the educative effects of cooperation offer a moral revolution in workers' lives, but this revolution is a slow and incremental one. Even Mill questions whether techniques of cooperation can be adapted to the task of "training mankind at large to the state of improvement which they presuppose," that is, he recognizes the danger of postulating what we want. Worse, though, is revolutionary socialism, which generates conditions of disorder that are not liberal. (Mill quotes Hobbes's description of the state of nature in support of the claim that "chaos is the very most unfavourable position for setting out in the construction of a Kosmos."[159]) Thus, Mill turns to the question of how limited efforts at cooperative association help to educate existing citizens as they are, and not as they could be, given a blank slate.[160]

Educative Small-Scale Socialism

It would be incorrect to say that Mill thought that cooperation was the universal panacea for the depressing state of workers' lives. But he does predict

that mastery will disappear as workers and owners begin to work together, and that in the long term the classes of workers and owners may entirely disappear, replaced by the "association of labourers among themselves."[161] As observed above, in the future land of equal opportunity, only the "least valuable work-people" will remain wage earners.[162] Mill expects cooperation to transform industrial work by transforming workers into self-owners.

Does the combination of cooperation and liberty permit workers and others to be self-reliant? Or is Mill overly optimistic? Outright paternalists reject Millian liberalism. Mill, in their view, is fully committed to unguided improvement because of his allegedly optimistic view of the mental power of the average individual, who is capable of spontaneous happiness seeking, competent instrumental reasoning, and dynamic character development.[163] However, this is not Mill's theory of liberty. Clearly, he is no stranger to bounded rationality and situated cognition. Mill devoted a book of his *System of Logic* to the five types of fallacies that thinkers are apt to commit. He is even aware that an improving society tends to diminish the prudence of the individual worker.[164] The problems of Mill's time are arguably now worse. Nonetheless, Mill remains a self-conscious and informed opponent of coercive paternalism. One need look no further than the repressive, "shallow impatience" of "Stephenism," as defended in *Liberty, Equality, Fraternity*, to see how different Mill's liberalism is.[165] More responsibility—not less—for more and greater decisions is appropriate for "those who now have only hands" but need minds.[166] The problem, then, lies in educating workers to use increasing liberty well.

In Mill's view, the dependence and enervation of the average worker would be easier to deal with and the reformist's sunrise brighter if democracy built character and overcame hierarchy, exclusion, and dependence. But, as I argue in chapter 4, democratic majoritarianism and the despotism of custom and habit are threatening enough to educated liberty that political reforms will mitigate only some of the ills of democratic government. In some cases, the market may compensate for some of the deficits created or fostered by democracy. But in other ways noted above, the market's division of labor exacerbates educational disparities across classes.

The economic system of natural liberty is not kind to those seeking education. When he turns directly to education, for example, Adam Smith observes that poor children "have little time to spare for education. Their parents can scarce afford to maintain them even in infancy. As soon as they are able to work, they must apply to some trade by which they can earn their subsistence." They do not learn much from plying their narrow trade, and the need to labor (and its burdens) leaves them little time to learn anything.[167] Fear of the "gross ignorance and stupidity . . . of all the inferior ranks of people" is reasonable, given the (unjust) refusal to do more with education than to make *some* degree of education compulsory.[168]

Mill is not being ungenerous in his distrust of state-run education. In much the same way that Mill's own education in Utilitarianism failed him, a state education "principles" minds into thinking "by deputy," rather than thinking freely and for oneself. In somewhat simpler terms, the state is not able to care for the fate of any particular individual, and it lacks the local and individualized knowledge required to supply the practical and relevant education that workers need. As Mill sharply reminds his reader about the dangers of power relations in education, "An education established and controlled by the State should only exist, if it exist at all, as one among many competing experiments, carried on for the purpose of example and stimulus, to keep the others up to a certain standard of excellence."[169] Given Mill's insistence that the state cannot directly educate its citizens, it is especially important that workers who are engaged in intellectually non-cultivating work also engage in the type of cultivating practices that would broaden their own horizon and that of their children.

The Victorian dream of the happy laborer working ten hours in the factory and then attending an evening lecture on mathematics or female emancipation is clearly not practicable. The educative influence of small-scale comanagement and coownership offers an attractive alternative, available wherever there is the will (and permissive legislation, as described above). And, as Jon Elster remarks about the transition from Mill's market democracy to the cooperative economy alluded to above, "If workers want (market) socialism, they can start up here and now."[170]

There are two problems with Mill's argument. First, workers do not appear to want what Mill wants. Cooperatively organized corporations were formed in Mill's day, and Mill agrees under questioning during parliamentary testimony on the working class that cooperation is a popular idea.[171] In practice, cooperative organizations have not materialized. Mondragón, a modern-day Spanish mixed cooperative corporation that relies on markets, mobility, specialization, and the industrial capacity of advanced capitalism to achieve socially just outcomes, is perhaps the most famous example of a cooperative organization. The "Ten Commitments" of Mondragón underline efficiency (their "management model guarantees people's involvement in the projects, resulting in greater efficiency") *and* corporate responsibility ("we aspire to a fairer, more equitable society. . . . Through our [educational centers], we respond to our commitment to improving the environments in which we work").[172] Mondragón is a successful corporation, but it is not clear that its aims and practices offer a model for other cooperatives; that it adheres to its own philosophy in the case of its short-term workers and foreign workers; or that it performs as well as private firms on crucial metrics such as workers' sense of identification with a firm in which they are putative self-owners. If this latter sense of belonging and ownership is crucial for liberal self-direction, as Mill thinks,

it is damning if successful cooperatives do not, in actual fact, foster this feeling.[173] Second, capitalists may not be willing to commit their capital to collectively organized projects, thus starving cooperatives of the start-up funds they need to make the moral improvements to the economy that Mill anticipates.[174] For Mill, this latter problem is mitigated because those mindful of the need for human improvement have a moral duty to support cooperatives, but the fact remains that if owners and managers do not recognize this duty, capital will have to be found elsewhere.

For these reasons, Mill's prediction that all workers will refuse to work for wages when they are able to enter into cooperative ventures as part managers and part owners has been dubbed the worst prediction that Mill ever made.[175] If self-management remains elusive, do the educative benefits of cooperation justify using tax incentives and regulation to *nudge* laborers toward cooperation while stopping short of agency-destroying direct governmental intervention? Richard Wolff gives this approach an interesting recent interpretation. Wolff elegantly defends affirmative legislation that makes it easier to create entities he calls WSDEs (Workers' Self-Directed Enterprises). *Permitting* cooperation, as Mill does, is not radical enough, at least while for-profit corporations control the political process.[176] However, Wolff thinks that state socialism and macroeconomic transformations of market democracy are not the answer, largely for the same reasons as Mill. Wolff instead defends small-scale, decentralized workers' self-directed enterprises. However, unlike Mill, Wolff holds that "genuine freedom" of choice of employment in a socialistic economy requires the government to support cooperative labor through tax subsidies and technical support; to fund cooperatives as an alternative to supplying unemployment insurance; and to host public service campaigns to publicize the benefits of cooperation.[177] Workers need to be educated in order to choose and enjoy the educative benefits of cooperatives, and Wolff relies on the state to do so.

Wolff admits that cooperatives are likely to be less efficient than corporations organized under the profit motive. If this proves to be the case, inefficient cooperatives can still find justification under a Millian conception of educative liberty. As Mill writes, small producers who cannot take advantage of economies of scale find "as full compensation, in the feeling of being their own masters. . . . [I]f they value this independence they will submit to pay a price for it."[178] If this price is high, workers' incomes and their standard of living will drop as they pursue cooperation rather than profit-motivated endeavors, weakening workers' financial independence. Hopefully, though, competition from cooperatives will spontaneously produce a "practical" minimum wage as for-profit corporations try to hold on to their workers. In that case, wage laborers who make as much as cooperative workers cannot claim that they are being exploited by owners and managers, and the division between workers and capitalists will be

reduced.[179] But even this solution depends on the market participation of a critical mass of cooperatively organized corporations.

There are two crucial limits on government's ability to create a cooperative marketplace. First, workers' cooperation must be sustained by the people, even if the original conditions for cooperation are created by government, just as a constitution must be accepted by the people who live under it. Second, it is difficult to design institutions that cultivate character rather than ones that achieve a more measurable goal, such as workforce participation. Still, if trade is the "social act" that Mill says it is, and if even permissive bills such as the 1855 Limited Liability Act impose restrictions on corporate activity, the burden of proof may be on the noninterventionists to show that the very important educative goal of economic cooperation can best be achieved without intervention. As usual, help in addressing these abstract questions of economic justice and individual liberty can be attained by looking at Mill's practical writings.[180]

Mill cites an argument from the Society for the Diffusion of Useful Knowledge (already quoted in a different context above) that laborers should make themselves into capitalists: the aim of labor should be to claim a status of equality with capitalists, not to enjoy equality "without any self control on their own part."[181] Mill's review essay "The Claims of Labour" revisits this theme. There, Mill argues that cooperation is the appropriate principle for connecting the laboring classes with owners and managers, even if short-term conditions make progress seem utopian and workers' becoming capitalists "ironical."[182] The basic idea is that both capital and labor are better off when they do not depend on a powerful third party, such as government, to manage and guarantee their claims.

Does Mill also show that noninterventionism works in practice? A cooperative middle way is complicated, as it should be.[183] Mill, for instance, personally supported The Wolverhampton Plate Lock-Smiths, a collective that made locks. The Wolverhampton cooperative was committed to raising its workers' wages, but its prices were being undercut by noncooperative competitors who sold at a loss to stymie the cooperative. Competitors also attempted to cut off Wolverhampton's supplies of oak, iron, and keys.[184] Mill argued in a private letter that the cooperative is "entitled" to financial support "against the attempt to ruin them by unfair competition."[185] The method of support that he chose was a private subscription, suggesting that by "entitlement" he referred to a moral obligation rather than to a legally enforceable obligation. Recognizing the threat posed by the for-profit businesses that tried to push out an exemplar of cooperation, Mill supported the cooperative by writing a letter to explain his support of its principles. He also offered it a subscription of ten pounds, and tried to garner public support by publishing an open letter in the *Spectator*.

In his letter to the cooperative's secretary, Mill typically and consistently defends competition, although his argument against the "tyranny of capital" muddies the waters by introducing a question as to what constitutes *fair* competition. He writes:

> Against fair competition I have no desire to shield them. Cooperative production carried on by persons whose hearts are in the cause, & who are capable of the energy & self denial always necessary in its early stages ought to be able to hold its ground against private establishments; and persons who have not those qualities had better not attempt it. But to carry on business at a loss in order to ruin competitors is not fair competition.[186]

Mill does not say whether any and all selling at a loss is unfair, or whether any and all collusion between competitors constitutes unjust price fixing.[187] It is not clear whether he would legally sanction practices of unjust or unwise competition that fall short of price fixing or, as is more likely, whether he merely thinks that honest citizens should know about—and support—corporations that are honest players as opposed to their cheaper, nastier competitors. To cite a more familiar example, when discussing the Rochdale Society of Equitable Pioneers, established in 1844, Mill says that the competence and honesty of managers is required for cooperatives to be efficient economic bodies. "If the experience of cooperation teaches the working classes the value of honesty & intelligence *to themselves*," Mill writes, "it will work as great a moral revolution in society as it will, in that case, a physical.[188] This lesson cannot be taught by external authorities that monitor a cooperative; the worth of the lesson is that cooperatives' workers and managers must learn by practice that honesty pays.

It is not clear whether Mill ultimately thinks that the principle of utility permits governmental intervention to help small-scale cooperative ventures to get off the ground or to encourage and promote practices of honesty and intelligence through reporting and transparency requirements. The discussion of Rochdale in the *Principles* precedes a section subtitled, "Competition is not pernicious, but useful and indispensable."[189] At the end of the preceding section, Mill highlights how the "nearest approach to social justice . . . which it is possible at present to foresee" is the "spontaneous process" that leads from "existing accumulations of capital" to "joint property of all who participate in their productive employment."[190] In making an argument that depends on unplanned processes, Mill can argue that cooperative association is unobjectionable: "nobody is obliged to deal with the [cooperative] association: still less is any one obliged to give it unlimited credit [under unlimited liability laws]."[191] As it stands, Mill appears content to leave some short-term increases in utility on the table in favor of

economic liberty, presumably because state intervention in favor of cooperatives is less useful in the long run than the spontaneous processes discussed above.

Even permissive laws walk a thin line between promoting responsibility and transparency, and discouraging participation. As noted above, the 1855 Limited Liability Act, which set the minimum number of investors, the price of shares, and the costs of incorporation with limited liability, continued to squeeze out poorer investors, leading to the "complete exclusion of the lower classes" from the benefits of cooperation.[192] Moreover, even when cooperatives were formed, they often slid from profit sharing into the hiring of labor that did not share in profits, as happened with Rochdale in Mill's day.[193]

Democratic Cooperation

After reading Mill on corporate and cooperative economic activity, we can see that he does not propose a thin conception of economic liberty. Changes in economic activity are one of the two main educational reforms that Mill expects to transform society, alongside the liberty of women. His conception of economic liberty is thick precisely because it aims at the cultivation of character, buttressed by cooperation, and provides support for a more extensive set of bourgeois virtues. Mill's economic thought is also not a way station along the slippery slope from the Smithian system of natural liberty to Pigovian interventionism.[194] Mill is best understood as attempting to foster the conditions of mental independence. His aim conflicts with paternalistic intervention but not necessary with interventionism.

For Mill, lowering barriers to incorporation and limiting liability are ways to empower workers and to compensate for problems with the industrial workplace. Seen in this (moral) light, cooperation between stable economic classes of owners/managers and wage workers, or within the ranks of workers, is compatible with competition. The success of cooperatives should lead a society to "establish a practical minimum of wages, and . . . strike at the root of the opposition of apparent interest between employers and labourers." *Solvitur ambulando*, Mill writes: the problem is solved by walking. However, cooperatives clearly have not been successful in this project compared with collective bargaining and governmental intervention.[195] As for why this is so, one can point to the burdens of self-management, reasonable fears about carrying free riders, and fear of competition from traditionally organized firms.[196] For some or all of these reasons, workers have not chosen to associate themselves in cooperatives in spite of the appeal of the cooperative principle from the standpoint of normative political economy. Where does that leave market democracy?

The jury is still out on at least one important component of happiness within the Millian stationary state—the continued advancement of the arts. In an 1847 letter, Mill deemphasizes the need for a leisured class, which he had previously considered to be the chief safeguard against extreme democracy in his first review of Tocqueville: "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," Mill now argues. "What does seem to me essential is that society at large should not be overworked, nor over-anxious about the means of subsistence."[197] However, Mill also rejects the compromise of combining increasingly cheap, labor-saving technology and workers' marginalization or alienation in his day. As Mill laments, "The education which taught or the social institutions which required them to exchange the control of their [workers'] own actions for any amount of comfort or affluence, or to renounce liberty for the sake of equality, would deprive them of one of the most elevated characteristics of human nature."[198]

On the other hand, Mill is hopeful that the arts and sciences will soon "effect those great changes in human destiny, which it is in their nature and in their futurity to accomplish."[199] Here, Mill's observation about the "great changes in human destiny" anticipates continual changes in the marketplace and in consumers' lives, including advances in labor-saving technology, the development of online agoras, and the development (and exploitation) of new markets. The economic possibilities are both promising and frightening. Workers have been transformed into a powerful middle class of consumers by some of these changes, with the power to be active citizens whose agency is developed precisely by freeing workers from ten- and twelve-hour workdays at factories. Other changes have made workers and even owners and managers into powerless consumers of technology, rendered passive and disengaged by the very tools that were sold to them as cultivating and broadening.

In the light of the increasingly morally relevant revolution in the arts and sciences, more thought should be given to whether the Millian system of market democracy, competition, and cooperation *works* in the present day. Those who think that market democracy succeeds in elevating citizens out of *mental* dependence, should direct their attention toward those cases where structural dependency and hierarchies are perpetuated. Those who have more Tocquevillian (or Frankfurt School) concerns about mass democracy can be answered by pointing to Mill's observation that the arts and sciences are only just beginning to have the moral and intellectual effects that Mill hopes they will have. This remains true today, and in the next chapter, we turn to Mill's analysis of the effects on liberal society of an ongoing revolution in social science.

Chapter Three

Expertocracy

The previous chapter argued that Mill's economic theory is best understood if we interpret him as subordinating even purely economic concerns to educational interest in building moral and practical reason. This chapter turns from industrial production to the production of knowledge. Here, Mill is similarly concerned with providing an opportunity for social scientists, among others, to advance liberty and ultimately happiness by producing knowledge, and to do so in a manner that includes rather than excludes public participation. The theory that I develop in this chapter rests on the permanent necessity of permitting more and less prepared citizens to participate in the process of creating knowledge and refining character. With this limitation on reform in mind, I find what many other critics of Mill do not, namely a consonance between the diversity embraced in *On Liberty* and the recognition of intellectual diversity and liberty in Mill's writings about Auguste Comte and about social science.

The advancement of the arts and sciences is at the core of Mill's educational theory. Mill would never write what the protocommunist Sylvain Maréchal wrote in 1796: "Let all the arts perish, if need be, provided true equality be attained."[1] For Mill, the type of equality that would be experienced without the advance of the arts and sciences would be an equality of necessity, not cultivated happiness, and narrowness of scope of action and options, not educated liberty. In an industrial age, the useful knowledge of the scientist is especially important for the well-being of the worker and citizen. As noted above, Mill thinks that the most transformative changes in society are women's liberation from legal disabilities and the end of class-based separation of workers and owners/managers. But he is also very concerned with making social science compatible with representative democracy and civic education, rather than permitting democracy to

develop without the power of scientific inquiry, or permitting science to dominate the public and its constitutional order.

As H. S. Jones observes, the science of political economy was thought to be the most likely threat to the democratic principle in nineteenth-century England. In France, the worry was that politics would be subordinated to scientific sociology.[2] Mill is attuned to both concerns, but especially to French intellectual trends, given his close association with that country and his lifelong interest in its politics.[3] His *System of Logic* is sometimes blamed for bringing the French problem of the scientific control of society to English soil.

Mill's key interlocutor in the use of social science is Auguste Comte. As I argue below, we should understand Comte primarily as an educator, like Mill, albeit with a rigorous and illiberal theory of how best to educate a scientific society. Comte's lack of moderation, his desire to directly control moral and intellectual education, and his enthusiasm for systematization helps Mill to arrive, by contrast and comparison, at a more liberal theory of education. The encounter with Comte helps Mill to see that social science, left to create its own authority in the mind of the public without compact organization or a rigid system, will aid society's transformation. Good social-scientific method helps to correct Comte's errors and helps to illustrate why scientific inquiry requires disorganized, experimental liberty.[4]

The Legislator and the Social Scientist

A missing context in the debate over Mill's support or rejection of expertocracy is the notion of a legislator through whom the good of the people, but not necessarily the *will* of the people, is done. For Jeremy Bentham, government by majorities cannot replace the unity of purpose and the composed mind of the individual who writes and thinks for the good of the whole.[5] As Bentham explains about the panopticon, "The greatest happiness of the greatest number requires—that every draught, so given in, be, from beginning to end, the work of a single hand."[6] Bentham himself aspired to be "the dead legislative of British India," and offered advice and codifying skills in letters to the American president James Madison and select U.S. state governors, to the American people, to the French National Assembly, and to the Russian tsar.[7]

A contrasting, moderate ideal of the legislator is given clearest definition by Charles-Louis de Secondat, baron de Montesquieu, who imagines the legislator as an empirically informed, behind-the-scenes voice exerting a humane, creative influence on existing political powers and prejudices.[8] Under a variety of influences—Montesquieu, Guizot, and Constant; Scottish and English "conservatives" who believed in the centrality of

tradition and custom to constitutional law; the "empire of opinion" school of legislators within the East India Company, such as John Malcolm; and the German philosophers of history and their English interpreters—Mill channeled legislative moderation into texts that respect the importance of informed decision making in politics, but shrink from concentrating power in one figure.

At this point, it is probably worth facing head on the objection that Mill admires the efficiency and power of administrative despotism. This problem is captured nicely by James Fitzjames Stephen, for whom paternalism is crucially unobjectionable.[9] Stephen thinks that Mill's liberalism is hypocritical or worse. According to Stephen, Mill imagines a tutelary society in which the power of education prior to the age of maturity is unlimited, but the power of education after childhood is null and void.[10] Stephen makes the insightful observation that education is ongoing, not discontinuous, and that it is a mistake to think it ends with the age of maturity. Indeed, it is not unusual to see parents learning or relearning from their children something that the children are taught in their schools. What is Mill's answer to this challenge?

In barbarous or semibarbarous places where discussion and debate are nugatory, or in the case of children, Mill recommends the enlightened government of a foreign despot or the superintendence of a parent. For example, in India (a semibarbarous place) and in Ireland (not yet capable of democratic self-government), Mill thinks that the rational control of society by a benevolent despot is appropriate. These beliefs make it seem as if it were appropriate to exercise any degree of controlling, educative power over dependents, foreign or below the age of maturity, so long as that control intends the good of those on whom it is exercised. But as I have observed above, Mill's own educational "cram" disabuses him of any Enlightenment notion that passive but thoroughly educated subjects are well-educated subjects. As for India, I argue elsewhere that the proper account of imperial power is complex and that reciprocal, moderate power over subjects who remain at liberty is the lesson of Mill's unpublished dispatches. The Indian subcontinent and Ireland are suited only to interventionist legislators because of their strict, hierarchical social orders. In India, the problem is the caste system and the land tenure system. In Ireland, it is English property laws that permit a landlord class to control the country. It is appropriate for an active legislator to break the bonds of custom in these hierarchical communities, but a more granular account of that legislator's activity would show the delicacy of the operations required to make reforms desirable and educative.

Returning to the liberal democratic context, we see that the shift from administrative despotism to scientific legislation does not solve—and may even intensify—some of the problems with passivity and enervation

mentioned above. Comtian systematization would transform Mill's "art of life" into an exact science of rational social control, and societies into planned communities. Philosophers in possession of the laws of the formation of character would become an ascendant social power.[11] If philosophers succeeding in arriving at a consensus about the meaning and aims of society, the moral duty to serve the common good in ways consistent with this consensus would expand, and society would be more likely to concentrate its forces on overcoming accidents and circumstances.[12] This is the dream of rational progress, and Mill must decide whether it is reasonable to resist it.

In practice, Mill proves strongly resistant to scientific utopianism. Precisely because his own scientistic commitments bring with them high hopes for scientific progress, Mill sees further into the problem than otherwise brilliant critics of democratization. Tocqueville, for example, sees the connection between American democracy and intellectual mediocritization and lack of interest in grand theories and in speculative science from the perspective of an aristocrat dismayed by averageness, but he does not anticipate that democracy will soon enough be scientistic, expert driven, and less responsive. Mill also sees further than the utopian socialists, who focus their reforming energies on intellectuals' ability to control productivity rather than on Mill's concern that intellectual expertise will suborn equality. Mill sees not only the problem of the present but the next problem on the horizon, which is the potentially irresponsible power of intellectual reformers and projectors recently freed from long-standing social hierarchies. The Benthamites, in their time, were concerned with the eighteenth-century problem of aristocratic interests; Mill sees that the nineteenth century brings new problems with democratic publics and new variants of the old problems of elites.

Mill on Science and Art

In spite of what was said above about the threat of scientism, it is vital to remember that Mill is fundamentally a proponent of scientistic thinking and of innovations in social scientific method. Mill thinks of himself as a logician and metaphysician, and the "mental power" discussed throughout this book presupposes skill in clear, logical reasoning. Mill's intellectual gift was his willingness, as a logician, to draw on a variety of resources to aid his thinking, including authors as stylistically and methodologically diverse as Plato and Aristotle, Bacon, Locke, Bentham, and James Mill.

This methodological pluralism brought him to unexpected places. For example, in Mill's most important statement on formal education, the inaugural address he delivered to the students of the University of St. Andrews

as honorary president in 1867, he makes four points about the centrality of a classical education in an age of science.[13] First, the Greeks and Romans are as different from the English as possible, without being "so totally dissimilar" that the costs of learning about their language and culture are too high for the typical student. The Greek language is also a crucial aid in learning syntactic logic, which is a good path toward further study of the school logics, praised in Mill's *Autobiography* as the most important tool for dissecting bad arguments and identifying fallacies.[14] Reading Greek and Roman sources for their content is also crucial. Mill recommends the "speeches in Thucydides: the *Rhetoric*, *Ethics*, and *Politics* of Aristotle, the Dialogues of Plato: the Orations of Demosthenes: the *Satires*, and especially the *Epistles* of Horace, all the writings of Tacitus: the great work of Quintilian, a repertory of the best thoughts of the ancient world on all subjects connected with education; and, in a less formal manner, all that is left to us of the ancient historians, orators, philosophers, and even dramatists."[15] Finally, ancient authors used an unadorned style in which the position and meaning of every word is the product of consideration. Mill recommends Thucydides's narration of the Sicilian expedition as a model of educative exposition and reflection that is not out of place in a late modern, scientific, industrial world.

As Mill argues across many of his writings—the *Autobiography*, the reviews of Grote's *History and Plato*, *On Liberty*, and the inaugural address—dialectic is the key teaching method of the ancients. Dialectic is "in teaching, both by precept and example, the way to investigate truth, on those subjects, so vastly important to us, which remain matters of controversy, from the difficulty or impossibility of bringing them to a directly experimental test."[16] This method is complementary to logic; however, his own training led Mill to believe that students taught through the analytical strictures of the narrow logical or legal reformer would end up with a radically lopsided and incomplete mental set without the searching, Socratic questioning of dialectic. In areas where experimentation is impossible, as in much of social and political philosophy, systematization brings the danger of thinkers' either failing to test hypotheses adequately or failing to see disconfirming evidence. Practicing bad social science, or remaining impervious to infirming evidence, is ultimately the accusation that Mill mounts against Auguste Comte and (in a more extreme register) against the intuitionists discussed in chapter 5.

In an important and revealing passage, Mill emphasizes the need for "perpetual antagonism" in even the "most salutary" aspects of intellectual culture. He begins by observing that education seems to have a "better title than could be derived from anything else, to rule the world with exclusive authority." However, alluding to the intellectual stationary state of China as it was understood by thinkers such as Montesquieu and Smith, Mill warns that

> if the lettered and cultivated class, embodied and disciplined under a central organ, could become in Europe, what it is in China, the Government—unchecked by any power residing in the mass of citizens, and permitted to assume a parental tutelage over all the operations of life—the result would probably be a darker despotism, one more opposed to improvement, than even the military monarchies and aristocracies have in fact proved.[17]

This is not an argument against the cultivation of the arts and sciences but against the unchecked social and political power of intellectuals. Liberty always requires "systematic antagonism" between social classes and antagonistic competition between intellectual classes.[18] Liberty requires dispersed, local knowledge that cannot easily be centralized. Even when reliable knowledge is centrally available (as Mill hopes it will be in a burgeoning age of information), it is crucial that the power of knowledge and expertise is not wielded by a compact group empowered to make social and educational policy. Social science is not the problem, but bad social science is a crucial problem for liberty.

Comtism

Alongside Mill's familiar animadversions on Utilitarian education in the *Autobiography*, his various writings to and about Auguste Comte afford perhaps the best evidence that liberty in education is paramount even in an age of reform. Mill began to read Comte as early as 1828, after Comte's first major work had been sent to him by Mill's Parisian contact Gustave d'Eichthal, who was Comte's student in mathematics. Mill himself began to correspond directly with Comte in November 1841.[19] By the time Mill wrote his own final criticism of Comte's philosophizing in a two-part review published in 1865, he came to believe that although Comte's ambition to construct a philosophical system for the advancement of the sciences may have been correct in aspiration, he had failed to construct this system, and he had radically misrepresented the means by which scientific knowledge could be aggregated and disseminated.

The clearly critical and even derisive message of the second part of the 1865 review suggests, as Mill explicitly claims in the reviews, that there are two Comtes: Comte the social scientist; and Comte the doctrinaire, antidemocratic, chauvinistic ideologue of "spiritual power."[20] The seeds of the problems with Comtism, the final forms of which are not fully available prior to Comte's later writings, are nevertheless present in Comte's earliest writings, where Mill finds a "power of systematizing" that results in arbitrary and one-sided social and political theorizing, in spite or really because of

Comte's vocal claims to objectivity.[21] In an important letter, written when Mill is only first getting to know Comte's writings, Mill accuses Comte and the Saint-Simonians of sharing the French predilection for deducing their "politics like mathematics from a set of axioms & definitions." In this letter, Mill also introduces several themes familiar from his own writings on liberty, published almost thirty years later. Mill writes that the "united forces of society never were, nor can be, directed to one single end" and that men "do not come into the world to fulfil one single end, and there is no single end which if fulfilled even in the most complete manner would make them happy."[22] Clearly, then, the insights Mill formulated in *On Liberty* and the *Autobiography* are already well formed in his mind even in the 1820s. It is plausible to think that they are coming together in Mill's mind precisely because of his engagement with the thought of Comte and the Saint-Simonians. At the least, the early evidence of Mill's own liberal commitments undermines the version of the "two Mills" thesis alleging that Mill's later works are corrupted by an optimistic theory of liberty.

In the interpretation I adopt in this book, Mill's great insights into the crucial importance of diversity and liberty are carried with Mill from the years of his mental crisis (1826–27), and further forced from him by the pressure of Comte's totalizing scientism and organized idolatry.[23] As Mill's friend John Morley says in summarizing Comte's positivism, Comte thinks that "not merely the greater part, but the whole, of our knowledge will be impressed with one character—the character, namely, of positivity or scientificalness; and all our conceptions in every part of knowledge will be thoroughly homogeneous." The result, Morley explains, is that the "mind will pursue knowledge without the wasteful jar and friction of conflicting methods and mutually hostile conceptions; education will be regenerated; and society will reorganise itself on the only possible solid base—a homogeneous philosophy."[24] Morley's summary has the virtue of showing the direct connection between Comte's social science and Comte's theory of education; the shared aspiration of Comte and Mill; and their differing views on the homogeneity of methods in empirical social science.

Comte's error of logic is perhaps best described as a fallacy of generalization. In an ironic twist, given that positivism is supposed to be the highest achievement of observational science, Comte errs by seeing only one thing clearly: the need for systematic, social scientific education. He forgets the ancients and their lesson about the need for dialectical questioning and answering. As I noted in the introduction, liberty of thought emerges within a world of competing philosophical convictions, amid one-sided expositors of systems of thought who come into contact and conflict with each other. Mill says that these one-eyed men are the best educators, given their power to see and to explain one part of a complicated social whole, but they are not the sole educators of "complete thinkers."[25] Mill

draws his theory from Comte and Bentham and says that it is one-sidedness that "enables him [Comte] to give his ideas that compact & systematic form by which they are rendered in appearance something like a *science positive*."[26] It is left to a more complete, synthesizing thinker such as Mill to put together the contributions of the one-eyed men. However, in spite of or really because of their genius, thinkers such as Bentham and Comte suffer from "the greatest of all causes of non-observation," namely, insistence on "a preconceived opinion."[27] Mill must overcome the predilection for preconceived ideas and bad reasoning of the narrow logician. However one applies Mill's writings, it would defeat their purpose to use them to advance a preconceived opinion about the social and political world, even if that opinion is putatively liberty affirming.

The Classification of Sciences and the Law of Stages

The central aspiration of Comte's social science can be summed up as follows: if theorists can identify an organization and hierarchy of the sciences, beginning with the hard sciences and ending with the human sciences, then sociology can become a complete science, rendering philosophy as a search for wisdom irrelevant. Comte hopes to show that the sciences are not all separate, but "branches from the same trunk."[28] In trying to do so, Comte abandons the plan of connecting all natural forces with the most general law we know—gravitation—and instead settles for the weaker condition of homogeneity of phenomena. "The only necessary unity is that of method," he concludes. "As for the doctrine, it need not be *one*; it is enough that it should be *homogeneous*."[29]

Comte argues that the sciences can be and should be treated from two different viewpoints: the historical (which deals with the way the sciences progressively become known to the human mind) and the dogmatic (which concerns discoveries presented in "a more natural logical order"), with the latter constantly superseding the former.[30] According to Comte, we can identify six separate sciences and 720 possible hierarchical orders of the sciences, from which he chooses one, based on the general methodological principle that sciences are arranged according to their subject matter. The trunk of his enumeration of the sciences is the one that deals with the simplest and most general phenomena, whereas the furthest branch is the one that deals with the most complex and particular phenomena.[31] In order, they are: astronomy, physics, chemistry, biology, sociology, and moral science.

Just as Thomas Hobbes drew an analogy to geometric demonstration as a model for methods in the changing world of politics, arguing that geometric demonstration can "correct the false opinions of the common people

about right and wrong" by showing "patterns of human action . . . with the same certainty as the relation of magnitudes in figures," Comte also acknowledges that the general, simple sciences can be studied "in a calmer and more rational frame of mind" than the human sciences, because emotion and interest are implicated in the results of the human rather than in the natural sciences.[32] However, unlike basically deductive political scientists such as Hobbes, Bentham, and James Mill, Comte creates a new scientific method (the inverse deductive method) for the human sciences. Granting that human behavior ("social facts") is the product of "feelings and actions" that can be subsumed under laws of human nature, Comte declares it logical to deduce theorems of political organization from first principles of human nature.[33] In *De Cive*, for example, Thomas Hobbes proposes to deduce a frame of government and civil duties from two absolutely certain postulates of human reason and human nature, greed and self-preservation. This type of analysis is ahistorical, intended to describe human behavior anywhere. In contrast, the historicity of human society means that another form of explanation is required, one that is not simply deductive. The Comtist (1) analyzes empirical history in order to generalize observations as sociological laws; and (2) verifies sociological laws by deducing them from "known laws of human nature."[34]

Mill, who was already thinking about the classification of the sciences before he encountered Comte's writings, accepts the Comtian classification of the sciences. However, Mill recognizes more and different fields of scientific disciplines than Comte does, including in two key areas.[35] According to Mill, a proper understanding of the mind requires an account of the mental faculties (including their modification by circumstances) as well as their relation to the organs of the brain. In contrast, Comte rejects empirical psychology as a distinct discipline and reduces it to phrenology. For Mill, phrenology does not meet this test.[36] Second, Mill criticizes Comte for not adequately understanding the utility of separate sciences, such as political economy.[37] The result of the political economist's simplification of human behavior—that is, the *Homo economicus* simplification discussed in chapter 2, the assumption that all humans try to maximize their self-interest—is an imperfect science but nonetheless one that can be used to inform observers about particular domains of human behavior where complications are less relevant.[38]

In spite of Mill's aspiration to attain someday a system of rigorously connected sciences in which the "circle of human knowledge will be complete" and yet still subject to "perpetual expansion from within," he clearly rejects Comte's supposedly complete and accurate enumeration of the sciences.[39] However, Comte's failing is not that he attempts to classify the sciences or to prune the tree of knowledge. This effort is part of the "good" Comte. Rather, Comte's fault is that he misclassifies actual sciences, such as

political economy and psychology, as pseudosciences. Worse, in the case of psychology, Comte substitutes an even less defensible pseudoscience, phrenology, for the protoscience of psychology as it existed in Mill's day.[40]

Comte's second crucial contribution, and the center of his attempt at systematizing knowledge and of his influence on Mill for better and worse, is the law of stages. Comte divides human history into theological, metaphysical, and positive stages. In his theological epoch, humanity believes that the facts of the universe are directed by the will of gods or (in a later stage) a single god, whereas during the metaphysical stage, humans reconceive of divine will as the workings of impersonal forces. Positivism, which is the last stage of human intellectual development, involves the phenomenal and experiential analysis of those forces, subsumed under general laws.

Mill accepts the core idea of Comte's classification of human history and makes several attempts to apply this stadial historical theory in his own writings on places such as archaic Greece and India. Mill's main criticism of Comte's theory of history, discussed at greater length below, is that Comte departs from historical evidence to misconstrue progressive and scientific historical events and eras as merely theological or metaphysical, unconsciously letting his own political commitments and social assumptions (e.g., his Gallicism and Catholicism) determine his classification of history. Unfortunately, Mill is guilty of Comtist errors in his own interpretation of empirical history. For example, he explains archaic Greece as if it represented the qualities of Comte's theological age.[41] What has greater importance and impact is that Mill relegates British India and the subcontinent to a preliberal and theological age. The consequence is that Mill, in a circular manner, justifies his famous claim that social progress cannot occur without equal discussion and debate by pointing to India, where, he argues, equal discussion and debate do not exist. It is very difficult to imagine a society, no matter how structurally unequal or dominated by custom, that would not be improved by some amount of discussion and debate within existing groups, and if possible across groups. If only Mill could have seen it outside of the Comtian historical matrix, significant evidence indicates that the theological age was not so monolithic, nor India so firmly within it, as Mill thought.

In spite of his attempts to apply empirical principles to Comte's theory of history, Mill's reviews reject so many of the details of the divisions of the Comtian theory of history that we almost cannot believe Mill when he vocally embraces it. More important than Mill's willingness to tolerate Comte's interpretive mistakes, though, is that through reading Comte, Mill comes to see that dialectical, searching philosophy will not be subsumed by social science. When the future day of full knowledge comes, it is less likely that humans will have finally completed the circle of knowledge and more likely that they have become unthinking. There is no evidence that

Mill ultimately gives up on the aspiration to attain complete, scientific knowledge of human and natural phenomena. But, in the short term, Mill rejects systematization while continuing to try to create the social, intellectual, and political conditions in which sciences and arts of inquiry can become compatible and mutually informing.

Social Systems

In Mill's day, there were opportunities for growth in social science. The term *scientist* does not appear to have existed before the 1830s, when William Whewell used the term, and when the *Quarterly Review* reported that the British Association for the Advancement of Science "sorely felt" the need for some term of art that could be used to gather the practitioners of the separate sciences under one head.[42] Comte is also the first to use the exact French phrase *science sociale*, "social science," although the phrase was his second choice. His first choice, *la physique sociale* (social physics), was already in use. Comte describes social physics as "that science which occupies itself with social phenomena, considered in the same light as astronomical, physical, chemical, and physiological phenomena, that is to say as being subject to natural and invariable Laws the discovery of which is the special object of its researches."[43]

Mill, who pioneered the English phrase *social science*, describes its object as an attempt to find "general laws, sufficient to enable us to answer . . . questions for any country or time with the individual circumstances of which we are well acquainted."[44] Given this definition and Mill's predilections, we should not be surprised that he rejects the too-quick and too-uncritical use of the methods of the natural sciences in the social sciences. Later thinkers have called this approach *scientism*, or the "mechanical and uncritical application of habits of thought to fields different from those in which they have been formed."[45] Mill also avoids historicism. Another later coinage, historicism is the "approach to the social sciences which assumes that *historical prediction* is their aim, and which assumes that this aim is attainable by discovering the 'rhythms' or the 'patterns,' the 'laws' or the 'trends' that underlie the evolution of history," as Karl Popper charges.[46] Although Karl Popper uses historicism as a catch-all word to refer to a range of authors, J. S. Mill is one of the key addressees of Popper's mid-twentieth century position against historicism.[47] Whether Popper appropriately lodges these allegations with Mill is an important question for twenty-first-century liberalism, especially if one is inclined to believe that "not only J. S. Mill, but the *whole world*, has taken over from Comte" the "whole system of thought" of a deeply flawed scientific sociology.[48] Below, I argue that Popper misleadingly applies the term historicism to Mill, and

that it remains important to read Mill in the light of his own context and writings in order to see how his experimental liberalism avoids the charms of simplistic, overly confident scientism.

The best place to begin is with the law of stages. The identification of stages of history (theological-metaphysical-positive) is a valuable insight. But rather than arguing, Comte presupposes that there are stages of history. Mill himself seems to be convinced, without much argument, that something like a law of the stadial development of history is true, and that the stages are distinguished by differences in mental (not economic or material) development.[49] Thus, Mill endorses the view that "the state of the speculative faculties of mankind . . . essentially determines the moral and political state of the community."[50] The advancement of science is the key determinant of society's progress and "at the root of all the great changes in human affairs."[51] By this, Mill refers to intellectual changes that produce more or less practical innovations such as the printing press, navigation, and heliocentrism. In part, what Mill says about changes between historical epochs makes sense. Still, in insisting in his gloss of Comte's philosophy of history that any "other elements" influencing the formation of opinion are themselves "consequences of prior intellectual changes," Mill risks overstating the amount of knowledge he possesses about the relation between ideas and material circumstances.[52] Also, the problems with Comte's analysis of historical epochs do not help Mill's view (that ideas matter).

Mill thinks that Comte correctly criticizes the discourse of divine or natural rights as being motivated by theological or metaphysical thinking. In spite of their mutual rejection of natural rights theories, though, Mill and Comte fundamentally disagree about the origin and shape of the modern world. For Comte, revolutions (and the claims of rights on which revolutionary movements were founded in England and France) are reactionary responses to the waning power and legitimacy of the old orders. Science can permanently heal these rifts by mounting a counterrevolution with a new universal vocabulary and a unifying communicative rationality.[53] In fact, a scientific counterrevolution is the only means for creating order without recreating and reviving unstable political hierarchies. Thus, the late eighteenth-century European revolutionary movements are backward looking, reactionary and metaphysical, organized through eloquence and by false claims about the rights of the people and the power of popular opinion.

Similarly, Comte thinks that England's progressive politics are merely metaphysical modifications of the old feudal order.[54] For Mill, in contrast, all political theories whose moral standard is the happiness of mankind, and for which observation and experience are the guides, are positive theories.[55] On the surface, the difference in how Mill and Comte view revolutions can be chalked up to intellectual taste about the value of English

rights and French participatory politics. As he admits in 1862, Mill "sympathised more or less ardently with most of the rebellions, successful and unsuccessful, which have taken place in my time."[56] For Mill, the 1830 French revolution represented a moral ideal. At least in a youthful letter to his father, who sent him to France, he explains the exhilarating effect that witnessing revolutionary France had on him.[57] As Georgios Varouxakis has argued, Mill's enthusiasm about the 1830 Revolution is tempered by his respect for "a government of law," "equal justice and equal protection to all opinions," and "les moeurs constitutionelles" that, in the case of France, both could and should have emerged from incremental progress in "law or opinion" rather than through political violence.[58] But in preferring incrementalism, Mill does not reject the aim of social revolution or suppress his excitement that a public is being created where there previously was none. Far more than a mere matter of differing tastes, then, Mill's departure from Comte on the progressive value of the French and English revolutionary movements reflects a deep, conscientious disagreement over the combination of principles of liberty and progress in the two thinkers.

Passing to the related question of political liberty, Mill defends liberal politics as precisely the politics of a positive age. Liberalism is not, as Comte maintains, the remnant of a metaphysical age. For Comte, laissez-faire economics and political equality are based on abstract, unempirical dogmas of liberty and equality. The claim to a right of free conscience is particularly bad metaphysics.[59] Thus, in a striking passage that Mill would have read in 1829, Comte writes that there "is no liberty of conscience in astronomy, in physics, in chemistry, even in physiology, in the sense that every one would think it absurd not to accept in confidence the principles established in those sciences by the competent persons. If it is otherwise in politics, the reason is merely because, the old doctrines having gone by and the new ones not being yet formed, there are not properly, during the interval, any established opinions."[60] Liberalism, in this view, is a merely transitional stage in the rational reform of society—certainly not something to be celebrated in and for itself.

Mill himself accepts empirical differences in political competence and quality of voice, without, however, rejecting liberal, representative government as the best practical form of government. As I argued in the introduction to this book, Mill fervently embraces the view that logical, consistent liberty is far preferable to the liberty of the free play of the intellect. Mill even accepts that received opinion will always have a central place in education. The progressive accumulation of knowledge requires "established opinions." Without a backdrop of established opinion, it is logically impossible to talk about change in opinions as extreme or revolutionary.[61]

Mill accepts the state of affairs in which liberty is consistent with the transmission by experts of knowledge or the results of their knowledge

to nonexperts, arguing that it is "the necessary condition of mankind to receive most of their opinions on the authority of those who have specially studied the matters to which they relate." This is true of the wise, who take guidance on topics outside of their areas of expertise, and it is true of the masses on all topics. These masses must decide with "implicit confidence on opinions of which they did not know, and were often incapable of understanding, the grounds, but on which as long as their natural guides were unanimous they fully relied, growing uncertain and sceptical only when these became divided."[62] Even or (as is likely) especially in an age of discussion, the age will be an age of received opinions. From the point of view of democratic and scientific legitimacy, there is even utility in intellectuals' permitting opinions to form in areas of consensus while shielding the public from dissensus in areas where controversy and uncertainty might undermine public trust in intellectuals. Mill recognizes that in some areas of life, insistent questioning is not useful, whether because a skeptical stance wastes time and energy, or because experiments in alternatives to the stable consensus are demoralizing and not worth the risk.

Comte's refusal to see the positivity of liberty of inquiry and partial social knowledge leads him to conclude that, left to themselves, individual inquirers will get nowhere. Thus, in Mill's gloss of Comte, his Comte thinks that the "opinions of mankind should really be formed for them by an exceedingly small number of minds of the highest class, trained to the task by the most thorough and laborious mental preparation."[63] As a reader of chapter 2 of *On Liberty* can imagine, Mill rejects the Comtian inference that opinion formation should be directed by experts when the phenomenon to be studied is very complex. But more important than whether Mill accepts Comte's system or not is the clear contribution to Mill's own liberal thinking that his encounter with Comte made. In an important sense, from the late 1820s, Mill's thoughts on liberty are formed in the crucible of Saint-Simonian and Comtian arguments about the stages of history, the importance of the proper understanding of history and progress, and the necessity of permitting inquiry to be shaped by experts.

One must be careful of *ad hominem* attacks in criticizing an original genius who published a new system of thought while in his twenties. Nevertheless, Comte himself is a good example of the danger of social control to free inquiry. Comte was not able to maintain a university position, losing his teaching post at the École Polytechnique in 1844. He practiced what he called "cerebral hygiene" (*hygiène cérébrale*), refusing to read other authors after one of his mental crises in 1838.[64] Comte abhorred "disturbing causes" and sought ideal certainty (*besoin d'idéalité*) in social and moral life.[65] This spirit makes Comte an excellent compiler but a poor political

theorist and an especially poor political theorist for a democratic age of distributed power. When it comes to interpreting human beings, Comte fallaciously generalizes from his own character rather than from the evidence of human beings in general.[66] Do these criticisms indicate a problem with the method, or with the practitioner? In an important sense, the problem lies with both. In claiming to have created a complete system, Comte is willing to accept and defend (probably incorrect) hypotheses, at least until they are actually disproved, for the sake of order and harmony.[67] This, for Mill, is an error of the systematizer. Drawing on the radicals' rejection of legal fictions, Mill also charges Comte with permitting the use of fictions to reduce phenomena to a system, without seeking evidence adequate to support his theory.[68] As Mill says of Comte's system, a "notion of the 'destination' of the study of natural laws is to our minds a complete dereliction of the essential principles which form the Positive conception of science." In practice, Comte errs in applying his own principles.

The best of the Comtian spirit is his belief in the importance of education. Mill praises Comte for seeking to advance general education, both among the few who will shape opinion and among the many who will receive it. This is an admirably inclusive gesture. Far from wielding irresponsible intellectual power by creating "the allegiance of the mass to scientific authority by withholding from them scientific knowledge," Comte agrees with Mill in seeking to make knowledge available to all.[69] However, Comte's theory of general education is motivated by the desire to make the people more pliant and tractable, which is the goal of social control, rather than to liberate the people to experiment, develop their tastes, and cultivate character. Comte rejects, unempirically, the political and social power of the people. His tragic error lies in misunderstanding the type of equality that defenders of popular sovereignty theorize. It is crucial that equality does not have to mean that the people are all equal in their capacity to reason, which is empirically untenable for Mill and Comte.

Comte's mistake is not a new or unexplored one. Other scientistic thinkers, such as Thomas Jefferson in his *Notes on the State of Virginia*, have argued that science would ultimately determine the set of persons with a capacity for citizenship. However, that science does not yet exist. Furthermore, as a practical matter, the attempt to exclude groups from participation on the basis of a purported intellectual feebleness often does little more than to cement preexisting barriers to education. Popular sovereignty does not require perfect enlightenment, and Comte's attempt to make a philosophical justification for the power of a positivist vanguard to drag a theological or metaphysical public into the future misrepresents what individual rights and popular sovereignty actually entail. Self-government does not have to mean absolute sovereignty; instead, it can involve "the direct participation of the governed in their own government . . . as a means to important ends,

under the conditions and with the limitations which those ends impose," as Mill thinks that it does.[70]

Provisionally, then, we can conclude that Comte's partition of human history into discrete theological, metaphysical, and positive epochs would create the conditions of social and intellectual stratification between positivists and "the people" that it purports to describe. It conflates Utilitarian reforms with arguments based on divine and natural right. In some contexts, such as revolutionary America, the "metaphysical" doctrine of natural rights has progressive rather than retrogressive implications, but Comte denies the contribution of natural rights speculation to a science of society. Thus, Comte is chauvinistic about the subjects and practices of reform, arbitrarily consigning the views of many previous reformist thinkers—even when they base their theories on observation and experience—to a metaphysical age. All of these mistakes of categorization suggest that Comte's sociology fails to distinguish between negative (merely critical) and positive (progressive) politics, and that "grand theory" systematizing is likely to be particularly susceptible to errors that originate in the theorist's vanity, parochialism, and lack of understanding of empirical history. If, after all, positive sociology as described by Comte fails to read even recent social history correctly, how can Comte see into the distant future of social organization?

Mill was not the only one to observe the arbitrariness of Comte's system. According to a writer for the *London and Westminster Review*, Comte theorizes "according to a subjective order."[71] A similar observation appears in the *Edinburgh Review*, this time highlighting Comte's propensity for abstraction: "While claiming to be a rigorous logician . . . he [Comte] is yet deductive and arbitrary in the highest degree."[72] In spite of his agreement with these criticism, however, Mill writes in flattering and exaggerated terms that he finds "no fundamental errors" in Comte's philosophy of history. Mill's reviews of Comte remind the reader that Comte avoids two great errors, namely the "great man" theory error and the opposite error of fatalism.[73] Still, Mill's praise is overly strong, as Mill himself knows. Of what value is the ability to draw a line between general causes and individual agency if in many of the most important applications the line is wrongly drawn?

Among many insights of impressive ambition and cogency, Comte's two errors are oversimplification and one-sidedness.[74] Mill becomes much more sympathetic to the Saint-Simonians and Comte through the 1830s and 1840s, in line with his sense that Comte's educational project is similar to his own. However, Mill's major statements on Comte return to this basic criticism: an exaggerated ambition to systematize human science leads to arbitrariness, not to a better, observation-based description of human behavior.

Social Statics and Dynamics

In his social statics, Comte accounts for the permanent units of social life: the individual, the family, and the species.[75] The basic universal element is the individual, and the basic human desire is the selfishness (égoïsme) of self-preservation. Each individual is animated by an antagonistic balance between the social instincts (an individual's "moderate" amount of "natural benevolence") and the stronger, selfish instincts. In addition to the drive for self-preservation, the desire to avoid "prolonged and monotonous" mental and physical labor also creates a second antagonism internal to the individual, who is caught between the "indolence and apathy natural to mankind" and the desire to improve his condition.[76]

The second universal element of social existence is the family. The family is "originally the sole, and always the principal" source of unselfish feelings.[77] On this point, Mill and Comte appear to agree. The key difference between them concerns the place of women within the household. In Mill's view, Comte goes beyond the bounds of social "statics" and imagines the household as a permanent support for hierarchical inequality, where women are bound by indissoluble marriage in a subordinate position. As we saw in chapter 1, Mill rejects or at least substantially qualifies the view that the appropriate place for women is the household. Mill also criticizes Comte's view that women's interests are protected by prohibitions on divorce and concludes that Comte's later decision to make women, and in particular the deceased Clotilde de Vaux, into objects of worship does not correct the paternalism imbuing his early works.[78] History's lesson is that well-ordered domestic relations can emerge even without laws prohibiting divorce, and that male spouses can have reasons for not putting aside female spouses in favor of new, younger partners.[79] However, in a moment of deep agreement, Mill and Comte both note the ever-increasing tendency toward association and cooperation in the modern world, and they decry the deleterious effects of the industrial division of labor and increased specialization, including the lack of public spirit among those who live within "so contracted a sphere of activity" as does the modern citizen.[80] The difference between them is that Mill counterbalances the lack of public spirit by identifying free, equal, cooperative relations in the household and workplace, whereas Comte thinks that maintaining the traditional family is the best solution to anarchic impulses.

It is intriguing that, when called on to describe the key elements of Comte's sociological statics, Mill quotes himself from the first edition of the *Logic*, which itself draws on his 1840 essay "Coleridge." By 1840, Mill has read Comte, but the two thinkers' correspondence has not yet begun. By quoting himself, Mill distances himself from Comte in the *Logic* while suggesting his own independent thinking; he also underlines his many-sided

attempt to combine analytical and continental traditions of philosophy. In "Coleridge" and then in the *Logic*, Mill identifies obedience, or "submission to law," as the first, necessary element of social organization. He describes obedience (or stability, as he also calls it) as having three conditions: (1) repressive training, which, crucially, is what Mill means by a "system" of education; (2) loyalty to "something permanent," or a "fixed point," such as Mill's preferred "principles of individual freedom and political and social equality"; and (3) an "active principle of cohesion," or a "principle of sympathy" in Mill's preferred formulation.[81]

Comte's account of the permanent aspects of social order (social statics) is, in contrast, the weakest aspect of his system.[82] However flawed Comte's account of social statics and of the family undoubtedly is, Mill makes his point polemically. The chief reason that Mill dismisses Comte's social statics is not that Comte contributes nothing new and original but rather that Comte departs so far from reasonableness on the organization of the power of education. Comte and Mill agree that restraining and retraining education is a permanent need of any well-ordered society, and that this education bears a strong, repressive power in order to subordinate vigorous and manly characters to the equal rule of law. For Mill, the power to educate must be decentered and distributed to maintain "vigour and manliness of character," whereas Comte organizes it into one centralized association. It is not on the power of education itself, or even the intensity of its pressures on individuals, but on the social organization of the power of repressive education that Mill and Comte differ.[83]

Departing from social statics, social dynamics refers to the study of social progress, and it is here that Comte should make his greatest contribution. According to one Victorian Comtist, Comte's "main motive" is actually "constructive rather than speculative." Similar accusations of activism are made of Mill's social philosophy, as if both Mill and Comte cared more for social change and the moral regeneration of society than about the science of society.[84] These criticisms are less apt when made about Mill, but they do fit the bill in the case of Comte, and part of the aim of this chapter is to show that Mill's engagement with Comte helps Mill to see differently and better into the limits of progressive reform than he would have on his own.

Mill's review of Comte's social dynamics focuses attention on the gap between Comte's theory and the commitments of his practical system, but there are important agreements between the two thinkers.[85] First, Comte and Mill agree that there is evidence of progress (that is, the improvement of human affairs) in history, and both think that the general ascendency of humanity (civilization) over selfish interests constitutes a new standard of morality that humans can and should meet.[86] This claim is consistent with Mill's emphasis on disinterestedness and with his argument for higher pleasures rather than the enjoyment of the

merely "organic" functions of the body, but it leads some scholars to conclude that Mill is committed to Comtian altruism.[87] As I show in chapter 5, this conclusion is overstated. Second, Mill and Comte both hold that the determining factor in intellectual history is an individual's "theory of the universe," whatever it may be. Mill and Comte both argue that ideas matter, and that the conditions of human intelligence are the primary influence on historical development, as was observed above.[88] Here, Mill is not merely repeating his aforementioned belief that "one person with a belief, is a social power equal to ninety-nine who have only interests,"[89] or his view that moral beliefs drive social change.[90] He is specifically interested in the predominant influence of *scientific* advances on moral, political, and religious organization. "Though it is true that men's passions and interests often dictate their opinions" or at least set the range of options, Mill writes, "this disturbing cause is confined to morals, politics, and religion; and it is the intellectual movement in other regions than these, which is at the root of all the great changes in human affairs.[91] In this view, history is amenable to sociological analysis and to increasingly greater cooperation and collective power. In contrast to Herbert Spencer, for example, who puts feelings at the basis of social organization, cooperation requires "common belief," which in turn rests on a "system of fundamental opinions."[92] Mill is therefore not a materialist in his philosophy of history but rather an idealist who emphasizes the importance of circumstances, such as the restraining discipline described in this book, in the progress in opinions.[93] The significance of this important point is that Mill agrees with Comte that states of society are not primarily the result of inherited moral characters of the public, which would be an absolute impediment to new ideas foreign to "popular character," but that social organization results from our "theories of the universe"—not from material conditions, but certainly influenced by them.[94]

Despite a certain amount of agreement between Mill and Comte on the principles of social dynamics—including the succession of theories of the universe from theological to positive and the resulting succession of states of society from military to industrial—Mill presents Comte's sociological history as a tissue of errors.[95] Comte's crucial error lies in his incorrectly generalizing about epochs or stages in human development from a few examples, and in his incorrectly slotting societies and states into these epochs, as briefly noted above. Comte's stadial view of history leads him to confuse empirical accidents with necessary connections. For example, he erroneously thinks that the cooccurrence of military despotism and theocracy means that a "theological age" must be characterized by both.[96] According to Mill, Comte's analysis of military government, which requires citizens' passivity, is correct. Comte is partly correct to laud industrialism, where the conquest of other states is superseded by the conquest of nature

and where "rational assessment" of the use of power is possible.[97] However, there has never been a theocracy as Comte defines it, namely a caste society where the speculative class and priests and temporal rulers are one and the same.[98] Comte is therefore incorrect to claim that every ancient state except Greece and Rome was a theocracy. Comte also misunderstands English liberty and in particular English Protestantism, as noted briefly above. Personal responsibility to God requires cultivation, which Protestants seek in a manner that cannot be described as primarily negative or as a mere negation of order.[99] The tools of English liberty (parliamentary debate, lawyers' eloquence) are also both less critical and destabilizing, and more effective in maintaining order, than Comte imagines.[100]

In the fifth edition of the *Logic* of 1862, Mill approvingly paraphrases James Fitzjames Stephen on the use of history, arguing that "historical science authorizes not absolute, but only conditional predictions."[101] Historical knowledge is knowledge of relative laws, and our knowledge of historical fact will remain imperfect for the foreseeable future.[102] Comte is and is not properly relativistic. Comte is guilty of overgeneralizing within epochs, but Mill nevertheless acquits him of errors in theory, although not of errors of practice.[103] Comte justly honors the past, Mill thinks, and—important for Comte's penchant for systems—he is ecumenical enough to praise all forms of historical development, including poetic, artistic, political, and scientific advancement.[104] This approving judgment reads as a shot across the bow at narrow Benthamism and perhaps at those who focus on economic production, such as some socialists.

At odds with these approving statements are Mill's many fundamental criticisms of Comte's historical sense. Mill holds that Comte's politics are not properly connected with his theoretical explanations of the past progress of society. In a conclusion that makes the earlier laudatory judgment of Comte's historical sense appear exaggerated, if not actually ironical, Mill concludes that Comte is almost as historically obtuse as Bentham. Whereas Tocqueville discerned a trend in the past seven hundred years of Western history ("a steady progress in the direction of social and political equality") and sought to "smooth this transition," Comte is as dogmatic in his view of the destination of society as Bentham, who theorized "without any historical basis at all."[105] For Mill, Comte becomes an advocate of "spiritual despotism" because the Comtian analysis of power is flawed, arbitrary, and self-serving. Comte's willingness to select on the dependent variable does not follow from any positivistic historical insight and is deficient in the key areas of observation and evidence. A merely intuitive reader of history would have achieved a better understanding of human affairs simply by reading intelligently written histories. Comte's theory of social organization can in fact be reduced to a fairly simplistic claim: the old powers have waned, leaving two powers standing, namely scientific

sociology's spiritual power and industrialism's temporal power.[106] For Mill, Comte errs in analyzing only those powers that he has an interest in. In Comte's analysis, the burgeoning powers that Mill sees before his own eyes being wielded by masses, by workers, and by women disappear, as does the critical power of philosophers who challenge or provide another side for the positivist to consider.

Mill agrees with Comte that positive sociology has a rosy future, but he admonishes Comte that the "new synthesis is hardly begun."[107] This is a problem with the Comtian system itself, and not merely a problem of ambitiously jumping the gun in claiming to possess scientific knowledge. The system does not provide criteria for evaluating new knowledge, such as the development of a new theory of the universe after positivism. Since it presupposes the stages of history that it purports to explain, it also fails to explain why others should adopt the system. Why, Mill wonders, will broader society permit spiritual authority to set the standards for public and private morals? Why will positive scientists allow a small subset of themselves to direct speculation in order "to prevent them from wasting time and ingenuity on inquiries and speculations of no value to mankind"?[108] Won't arguments for the importance and usefulness of useless knowledge still be made, and oughtn't they to be made? From the highest to the lowest rank, according to the generality of their knowledge, the positivists will be abetted by bankers, merchants, manufacturers, and agriculturalists—but why would these figures curtail their creation of wealth and prosperity at the direction of a spiritual power whose members are themselves forbidden to possess wealth or wield political power?

These questions about intellectual authority are also questions for liberal democracy, in which expertise is difficult to recognize and to represent in free elections. They are not questions only for positive society. But the virtue of Millian liberalism is that it accepts the difficulty and intractability of the very questions that Comte seeks to dissolve. This dissolution produces a surveillance state rather than a well-organized state, one that Mill expects would prove undesirable even (or especially) to relatively privileged intellectual elites.[109]

Education and the Spiritual Power

Mill agrees with Comte on the deficiency of modern public spiritedness and with Comte's connecting the problem of public-spiritedness to the individual and the family, but in their most significant and perhaps most misunderstood disagreement, Mill differs from Comte on the appropriate form that modern education should take. It is worth exploring this disagreement further. Mill counsels a liberal general education, albeit one

that he identifies with civil religion, as is explained in chapter 5. Comte defends the introduction of a "spiritual Power," which is to be wielded by a small group of positive scientists who will control and guide society's educative power.[110] Intriguingly, Comte uses (and may have coined) the phrase "spontaneous order" to refer to unplanned social institutions, showing that he is aware of the possible utility of distributed knowledge.[111] However, Comte holds that although social institutions have yet to be consciously and rationally planned, they can and indeed must be planned in a conscious, top-down manner for the moral and intellectual reform of society to occur.[112]

The separation of spiritual and temporal power is a cornerstone of Comte's social system. His positivists have no involvement with temporal government and no dependence on it. However, positive scientists will entirely control education in a positive society, and power over education is (in Comte's variant) power over society.[113] As Comte explains, the "pattern of spiritual government" is modeled on Catholic social organization. Every spiritual authority, Catholic or positive or otherwise, possesses the power of "directing Education, while remaining merely consultative in all that relates to Action." The temporal authority," in contrast, "is supreme in regard to action, and only consultative in regard to Education." As we observed at the beginning of this chapter, this turns positivism primarily into a project devoted to the "organization and working of a universal system of positive Education, not only intellectual, but also, and more emphatically, moral.[114] As a universal system, like Catholicism, it will apply to the education of all minds, subject to differences in the degree of education and learning that are suited to different aptitudes and amounts of leisure.

Even if one expects a Hegelian cancellation and preservation in the processes of social organization, it is still surprising that Comte engages in what might be considered, on his own premises, anachronistic and metaphysical borrowing of Catholic social organization for an age of positivism. Since Mill writes in a Protestant milieu, it is also worth entertaining the possibility that the main difference separating Comte from Mill is their respective intellectual milieus: Catholic for Comte, Protestant for Mill.[115] If this is the case, then each is implicitly working on a more regional science of society than they thought. In any event, Mill thinks that the people *can* be trusted to recognize the educative and communicative power of scientists. Thus, the social authority of social scientists, in line with their contribution to social flourishing, will ensue from their explanatory and predictive success. Knowledge, in its own time, will create the legitimacy of experts. This process is spontaneous, not directed, and it relies on intellectual habits of respect for the authority of knowledge that are taught (as a logic of the moral sciences) rather than commanded. The "intelligent deference

of those who know much, to those who know still more," is thus most evident in those who have a broad base of empirically tested knowledge and least evident in those who lack methodological sophistication.[116] As noted above, these methods do not have to be scientific in the narrow, present-day sense. The question-and-answer dialectic of the Socratic method can be practiced fruitfully without having a large body of scientific knowledge. This is how representative democracy is possible.

For Mill, social authority cannot be created by organizing a royal society to direct an illiberal general education.[117] As Mill writes in an important 1869 letter, the "collective force of scientific thought available" cannot be made into a "power in social affairs. The French Academies never have been such a power: the Academy of Moral & Political Sciences is neither consulted, nor, as a body, puts forth any opinions, or exercises any moral or political action. . . . Its individual members have such influence as their talents or character may give them, but collective influence it has none."[118] To be sure, Mill writes in another important, very early letter that the "only wholesome state of the human mind" is one where the "body of the people, i.e. the uninstructed, shall entertain the same feelings of deference & submission to the authority of the instructed, in morals and politics, as they at present do in the physical sciences."[119] However, Mill insists that there can be no valid selection principle that would allow someone to designate who is to be included in the scientific elite prior to the exercise of the mental power that makes them worthy of influence. To try to develop one invites the persecution of philosophers by intellectuals (*les savants*), just as philosophers were persecuted "by priests and may be some day by men of industry; this was the missing link in the cycle of sociological lessons to be derived from the history of persecution."[120] Social power controlling educational power is a recipe for arbitrary and ugly restrictions on free inquiry.

Mill provides further explanation of his sociological point in the 1869 letter to Alfred Hyman Louis quoted above. Mill expects that the designation of a compact group of expert opinion leaders will have one of two possible consequences: (1) if government is the agency that assigns places to worthy intellectuals on the basis of pure merit, the clerisy will be an "assemblage of persons of utterly irreconcilable opinions, who would hardly ever be sufficiently unanimous on any question to exercise, as a body, any moral or intellectual influence over it"; or (2) if they choose their own members, it will become a conservative and even a backward group, as "men of the highest eminence would often not be elected if any of their opinions were obnoxious to the arriéré majority."[121] In the first instance, a meritocratically chosen and methodologically diverse group will not actually exert social power. In the second instance, a self-selected group's influence will be conservative, not progressive. Thus, Mill goes on to recapitulate his liberal understanding of opinion formation, stated forty

years earlier in the 1829 letter, which is that "you cannot organise it [the *pouvoir spirituel*] at all." As Mill damningly asks, "What is the pouvoir spirituel but the insensible influence of mind over mind? The instruments of this are private communication, the pulpit, & the press."[122] Mill's thought across these two widely separated statements is perfectly consistent, suggesting that he has already developed his liberal view of opinion formation in the late 1820s through his engagement with Comte's writings and with the Saint-Simonians.

The general problem Mill is considering at greater length and with greater depth than Comte is analogous to the vanguard problem experienced by communist societies in the absence of popular revolution, or in the wake of a popular revolution. If the power of opinion of the less educated people predominates over that of the informed, or the opinion of the informed over the uninformed, it requires a leap of faith on the part of the other group to reconcile themselves to a position that they do not want to be in: they will be led into the future unwillingly by a vanguard of the people, or be forced to accept incremental reforms rather than revolutionary social change, because of the deadweight of the majority. In *Chapters on Socialism*, Mill criticizes the Fourierists for a failure to address this problem adequately. In Mill's interpretation, the Fourierists advocate restricting the "labours of sophists, philosophers, metaphysicians, political men, working in mistaken directions, who do nothing to advance science, and produce nothing but disturbance and sterile discussions; the verbiage of advocates, pleaders, witnesses, &c."[123] Liberal society, in contrast, should not only tolerate but perhaps must even encourage "mistaken directions" or at least encourage the development of the intellectual virtues, even if error is the result. In a letter from 1833, Mill expresses the hope that intellectuals will allow themselves to be organized into a "*guild* or fraternity, combining their exertions for certain common ends." But as he makes abundantly clear in the remainder of this early letter, in cases where thinkers organize as a compact group, the aim of their doing so is "*freely* communicating to *each other* everything they possess" rather than forming a narrow cadre in order to direct *others* from a superior position in the social hierarchy.[124] In other words, the horizontal ties of communication among intellectuals are developed in order to advance knowledge, but they should not develop vertical ties of rule over the ruled, although they should be able to develop ways of communicating with the people and informing their views.[125]

Mill could be clearer concerning the type of partnership between spontaneously authoritative experts and civil society that would be compatible with liberal society. He seems to mean that individual teachers should be free to teach individuals and small groups and that spiritual guidance in the form of personal inspiration is possible and salutary. As we have seen, he attributes to Harriet Taylor a spiritual influence that he presents as

nothing but salutary. On the other hand, intellectual classes cannot safely be given power to lead others for the good of those who are directed. Thus, in "Auguste Comte and Positivism" Mill argues that Comte perpetuates a misguided distinction between theory and practice. "A constituted moral authority can only be required when the object is not merely to promulgate and diffuse principles of conduct," Mill writes, "but to direct the detail of their application; to declare and inculcate, not duties, but each person's duty." For Mill, individual intellectuals may influence and inspire others. In fact, Mill himself had this influence on some members of the reading public. They felt stronger and more courageous after reading *On Liberty*. However, entrusting that power to an unchecked body or class, as is the case in Comtism, is "spiritual despotism."[126]

Mill's criticism of irresponsible scientific power reflects the basic political insight that irresponsible power is dangerous. Mill applies this criticism to gender relations, to economic production and cooperation, and to scientific organization. (It also applies in politics and in religion, as I show in the next two chapters.) Mill charges, that if public opinion invests scientists with the power to control the "acts of rulers," even without the "means of backing their advice by force," they nevertheless "have all the real power of the temporal authorities, without their labours or their responsibilities." This is the inverse of Mill's point about married women and workers, who have all the responsibilities of principals but none of the powers. Speaking for Comte, Mill writes that "M. Comte would probably have answered that the temporal rulers, having the whole legal power in their hands, would certainly not pay to the spiritual authority more than a very limited obedience: which amounts to saying that the ideal form of society which he sets up, is only fit to be an ideal because it cannot possibly be realized."[127] Comte's theory of social organization thus increases the unpredictability of the authoritative power of knowledge: the spiritual power is either tyrannical or ineffectual.

To be squeezed between experts whose opinions are not developed under the practical constraints of popular political leadership, and practical political leaders whose practices lack any overarching scientific theory, is an ugly place for liberal democracy to be. To put it differently, a pluralistic, agonistic democracy is supposed to solve this problem. Mill's argument is that by denying the utility of "systematic antagonism" among several different groups and authorities, Comte's political system will not be able to cope with the inevitable debate, disagreement, and dissensus generated by any regime that values knowledge. In his earliest works, Comte called "the establishment of despotism founded on the sciences" a "chimera as ridiculous as it is absurd."[128] Unfortunately, when Comte tries to end oppositionalism and disorder through unity and consensus, that is the political system he creates.

Comte might respond to these criticisms in the following way. In the "Plan of the Scientific Operations Necessary for Reorganizing Society" (1822), Comte makes an empirically informed argument for the social power of intellectuals. First, in the case of the ancient feudal-theocratic constitution, the improvement of and exchange of the type of inexact knowledge that was privileged within this system required eloquence and persuasion. As observed above, lawyers were suited to this task, but to overcome the negative reaction to the feudal system, propagated by metaphysical claims about natural and universal rights, a more systematic use of reason—namely, social science—is required to replace juridical reasoning, which did not prove adequate to answering these attacks.[129] Second, Comte argues that the task of regenerating society has two distinct elements: the theoretical task of regenerating society belongs to the *savants* and precedes the practical task of organizing the administrative system. The task of administering that society belongs to the industrialists, bankers, and engineers.[130] This is a plausible assertion to make in terms of the priority of theory over practice, although it does not solve the problem Mill anticipates, which is that the temporal power has no incentive to heed the advice of the spiritual power. Again, if, as Comte thinks, individual rights destabilize political authority and knowledge, it is not implausible to search for a new locus of moral authority to curb the "moral sovereignty" of the individual.[131] Finally, since the early nineteenth-century revolutionary crisis is a European rather than a national one, and since scientific men constitute the only existing pan-European association, it is plausible to think that only they can solve the problem of fractured politics. "It is clear," Comte argues, "that scientific men alone constitute a really compact and active body, all of whose members throughout Europe have a mutual understanding and communicate easily and continuously among themselves." In contrast, for example, the industrial classes are still too motivated by patriotism and nationalism to take a pan-European role.[132]

Mill versus Comtian Expertocracy

Mill's criticisms of Comtian social control have not been sufficiently taken up by the scholarly tradition as a key contribution to a theory of educated liberalism. In particular, it has become something of a truism that Mill is merely a defender of expertocracy; someone hopeful that the influences of the few can correct for problems necessarily generated in a regime of the many.[133] However, in "Auguste Comte and Positivism" and especially in his evaluation of Comte's social dynamics, Mill argues that centralizing intellectual authority and directing "free" inquiry are not the answers. Mill has more famous discussions of political centralization in other writings: at the

end of *On Liberty*, he more fully describes his affirmative vision of the centralization of information and the devolution of discretion to local bodies; in the essay "Centralisation" and in his reviews of Tocqueville, he considers and rejects political centralization; and in *Principles of Political Economy* and *Chapters on Socialism*, he offers searing criticisms of state socialism.[134] These familiar textual cruxes should be more fully integrated with Mill's reviews of Comte to develop a positive (affirmative) account of opinion-formation and knowledge-sharing in liberal democracies.

According to Ernst Cassirer, Comte may have been the last to grasp the "problem of philosophy," that is, the completeness of knowledge that philosophy always seeks but that the separated sciences never achieve.[135] For William Whewell, writing in Mill's day, the "disintegration" of science "goes on, like some great empire falling to pieces."[136] Mill places himself firmly in the empiricists' camp, but even he worries that the advancement of science will come at the expense of intellectual unity, as if science consisted in specialized *disjecta membra*.[137] Writing in the early twentieth century, well after Mill's death, Edmund Husserl poses more explicitly the problem that Mill raises: "Why science lost this leadership [in the specifically human questions], why there occurred an essential change, a positivistic reduction of the idea of science—to understand this, according to its *deeper motives*, is of great importance."[138] Or as Mill would ask, What change in beliefs motivated the change in the practice of science?

Before we turn to this deeper question, it is worth briefly attempting to reconstruct some of the political implications of the positive turn toward the relativity of knowledge and value-free social science. The problem is how to frame knowledge so that it is useful to the public without being politicized. The danger of getting the expert-public partnership wrong is threefold: (1) the public, which frames questions in terms of values and folk theories, stops listening to experts, which produces ignorant democracies; (2) scientistic experts force the public to listen to them, resulting in an unlikely and unstable scientific authoritarianism; or (3) scientists must enter the public sphere as rhetoricians and popularizers. Mill's theory of educated liberty imagines philosophers as mediators between intellectuals and the public in a well-functioning democracy, so that the people do not simply tune out the scientists and so that the scientists do not try to force the public to listen to them. Above, the practical failure of Comtism turns on the role Comte assigned to his positivistic mediators: they inform the judgment of industrialists, and the industrialists act for and upon the people. Mill suggests that the theory of the positive scientist as the silent partner of the industrialists will not work: either the positivists will be the behind-the-scenes controllers of a basically oligarchic society, operated by a nocturnal scientific council, or it will be a silenced partner ignored by industrialists.

Mill's multiyear engagement with Comte undoubtedly helped to free him from stumbling into either consequence of expertocracy. In the *Logic*, Mill offers his own version of the philosophical relationship between science and art. As Mill writes, the arts theorize about the ends of society, and the sciences about the means to those ends. The scientist analyzes social states to provide guidance as to which concatenation of circumstances is likely to lead to the desired social end—for example, obedience without passivity—and then the one possessing the art of education judges whether it is within the power of the existing society to achieve the end. "The only one of the premises," Mill concludes, "which Art supplies, is the original major premise, which asserts that the attainment of the given end is desirable."[139]

We can apply this passage from the *Logic* to explain the relationship between the art (education) that corresponds to the science of ethology, or the informed, empirical science of national and individual character. The philosophical educator (for example, Mill) declares that a happy society is desirable. The educator refines this statement further: a stable society with individual freedom and political and social equality is desirable; a society in which obedience under law is experienced without passivity and enervation. The social scientist examines a given social state, for example one with coverture laws, a revealed religion that does not teach social duties, educational and political disabilities, strict hierarchies governing political participation and representation, and a de facto caste system in economics. Social scientists then decide how to teach reading, writing, and arithmetic to children; propose the end of marital disabilities; enfranchise women and working-class men, with some further restrictions on voting; and so on. A specialist in schools can draw on comparative evidence from various localities, countries, and time periods in order to conclude that the government must require public, elementary education but not necessarily provide it, and that the education should be restricted to neutral content that excludes the teaching of religion and other mainstays of civic education. The draft law can be created by a professional member of the Commission of Codification, and approved by popularly elected members of parliament. An educator who has the general, Millian grasp of the importance of activity, energy, and participation then reviews the practicality of these proposals, concluding, for example, that the people will not support secular education; or that they may support it but cannot provide it for their own children themselves; or that they are willing to support secular, public education but unwilling to pay for it; and so on.

The passage from the *Logic* also suggests a way of thinking about how to assign roles in framing and exploring political questions in a participatory liberal democracy. Representatives of the public, aided by public opinion polls and philosophically informed social scientists such as Mill,

set the *goal*s of policy; experts versed in the various specialized sciences (political economy, public law, public policy) inform decision makers concerning the *means* of achieving those goals. Theorizing this relationship recognizes that technical expertise in achieving an outcome needs to be informed by a capacious and empirical "doctrine of ends." Mill assigns men such as himself—philosophical social scientists who are willing and even eager to join Parliament—the duty to theorize about ends in the most capacious and binocular (versus one-eyed) manner, based on Mill's grasp of right method.[140]

The three-part relationship among scientist, public, and mediator is fraught with permanent tensions and dangers that Comte did not see or respect. Perhaps even Mill, for all his foresight, did not completely understand the extent to which the advancement of the sciences might undermine the public's grasp of ends, or that the increasing importance of empirical social science makes a full inquiry into ends appear as if it were already completed, trivializing the real and important questions in the midrange and "slippery" region.[141] Although Mill expects opinion consolidation to progress as civilization advances, he still expects that some "contrivance" is necessary to keep the power and privilege of questioning and answering alive. Thus, whereas Comte appears to deny the need for persuasion and rhetoric, Mill's rhetorical landscape remains much more open. Mill hopes, therefore, that the character of those receiving knowledge grows much more active.[142] This is one of the crucial justifications for ancient dialectics. "The cessation, on one question after another, of serious controversy, is one of the necessary incidents of the consolidation of opinion," Mill observes. It is "a consolidation as salutary in the case of true opinions, as it is dangerous and noxious when the opinions are erroneous."[143] Or, as Alexander Bain correctly remarks, "the necessity of keeping up imaginary opponents to every truth in science may easily be exaggerated."[144] A balance is needed between disengaging on some questions, especially those on which the public remains unconvinced, and beating a dead horse. As one present-day social scientist writes, "Social scientists too often miss the chance to declare victory and move on to new frontiers. Like natural scientists, they should be able to say, 'We have figured this topic out to a reasonable degree of certainty, and we are now moving our attention to more exciting areas.' But they do not."[145]

A significant problem remains at the core of the partnership model. Science by definition seeks knowledge, and yet scientists must accept the values of a given society or majority or advocate policy choices as informed citizens with a particular perspective on values rather than as experts with the authority to overrule democratic deliberation. Mill agrees with this image of a partnership: "Whether the ends themselves are such as ought to be pursued . . . is no part of his business as a cultivator of science to

decide, *and science alone will never qualify him for the decision.*"[146] This is a deep and rather question-begging bind in which to put scientists, given that "science" as science becomes no more than a technology taking place within a given frame of values. Can't scientists have a greater possible effect on democracy, for good or ill, as scientists? In the words of a present-day author writing as if directly to Mill, "Basic science as an organized activity cannot work well towards ends defined by others," and scientists "should not be responsible" to political authority.[147] Or, to be clear, are there not some ends that we have rejected as useless or in conflict with other desirable ends, "to a reasonable degree of certainty," on the basis of science alone? Likewise, could not some instructive means be applied to inform judgment about ends, such as civic inclusion, informed by science—for example, using evolutionary biology as a means to determine who is competent to vote? This particular example is an appropriate place to see the limits of science in determining equality and inclusion. However, holding that science will remain a junior partner requires further argument.

Art of Life

The strength of positivism is in its lucidity concerning the limits of human knowledge. In Comte's basic statement about positive science, which Mill quotes in his summary of the core doctrine of positivism, we "have no knowledge of anything but Phaenomena; and our knowledge of phaenomena is relative, not absolute. . . . The constant resemblances which link phaenomena together, and the constant sequences which unite them as antecedent and consequent, are termed their laws. The laws of phaenomena are all we know respecting them. Their essential nature, and their ultimate causes, either efficient or final, are unknown and inscrutable to us."[148] This statement is crucial to Mill's understanding of history, social science, and natural science. For Mill, the positivist program, which rejects vain speculation about origins and ultimate ends, is the correct one. Mill captures the practical, "slippery" region of social scientific work by describing "the narrow region of our experience" as a "small island . . . in infinite space, but also in infinite time."[149] The worst social problems are created not by errors of factual knowledge, but by thinkers (intuitionists, transcendentalists) who claim to possess knowledge about origins, existences, natures, and ultimate ends.

In an irony of scholarship, Mill's attempt to delegitimize false claims to affirmative social knowledge through the development of positive social science leads him to see just how dangerous it is to be unreflective about ends. Blindness about the diversity of ends is the "fundamental logical error of M. Comte." As Mill explains, Comte erroneously thinks that

historical theory "is the whole of social philosophy, practical as well as theoretical," and that the analysis and evaluation of ends is unnecessary and pernicious.[150] In contrast, by engaging with Comte, Mill comes to see the need for an "art of life" that provides a framework in which to evaluate the choice of ends amid a diversity of competing claims.

It is misleading to think that ends do not need justification. In the collision between ends, "general principles of Teleology have to be called in. . . . M. Comte, however, lays down no general doctrine of Teleology; but proceeds apparently on the conviction, that if he can produce a theory of society as it is, and as it tends to become, there is nothing more to be done." This is an important point. For Mill, a theorist requires a teleological analysis that justifies the subordination of one end—for example, equality—to other ends, such as liberty and pluralism.[151] Comte instead decides these questions as "common men" do, by stipulating "a mere compound, in varying proportions, of the old moral and social traditions, with the suggestions of his own idiosyncracies of feeling." This leaves Comte completely undeserving of respect in the guidance of practice, because his practical suggestions are untheoretical and untethered from a social scientific system, such as Mill's ethology.[152]

Teleology cannot be banished from social science without substituting inadequate and unreflective teleological arguments for more reasonable and reflective ones.[153] The deep motives that drive teleological questions out of the circle of scientific knowledge and into the realm of mere opinion are difficult to explain. As Mill undoubtedly sees, the diminution of teleological reasoning is not unconnected with the rise of liberalism, the Protestant Reformation, the Tocquevillian egalitarian revolution, cultural pluralism, and practical changes in arts such as navigation, astronomy, and printing. I examine some of the changes in Christian beliefs, such as the rise of theological voluntarism, in chapter 5 of this book, with a view to describing changes that aid or impede thinking power.

Democratic Sciences

This chapter assesses the value and meaning of scientific power in a democratizing age by revisiting Mill's correction of Auguste Comte's antiliberalism. The aim of this chapter is not to impugn what Mill takes to be the absolutely vital connection between interior freedom and logical thinking, or to cancel Comte's real contributions, but instead to show the potentially damaging effects of misapplying social scientific theory to practice.

Comte's early "Plan" lays out the counterrevolution of science against divisive and democratic politics. He believes that democratic politics lead to political anarchy. According to Mill, all that can actually be said about

Comte's prediction is what Mill says: *perhaps* the counterrevolution of science will be beneficial, but it cannot be justified by adverting to a metaphysical law of stages that licenses positivists to take direct or indirect control of society. Although Mill apparently never abandons the ideal of the law of stages as a means of organizing historical and sociological knowledge, he has manifold criticisms of the explanatory power of that theory. But when he applies the law of stages to British India, the result is disastrous for liberty. Mill, an informed and empirical social scientist holding a position of significant administrative power in the East India Company, shoehorns a vibrant, prosperous culture and society into the theological category, seeing only caste hierarchies. He argues illogically, given the ethological evidence to the contrary, that India cannot be improved by discussion and debate. The law of stages (and the related view that eastern states such as China are "stationary," as Mill follows Montesquieu and Adam Smith in arguing) is a metaphysical construct, even a metaphor, and cancels agency and non-Western forms of organized knowledge. Better than the law of stages would be a "substantive body of empirical evidence," interpreted by an experienced observer with knowledge of the country and its people, rather than the sophisticated errors of the methodologist.[154] This is not to say that common sense offers better guidance on the whole, but breaches of common sense highlight the dangers of dogmatic applications of method.

We return to those places where Mill successfully corrects Comte: Mill observes that the present and foreseeable future state of society is democratic. The philosophy of history does not furnish new, persuasive evidence that revolutions are merely negative, that popular sovereignty is destructively anarchic, or that the new industrial age must be managed by scientistic experts rather than by the old type of parliamentary expertise, albeit reformed to make better use of knowledge, as described in the next chapter.

The relations among knowledge owners, knowledge producers, and knowledge consumers bears analogy to the bad power relations between owners/managers and workers that Mill identified in the *Principles of Political Economy*, analyzed in the preceding chapter. The stakes are nearly analogous: "The education which taught or the social institutions which required them [workers, or, in this case, knowledge consumers] to exchange the control of their own actions for any amount of comfort or affluence . . . would deprive them of one of the most elevated characteristics of human nature."[155] The utility of technology and social scientific advancement to the scientific relief of man's estate does not justify the scientistic control of politics, if that control marginalizes citizens and inhibits their development of character and intellect.

Just as Mill is confident that the family and industrial employment can be remodeled to be educative and liberal, so too is he confident that

science and politics can be made compatible and liberty producing. If logic is the realm of interior freedom that permits the individual to mix with others without simply being the passive recipient of knowledge and experience, the scientist who advances method ("the science of science itself") can be a true educator. The Millian scientist is neither a member of a republic of science nor an inarticulate figure depending upon political ventriloquists to be heard and respected. The Millian figure of the expert is a far cry from the Comtian scientist-priest, and, for that matter, from the varied early images of the scientist as gentleman amateur, godly naturalist, or moral philosopher.[156] When seen as one among many civic experts with different powers of rhetoric and different (and varying) degrees of political authority and competence, Mill's liberal partnership should be considered successful. As Mill himself undoubtedly understands, the compatibility of science and society does not lie in an evolutionary development from a variety of one-sided, value-laden moral politics to value-free social and natural science that forgets about ends. The art of politics must be informed by logic and expertise in science, but good social science must frame its inquiries through the teleological art of life that Mill describes in the *Logic*.

Mill's social science performs poorly when it crams existing societies into deductive categories or when it formulates predictions about the distant future. The key is, once again, the "middle ground" of social explanation.[157] Here, Mill does not merely stop short of imposing an intellectual destination on democracies. He is one of the most eloquent critics of that imposition. He does say that humanity itself is becoming "better adapted for study."[158] But this sentence, which is found in his description of the infant science of political ethology, is balanced by his thoroughly empirical commitment to pluralism, which is based on observation of the ways that "different nations, indeed different minds, may & do advance to improvement by different roads."[159] The dream of the Comtian project, as Mill explains it, is that right method makes reasonable persuasion much more possible when knowledge of social scientific methods and reasons for cooperation are widely diffused. This is educative liberty, and it precludes the *imposition* of orthodoxy in the sphere of opinion as a contradiction in terms. It permits the centralization of information, but Mill refuses to pay for enlightenment with the coin of individual agency.

Chapter Four

Mass and Elite Politics

The preceding chapters have focused on cooperation in the production of children, the production of goods, and the production of knowledge. In each area, creating subordination in cooperative relationships for the sake of greater efficiency and rationality is a danger. For example, Mill argues that even educational paternalism would "probably" lead to a worse form of government than military dictatorships or economic oligarchies.[1] It is ironic that we see a practical example of this paternalism in British India, where Mill thinks that the law of stages justifies the East India Company's despotism despite evidence that the company's rule was in some respects more oppressive than any indigenous equivalent.

This chapter and the next examine the production of obedience and loyalty in the domains of representative government and civic religion. In these areas, the challenge is not the eighteenth century problem with the few (the adult male in the household, the owner and manager, the expert and scientist) but the power of the many. As noted in the introduction, Mill believes that in the late modern social state, the power of masses is starting to predominate over that of individuals and elite groups. Although mass participation may typically advance mass cultivation and Mill's "principles of individual freedom and political and social equality," artificial means of balancing the powers of masses and elites are needed. The answer is representative government, albeit of an unusual and challenging sort.

In Mill's description, representative government is a system where the "whole people, or some numerous portion of them, exercise through deputies periodically elected by themselves, the ultimate controlling power, which, in every constitution, must reside somewhere."[2] Mill's theory is not only a mechanical theory of checks and balances but also a dynamic theory that adjusts a constitution to keep up with a changing and evolving society. Thus, Mill's theory is neither wholly conservative nor wholly progressive, just as it is neither wholly popular nor aristocratic, nor entirely normative nor descriptive. What Mill seeks is not a mixed constitutionalism, or

popular constitutionalism, or even (as he is sometimes misunderstood to favor) elite constitutionalism, but *balance*. In a balanced political association, political participation is an education in moderation, compromise, and reasonableness. Mill thinks that he has outlined the contours of such a regime in his *Considerations on Representative Government*, and the regime that he describes in this text forms a bridge between his broader educative project of informing public opinion and the theories of feminism, political economy, and social science described in the earlier chapters of this book.

Just as the permanently subordinated members of the household and of the workplace are not at liberty to be equal members of those associations, someone who is excluded from political participation is not at liberty to be a citizen. The excluded person therefore lacks what Mill calls the "feelings of a citizen," that is, a proper sense of responsibility felt by those with skin in the game. In Mill's neo-Aristotelian conception of the meaning of the political sphere, the political is a primary sphere of engagement, and politics offers "the first step out of the narrow bounds of individual and family selfishness, the first opening in the contracted round of daily occupations."[3] Now, Mill may be wrong to think that politics is (still) the only first step that leads outside of the narrow spheres of family and occupation. However, he may be wrong precisely because, one hundred fifty years after he wrote about social and political power, the household and the workplace have become more free and equal, in part through his own writings.

Mill develops his theory of representative government in the context of his intellectual environment. In 1859, writing in the context of Tory arguments in favor of overrepresenting wealthy voters, Mill rests his theory on only two points: the inclusion of all competent citizens in the political process, and the unequal inclusion of the more educated. In *Considerations on Representative Government* (1861), the need to create a balance between universal suffrage and graduated suffrage is just one point among many that he makes. To be clear, what is desirable in politics is not sectional predominance of numbers (many versus few) or intelligence (few versus many) or property/wealth (few versus many), but a balance. When the need to create a balanced constitution is justified as a desideratum of Mill's theory of education, it becomes easier to explain, if not fully to justify, some of Mill's more radical and tin eared, countermajoritarian policy suggestions, such as plural voting and the end of the secret ballot.

Promethean Precursors: Bentham, James Mill, Macaulay, and Tocqueville

The eighteenth century bequeathed the problem of aristocracy to Mill. His evolution from thinking of special interests as the crucial political danger to his mature view that the present and foreseeable future would struggle

to curb majoritarianism is the crucial backdrop of Mill's theory of representative government.

For Jeremy Bentham and James Mill, who were the most important early influences on Mill's political theory, the aristocratic principle is simply "a special category of self-preference in group behavior" whereby legal, political, and religious authorities subjugate the many.[4] Jeremy Bentham's first book, *A Fragment on Government* (1776), issues a challenge to aristocrats—"the fee-fed lawyer, and the tax-fed or rent-fed priest, all prostrate at the foot of the throne"—who prop up the "quantity of power, wealth, and factitious dignity, in the possession and at the disposal of the ruling few."[5] Bentham's frontal challenge to aristocracy consists in his arguing that there are safer ways to limit self-interest than to assume that traditional propertied and titled classes will act as good stewards of a regime. As Bentham later saw, the best way to solve the problem raised by self-interest was to found a constitutional order based entirely on self-interested competition between opposed offices and branches of government, as the United States' Constitution does.[6]

As always, Mill's resistance to Benthamism and to James Mill is in the area of education, especially with reference to the aforementioned *feelings* of the citizen. A theory explaining behavior by exclusive reference to self-interest will fail to explain even putatively self-interested actions insofar as they are mediated by historical circumstances, individuals' feelings of independence and dependence, and opinions about honor and dishonor. Bentham and James Mill's system is inattentive to these motives. Thus, in his 1832 "Obituary of Bentham," Mill eulogizes Bentham's "love of justice, and hatred of imposture: his . . . penetrating deep-sighted acuteness, precision in the use of scientific language, and sagacity and inventiveness in matters of detail," but criticizes Bentham's propensity to work out "into its smallest details, one half-view of a question, contrasted with his entire neglect of the remaining half-view, though equally indispensable to a correct judgment of the whole."[7]

What Bentham neglects, in Mill's view, is character. This criticism has two prongs. With respect to methodology, Mill's 1833 essay on Bentham criticizes Bentham's lack of familiarity with German and Scottish philosophy. Those philosophical traditions do a better job of explaining humans as having historically contextualized desires and beliefs.[8] Bentham's narrow Utilitarianism rests on "a calculation *solely* of the consequences to which that *very* action, if practised generally, would itself lead," instead of the conditions required to form the type of character that is desirable.[9] This is nowhere more true than in Bentham's Panopticon writings, for example, in which he imagines an entire system of society following rules of behavior enforced through permanent surveillance rather than principles taught to active citizens as guides of right conduct.

It is unfair to generalize from Bentham's Panopticon writings, which are only a small part of his voluminous system of social and political philosophy, but he does contend, lightheartedly or not, that the inspection principle can be applied in any domain of life, including by "training the rising race in the path of education," both in the classroom and outside of it.[10]

In his 1838 retrospective on Bentham, Mill enlarges on his charge that Utilitarianism bypasses character in order to focus solely on conduct at the expense of active character. Mill himself was the product of a Benthamic education. Further, in his thirty-five years as a colonial administrator, he participated in the East India Company's despotic rule over the Indian subcontinent, and understood (in part by experiencing its effect himself, and in part by his complicity in the imposition of British values on Indian elites in the princely states) the practical failures of a system of philosophy that narrowly defined human motivation in terms of quantifiable self-interest. Such a system excludes the following rich, diverse motives from the Benthamic "springs of action": a "sense of *honour*, and personal dignity—that feeling of personal exaltation and degradation which acts independently of other people's opinion, or even in defiance of it; the love of *beauty*, the passion of the artist; the love of *order*, of congruity, of consistency in all things, and conformity to their end; . . . the power of making our volitions effectual; the love of *action*, the thirst for movement and activity, [and] the love of ease."[11] Mill does not argue that Bentham's deficient understanding of the desire for dignity is a product of his deficient character. In fact, the opposite is true: Bentham's own nobility of character is "the original cause of all his speculations" and "pervades them all," blinding him to the conflict between the character of the active, public-spirited reformer and the self-interested, utility-maximizing realist. The failure of Utilitarian hedonism is to hypothesize that everyone, including Utilitarians, are more explicable in terms of narrow self-interest than they actually are.

These aspects of Mill's early education are by now familiar (if still complicated) territory, explored in other places by other authors.[12] Mill, to be sure, tries to craft his own narrative and even create his own myth about his own education. The *Autobiography* and Mill's other public, published comments on Bentham and James Mill surely underemphasize the debt he owes to his father and overemphasize the limitations of his own education. Thus, for example, the ancients that Mill read are certainly not "mechanical" in their approach to constitutional and political thought. Also, Mill encourages the reader of his short pieces on Bentham to think that Bentham's deemphasis of character is more systematic and fatal than it is.[13] In any event, the result of Mill's encounter with Bentham and with James Mill's system is that Mill historicizes, relativizes, and individualizes Bentham's criticism of irresponsible power to adapt it to the demands of

a democratizing age. A more accurate view of the emerging political problem of irresponsible majoritarian power is the result.

It is not unusual to think that Mill learned about the basic problem of representative government by reading Alexis de Tocqueville. After all, Tocqueville's most important insight was that irresponsible majorities had a tendency to wield unchecked power over minorities, whether in the form of majority tyranny or as extraelectoral soft despotism. Mill implies in his *Autobiography* that he learned this from Tocqueville, and the accepted view is that Tocqueville introduced Mill, who was in the process of becoming more egalitarian, to the concept of majoritarian tyranny and caused a "fundamental change" in Mill's attitude toward democracy.[14]

This interpretation overstates Mill's egalitarianism, his turning against his father and Bentham, and the innovation credited to Tocqueville. Tocqueville certainly rearticulated and reinforced Mill's growing countermajoritarian concerns, but these worries did not originate with Tocqueville. Instead, Tocqueville helps Mill to work out a problem that Mill was made aware of by Thomas Babington Macaulay. In Macaulay's 1829 criticism of James Mill's *Essay on Government* (1820), Macaulay argues that the Utilitarians asked the wrong question.[15] The question is not, How do you aggregate the preferences of self-interested actors? Instead, theorists should ask what motivates humans to live political lives at all. Macaulay thinks that majoritarian politics cannot operate on the assumption that human beings are self-interested individuals trying to maximize utility, impeded only by a mechanical system of checks and balances. One key problem lies in "narrowing the meaning of the word desire" as if it referred only to antisocial desires that "can be gratified only by spoliation and oppression." Human desires are actually informed by concepts such as service and excellence, and shaped by feelings of sympathy and righteous indignation.[16] Macaulay's crucial insight is that in trying to write realistically about interests, James Mill actually commits what Mill later calls in the *System of Logic* a fallacy of nonobservation.[17]

James Mill's response to Macaulay was that the *entire* classical and anglophone liberal tradition—from Plato and Aristotle to Berkeley and Hume and Blackstone to Bentham—rests on the assumption that people act solely or chiefly in their self-interest.[18] If the Utilitarians are in error, their error is an old one with an excellent pedigree. However, Macaulay persuades the younger Mill that he is correct. As Mill admits in the *Autobiography*, "my father's premises were really too narrow, and included but a small number of the general truths, on which, in politics, the important consequences depend."[19]

The dispute between James Mill and Macaulay occurs over a decade before John Stuart's reading of Tocqueville further informs his worries about problems with democratic extremism. By then, Macaulay's criticisms have prompted John Stuart to think about political representation and to

pay greater attention to the methods of social science to ensure that his future theory is more responsive to observed phenomena.[20] By July 1835, Mill has worked out the fundamentals of that theory in his review of Samuel Bailey's *Rationale of Political Representation*—at about the time that he is first reading Tocqueville, whose work on democracy he reviews in October of the same year.[21] In short, what Mill learned from Macaulay and then Tocqueville was not so much that majoritarianism was flawed but rather that James Mill's social scientific *method* was flawed and likely to reinforce the problems of majoritarianism that Tocqueville so insightfully exposed.

In spite of the evolution in his own thinking, Mill remained a democratic political thinker, albeit one who held more faith in the distal political power of popular sovereignty than in the proximate power of the people's political judgment.[22] In the *Autobiography*, Mill is clear that he wants his readers to understand him as a basically democratic thinker who supports enfranchisement while worrying that the *demos* (the people) will use their *kratos* (power) unwisely. Thus, in his *Autobiography*, Mill explains that he "was *aware* of the weak points in democratic opinions." However, he continues, "after giving full weight to all that appeared to me well grounded in the arguments against democracy, I unhesitatingly decided in its favour."[23] In the first six chapters of the *Considerations*, Mill argues forcefully if conditionally in favor of popular sovereignty in those countries that are capable of self-government. He thinks that the "ideally best form of government is that in which the sovereignty, or supreme controlling power in the last resort, is vested in the entire aggregate of the community."[24] In practice, some countries cannot live up to demands of popular self-government; however, in those countries that can, a government "established against the will of an active majority" cannot be free.[25]

Mill is without a doubt excited by extraelectoral and even extraconstitutional and revolutionary fervor, such as he experienced in 1830 Paris, where a public was coming to consciousness of its own power and agency. Still, Mill thinks that the participatory spirit needs to be constitutionalized in the form of regular, nonviolent transfers of power between representatives of the people and the subset of representatives who actually perform the business of legislating. Fervor and passivity are, for Mill, two sides of the same coin, and they must be managed by constitutional processes.

The Theory of Representative Government

The "grand . . . defect of the representative system" is that it gives the numerical majority "all power, instead of only a power proportional to its numbers."[26] Mill must decide on a principle of representation that avoids the problem of empowering numbers and investing majorities

with legitimacy. He argues that the principle of political equality must be rethought and that the existence of a "real" minority that cares for and advances truth, justice, and the common good (the "real ultimate interest" of the people as a whole) must be given affirmative protection.[27] Mill's key theoretical work on politics, *Considerations on Representative Government*, develops a conservative theory of representative democracy that relies on the competent and enlightened few to preserve the "fixed point" of a liberal constitution, while ensuring that the many do not become passive and disenfranchised. This, rather than the metaphysical claim that the power of the people is a natural and absolute right, is the truly progressive position to hold about government. Thus, to repurpose a metaphor of James Mill, the "keystone" of the social arch is, for John Stuart, unequal political representation.

Mill feels the need to defend representative government for two reasons. First, he is willing to concede (but only "for the sake of the argument") that the ideally best form of government is despotism. It would not be easy to find an "all-seeing" ruler willing to bear the burden of rule, an insight that reinforces one of the core arguments of this book. There is no royal road to education. Mill's modified republicanism borrows from the idea that orderly administration is best, but that unchecked bureaucracy leads to pedantocracy.[28] Expertise and orderly administration are no more than a substitute for wisdom. They can become representative democracy's version of the rule of the wise, so long as measures are taken to keep the public informed, engaged, and at liberty to participate. The correct answer is not to find rulers to manage the "entire affairs of a mentally passive people."[29] Second, Mill is aware that representative government is functionally majoritarian, and majoritarianism will lead to equal mediocrity unless institutions smooth the gradient from the old aristocratic order in countries such as England. *Considerations* deals with these two pools of questions in sequence. In the first half of *Considerations*, Mill compares representative and despotic government. He adopts the name and most of the trappings of the former, but he incorporates some of the spirit of efficiency of the latter. The (roughly) second half of the text (beginning in chapter 7, on true and false democracy) is organized around limiting majoritarian tyranny and elevating the "low grade of intelligence" incident to democracy.

Wisdom, then, is on Mill's mind. To twenty-first-century ears the result is a very eccentric view of political equality. We may be shocked that Mill calls the claim that each person deserves one vote, and not more or less than one vote, a "false creed" of extreme democracy. He characterizes the claim as "almost as detrimental to moral and intellectual excellence, as any effect which most forms of government can produce."[30] Using nearly the same language that Tocqueville used to criticize the representation of numbers in American democracy, Mill argues that the arithmetic principle

of representing the most numerous group is a betrayal of the true theory of representative government. For Mill, though, the claim made by wisdom to rule is qualified by the need for public participation, meaning that well-ordered liberty and the rule of law cannot exist, in practice, where the single wisest person or a small group of wise persons rule over the many.

If somehow wisdom could be represented and taught to the many, Mill would likely agree that the wise should rule outright as observed above. However, the attempt to represent and to legitimate wisdom in the eyes of the people presents massive difficulties, as we saw in the preceding chapter. Trying to represent wisdom, as opposed to the much lower aim of representing its more readily identified substitutes, such as policy knowledge and expert opinion, may increase the opportunity for the abuse of power by demagogues, ideologues, and false prophets.

Mill trusts that the many are educable, but between every line in this chapter one must insert the nutriment of his belief in educability, namely that changes in the household and workplace will transform modern life. When they are educated by their circumstances in individual freedom and social equality, the people can be "left to find their places for themselves." Unbidden by a commanding superior, they will "spontaneously class themselves in a manner much more conformable to their unequal or dissimilar aptitudes, than governments or social institutions are likely to do."[31] This is what changes in social power can do; however, Mill does not consider the social to be determinative of political organization. For example, he rejects the determinism of structural class conflict, arguing that the "choice" of political institutions is "a moral and educational question" that ultimately will not depend upon objective class divisions.[32] Thus, social change will make education easier, but does not relieve the need for political change.

Progressivism and Conservatism

Mill's readers have often misunderstood his relation to English conservative thought. As I argued above, Mill judges politics by the facts on the ground and by the hoped-for course of political progress. Just as there are reasons to desire only partial and incomplete reform in domestic and economic life, so too there are potentially reasonable limits on the power of reformers to change principles and publics. "Governments must be made for human beings as they are," Mill writes with typical moderation, "or as they are capable of speedily becoming."[33] This thought is grounded in theory, namely in the observation that a constitutional order must be accepted by the people it governs.

Other authors have tried to capture Mill's competing interests in progressive and conservative politics by distinguishing between educative

goals (advancing individual cultivation and social reform) and protective goals (shielding the current order).[34] This dichotomy sells conservatism short by presenting conservation as the mere protection of existing faculties.[35] A similar problem arises when we distinguish between reform and accommodation.[36] For Mill, progressivism and conservatism are "improperly contrasted ideas": the same virtues are required to conserve goodness in government as to advance it; where they differ is in intensity.[37] Thus, Mill argues that particular moral and political virtues are proper to "order." They are: industry, integrity, justice, and prudence. These qualities are shared by progress, which has its own related virtues (mental activity, enterprise, courage, and originality/invention).[38] Mill refuses to be one sided; thus, he states that it is "not appropriate" to argue that the sphere of progress includes all conservative elements, but that the sphere of conservative practice does not include all the practices of progressives.[39] Moreover, these two terms do not properly describe a valid basis for a real party system. Rather, they correspond to two competing types of characters—impetuous and cautious, young and old, climbers and established men and women—both of whom have a place in a well-ordered regime.[40]

It is best, Mill implies, to think of progressivism and conservatism as two sides of the same liberal coin and of progressives and conservatives as two types of liberal characters, each with its uses and limitations. Yet Mill has his moments of partisan nagging. Incorrectly forgetting about the intellectual culture required for a free parliamentary democracy, Mill calls the English "remarkably stupid." Mill also criticizes the Conservative Party for basing its power in part on "stupid" people.[41] Mill does not ignore the phenomenon of reform conservatives; instead, he seems to mean that the rural peasantry is naturally (that is, by custom) conservative, insofar as they lack intelligence honed by association. They are not accustomed to experiencing "the mere collision of man with man, the keenness of competition, the habits of society and discussion, [and] the easy access to reading" that produce intelligence.[42] Americans, in contrast, are widely and corrected recognized for their "cultivated intelligence," which comes primarily from their level of political engagement in inclusive electoral democracy.[43]

Mill also opposes English society's failure to accept new ideas. A thinker must first build a reputation for reliable expertise in one narrow area before gaining the public's ear for broader thoughts. Perhaps thinking about his own youth, Mill very tartly observes that "an Englishman's premises, the principles which he reasons from, or the rules of action which he is to apply, are all chosen for him."[44] Despite these principled but sometimes petty attacks on conservatives, even or especially staunch conservatives have their use. They will provide the hoped-for "collision of opinions" with progressives.[45]

Although Mill's terms have not entered the mainstream of political discourse, the *Considerations* usefully elaborates on the progressive-conservative divide by analyzing two competing approaches to constitutional design. The first Mill calls "political machinery," or "mechanics"; the second is the school of "natural history" (dynamics).[46] Applying this contrast, Mill criticizes both the Utilitarians' ahistorical emphasis on self-interest and the historically informed, "dynamic" method of philosophical history inherited from Germany and France. The former assumes that the whole of the people consists of an aggregate of self-interested individuals whose happiness can be advanced by constitutional checks and balances. In the most radical form of the latter, the nineteenth-century state "is not a subdivision of general categories, but a living thing, an individual, a unique self."[47]

Mill chooses to treat the latter (dynamic school) as if it were similar to the former (self-interested school). According to Mill, all states are "made what they are by human voluntary agency" and can be explained by social science.[48] Still, the conflict between these approaches gets to the heart of a crucial question: What is a state? Is it merely a constitution, a parchment barrier restraining the self-interest of individuals? Does it refer to the sum total of all individuals' interests in a political community? Or is it something more—a complex of ideas and traditions, physical facts, unchosen historical narratives, and "pre-existing habits and feelings" that the legislator finds rather than making?[49]

For Mill, it is clearly the latter. His conception of the development of law, equality, and liberty becomes thoroughly historical after the end of his early Benthamist period, as he explains in his *Autobiography*. However, Mill rejects the claim, sometimes made by members of the historical school, that a divine providence or unknown plan of nature is in charge of human events, or that our historical development is overly path dependent rather than amenable to human control. For Mill, who considers the new philosophy of history to be both naturalistic and scientific, a smart social scientist will take ethological conditions into consideration, without absolutizing contingent developmental conditions, as some progressives and reformers do, or declaring national and individual characters to be fixed, as Mill worries that conservatives do. As Mill explains about the given-ness of national characters, the "naturalistic theory of politics" is right to hold that citizens must be "willing to accept" a constitutional order; "willing and able to do what is necessary to keep it standing"; and "willing and able to do what it requires of them to enable it to fulfil its purposes."[50] Mill's theory is naturalistic but not deterministic.

Although Mill is often criticized for optimistically exaggerating the human capacity to choose to do the right thing at the right time, it should now be clear that he imagines a moderate form of progressivism for his new liberalism. The ultimate aim of society (happiness, or utility) is most

reliably advanced by liberty (the only "unfailing and permanent source of improvement"). As a matter of principle, a people should reject forced improvements and resist the temporary alliance of liberty with custom and stagnation, relying instead on a pluralistic society's "many possible independent centres of improvement."[51]

The historical school is in one important respect more realistic than Bentham's mechanical school. One of the key defects of Bentham's one-sided political theory is that he exaggerates the rationality of the self-interested actors, whereas much of so-called rational self-interest is nothing more than "mere habit and imagination," which in turn is safeguarded by continuity in at least the outward form of institutions. Anything, Mill warns, that "can be termed the end of the old constitution and the beginning of a new one" is a danger even in a rational democracy.[52] Even the lofty and impressive experiment of founding government on reflection and choice cannot succeed without the help of custom and habit, as the American founders recognized.[53]

Considerations on Representative Government thus presents Mill's alternative to historicist (time- and context-sensitive) *and* Utilitarian (results-oriented) constitutionalism. Historicists are wrong to say that individuals are submerged within institutions and within a common political history that has grown over time under the total tutelage of custom, national spirit, and habit. Utilitarians are incorrect to say that we can institute immediate, effective social and political change without paying any heed or respect to "ancient liberties" and the legitimacy of practices owed to "time immemorial."[54] His view, moderate and empirically informed, has important consequences. For example, Mill thinks that the "Aristocratical principle" is wrong as applied, but destroying its influence and creating a new constitutional order is also dangerous and, if aristocracy is replaced by the power of greater numbers, unjust.[55]

Filtering the Public Will

For Mill's version of educative politics to be effective, knowledgeable voices must be able to be heard. Mill states his message in the central chapter of *On Liberty*, "Of Individuality, as One of the Elements of Well-Being," in which he argues that individuality is the core of both individual and social flourishing.[56] In this chapter, he provides a short summary of the progressivism of both *On Liberty* and the *Considerations*.[57] Mill then tries to persuade his readers that cultivated intellects are useful to the uncultivated. In the *Considerations*, he sets himself the further task of trying to justify the representation of knowledge as useful and even necessary to the flourishing of a popular government.

Mill attempts to reconcile popular participation and consent with the merit principle by modifying democratic theory. He adds nondemocratic, top-down policies to balance the electoral power of the many, combined with bottom-up policies to counterbalance the influence of the few. Thus he combines mechanical filters on representation and respect for the "unwritten maxims" of constitutionalism embodied in an existing order.

Chapters 7 through 18 of the *Considerations* attempt to improve the exercise of popular power that the first six chapters of the book justify. Some of the mechanisms responsible for filtering the public's political will are *required* for democracy to control itself. He suggests other, provisional mechanisms to suit some circumstances, but although he does not engage in ideal theorizing, these are not elements of his normative theory of representation.[58] In some cases, as with the length of parliaments, Mill asserts that there is no identifiable range of right answers. For this reason he gives great latitude to existing practices, such as septennial parliaments, which are not properly fitted to the task but not particularly damaging to democratic self-government.

The *Considerations* are too rich to be mined fully in this chapter. Instead of examining all of the limits on popular power, I examine four proposals on civic participation, chiefly in the area of voting, and three proposals having to do with institutional design as particularly relevant to the education of character:

1. Thomas Hare's plan for a transferable vote, which will better allow for the representation of minorities. This proposal forms the centerpiece of Mill's inclusion of higher grades of intellect in democratic government.[59]
2. The adoption of a graduated system of enfranchisement, in which each independent adult has one vote, but more sophisticated adult voters have several votes. Mill intends this to give greater representation to informed opinion and it forms the other prong of his protection of intellectual minorities.
3. The rejection of the secret ballot and the adoption of a caucus-style voting system. Through this system, the citizen's vote is made more public spirited by its greater transparency and accountability to the other members of the community.
4. The rejection of pledges, because pledges make it too easy for electors to tie their representatives' informed, professional opinion to preformed or prejudiced views.
5. A Commission of Codification that is charged with designing legislation. The commission allows Mill to reconceive his parliament's role in lawmaking as one of approving rather than of writing legislation. This is another attempt to balance the responsiveness of

the popular part of government with the responsibility required for informed, skilled policy making. This is "rational democracy," that is, one in which the people "ought to be the masters, but they are masters who must employ servants more skilful than themselves."[60]

6. The indirect election of the president in countries with a presidential system. If a presidential system relies on popular choice, the executive will always be a "small" man and never a grand figure of the sort required for the great stage of national politics. Indirect election curbs the influence of popularity in politics and seeks to inject the requisite virtues into the political process.
7. Either a unicameral legislature, on the assumption that a higher, deliberative body (senate) is not needed to increase legislative competence, or a bicameral system that successfully manages factional strife between rich and poor; and the devolution of some responsibility to the local level, which is important in maintaining a participatory, engaged electorate.

Taken together, these commitments form Mill's descriptive and normative theory of representative government.[61]

Voting

Mill's idea of a representative democracy contains a theory of voting with several important, and in some cases counterintuitive, commitments.[62] For Mill, every minimally competent adult has a right to participate in politics by voting. Everyone with a right to vote has a duty to vote, and to vote well. Finally, Mill argues that there is no need to count all votes equally, and that there is in fact positive value in weighing unequally informed voices unequally.[63]

Below, I describe the most important ways in which Mill tries to control the effects of the democratic principle through countermajoritarian elements of his theory of voting. Above, I have argued that Mill thinks that great changes in domestic and economic relations will lead to great changes in the quality of citizens. When he turns to politics in the *Considerations*, Mill's focus is now on the mechanical side of institutions. He seeks to refine and enlarge the views of the voting public by changing the conditions under which they participate—an approach very much in keeping with his doctrine of liberty and with the doctrine of circumstances.

Minorities and Hare's Plan

According to Mill, two great dangers are incident to representative democracy. The first is the "danger of a low grade of intelligence in the

representative body, and in the popular opinion which controls it." The second is "the danger of class legislation on the part of the numerical majority, these being all composed of the same class."[64] Representative democracy can thus be unintelligent, factious, or both; however, because of the "independent centres of improvement" noted above, the remedy for both of these crucial problems lies in *liberalizing* democracy. Mill's practical suggestions for constitutional reforms address these problems. When Mill's suggestions fail, it is often with the best and most educative intentions.

Although democratic theorists grant reasonable pluralism a prominent place, Mill's solution is best described as reasonable individualism. Classes, for Mill, reflect partial and selfish interests. Mill beautifully illustrates his point by adapting a fable ("The Kingdom of the Lion") from Aesop. Speaking for the predatory animals, the fox addresses an insurrectionary crowd of domestic animals. The domestic animals become satisfied with representative government, at least in name, although the actual practice of representative government ends up satisfying only the predators. Thus, by representing each species, the "Lion got his thousand sheep; the Fox his pension of 100 ducks a year, and the Panthers, Wolves, and the other members of the aristocracy got as many kids and lambs in a quiet way, as they could devour."[65]

Mill's concern is the same as the one that the American founders addressed under the rubric of "factions." "To secure the public good and private rights against the danger of such a faction," James Madison writes, "and at the same time to preserve the spirit and the form of popular government, is . . . the great object to which our inquiries are directed."[66] Madison argues that one can do two things to impede the formation of factional interests: one can remove the causes of faction or control the effects of faction. One can suppress the *cause* of factions by curbing liberty or by inducing homogeneity of opinion. One can minimize the *effects* of majority factions by preventing the same passion or interest from capturing a majority, or by rendering a like-minded majority unable to meet.

As the Madisonian account famously goes, to suppress factions by destroying liberty is to cure the disease by poisoning the patient. Pursuing homogeneity is therefore a pipe dream. Madison and Mill would both agree that destroying the cause of factions would destroy the public along with the factions, since the very energy and liberty that feeds factions also sustains healthy political engagement. Instead, Mill and Madison agree that the answer in outline is (1) to refine public opinion through a process of representation; (2) to permit or even encourage factions to form; and (3) to enlarge the sphere of the republic to include a large territory (and, pluralistically, a wide variety of views on a variety of topics), so that factional interests will balance and, they hope, cancel each other out.[67]

For his part, Mill is even more intransigent about individuality than Madison. He also is more hopeful that the eccentricities of energetic

individuals and competent minorities will be socially beneficial if they are empowered by education and training to provide a counterweight to majority opinion, something not emphasized by Madison. For both thinkers, multiplying factions will permit groups to police themselves in the most liberal way imaginable, namely by making the *demos* into a tangled mess of associations and allegiances. This will foster distributed knowledge and "open," or many-sided, characters rather than supporting the fanaticism of the ascetic, or "closed," personalities. When committed and self-righteous believers collide with other equally committed and opinionated one-eyed men, beneficial effects will follow.

One problem with this solution to factionalism is that the citizen, held fast in a tangle of ties, may come to consider the unoccupied space at the regime's center to be the only safe and respectable place for democratic self-expression to flourish. Of the several dangers posed by the sovereignty of the majority, the drift toward leveling and mediocritizing public opinion is the one that most exercises Mill. Power is found in the great mass movements that bring individuals together to act in concert. From this social fact, it is a short step to dependence on economies of intellectual and political scale. From here, it is another short step to denying that there is ever any just claim made by any individual in the name of wisdom, especially if their counsel of restraint or their innovative ideas threaten short-term gains. The result is a liberal foundation for what becomes *illiberal* democracy.

The two problems of majoritarian tyranny and democratic mediocrity are dealt with separately in the two volumes of Tocqueville's *Democracy in America*, but in Mill's *Considerations* they are intermixed.[68] To the first, the remedy is the famous theory of representing minorities that Mill borrows from Thomas Hare.[69] In his 1859 essay "Recent Writers on Reform," and in chapter 7 of the *Considerations*, Mill outlines his theory, which seeks the representation of intellectual minorities in the legislature. The solution is achieved by transferring votes from candidates who are elected by a surplus to those candidates who are given second- and third-place votes.

As Mill explains Hare's plan, it works by guaranteeing a seat to everyone who meets the minimum threshold of votes. (That is, one hundred electors returning two candidates would elect any candidate who reaches the fifty-vote threshold.) Electors would vote locally, but they also can vote for any candidate nationwide. This much would give some protection to minority representation, since scattered minorities could throw their support behind one candidate. In addition, electors would ordinally rank their preferred candidates, so that their vote will still count even if their first preference (say, of a local minority candidate) is not returned. When the votes are tallied, first-place votes are tallied first, then second place, then third, and so on.[70] In Mill's eyes, this schema allows minority interests

to be represented. It holds out the possibility of an electorate's personally identifying with elected officials, and it potentially rewards candidates whose intellectual qualifications permit them to have a national constituency rather than rewarding candidates with merely local influence.[71]

Leaving aside the mechanical problems with Hare's system that Mill tries to anticipate and design around, the real problem with the scheme is Mill's assumption that the key minority that will be empowered through transferable votes is the speculative class of the "ablest heads and noblest hearts." Why, after all, would voters not prefer other modes of representation, such as symbolic or descriptive representation, rather than the substantive representation that Mill prizes?[72] Why should the substantive representation of ideas and intellect trump ideology or even party? In a democracy without direct civic education, why would mental power attract a national constituency rather than celebrity or wealth? In a socially awakened polity, why would identity politics not predominate?

Just as Mill accepts that "unwritten maxims" are required for any constitutional order to function, he relies on extrinsic educational efforts to induce voters to choose to elect the knowledgeable. The crucial influences are the reforms of the household and the workplace described in the first two chapters of this book. Mill alludes to only one aspect of that education in this portion of the *Considerations*. His silence partially validates the complaint that he discusses liberal education and representative government in "entire separation from each other."[73] As Mill writes, the educated class is not worried that manual laborers will become "the *strongest* power; *that* many of the educated class would think only just." What concerns intellectuals is that democratization and enfranchisement will make the laboring classes "the *sole* power." Mill professes faith in the "*moral* efficacy" of Hare's scheme, without, however, explaining how the educative effect will be achieved through minority representation.[74]

Mill's faith in Hare's proposal shows an enthusiasm for mechanical reforms. As Mill writes to Hare himself, "If the Americans would but adopt your plan (which I fear they never will) the bad side of their government and institutions, namely the practical exclusion of all the best minds from political influence, would soon cease." In a letter of the next day to the Benthamic reformer Edwin Chadwick, Mill characterizes Hare's plan as conservative, liberal, and democratic.[75] It is not utopian to expect the American multitude to elect a "Themistocles or Demosthenes," if Hare's plan at least brings such a figure before the public.[76] Mill seems to forget his usual pessimism about democratic electorates in his enthusiasm for the power of educated minorities to elect representatives who share their views. In reality, though, the representation of minorities and the representation of intellectual power are not necessarily connected, despite Mill's claims to the contrary. "Personal Representation," the general term that

Mill supplies for the specific excellence of Hare's proportional representation, may be just that—the return of minority candidates who have characters and traits that are attractive to the majority, or to larger minorities, not election for "preeminence in personal qualities."[77]

Are there other ways to improve democratic performance beyond mere reliance on the representation of minorities? In the present day, liberal democracies rely on the "dignifying" work that is done by parties: parties promulgate a partisan platform and review their own candidates. Long electoral campaigns allow publics (in the plural) to vet candidates' qualities in a variety of different lights, most notably in partisan primaries and general elections. Parties transform conflicted and weak individual candidates and individual voters into powerful interests. Mill, though, is not a party man.[78] Thus, he avoids the full turn toward the proliferation of factions and political associations. As with his embrace of the cultivating effects of small-scale socialism, where cooperation is obviously an important part of self-management, Mill advocates the combination of voices, but his chief emphasis is on the power of the wise. The Hare plan implies that the wise are already educated and can return educated candidates despite being scattered across the country, which presents a disanalogy to the cultivating effects of small-scale economic cooperation, which transforms otherwise self-interested individuals through intimate associations.

Enfranchisement and Plural Balloting

The inclusion of a new class of voters was an issue of massive importance in nineteenth-century England. The 1832 and 1867 reform bills each (very approximately) doubled the franchise, and by the end of the nineteenth century there were over 4 million English voters. However, even these inclusive reforms resulted in the direct representation of only a small slice of the population of 29 million (circa 1891). Although some thinkers presumed an identity of interests between those excluded from the suffrage and those who were included, Mill did not.[79] He was a radical in his views on the enfranchisement of women and the laboring classes, even as he remained afraid of what Thomas Carlyle, who opposed expanding the electorate, called the "Niagara leap" of expanded suffrage.

After being awakened to problems with his father's and Bentham's politics of self-interest, Mill carefully reconsiders democracy in light of problems identified by Tocqueville and other authors.[80] According to Tocqueville, the American is patriotic and intelligent, because he participates in self-government. In spite of the rather sharp criticisms of English manners and politics enumerated above, Mill thinks that democracy's prospects are even rosier in England than in America. The geopolitical situation of the United States fosters a self-interested, trade-oriented mediocrity that

does not attract great intellects to politics; however, because acquisitiveness brings leisure and leisure allows intellectual cultivation, Mill thinks that the intellectual future of democracy will continue to improve even in America.[81] England, in contrast, has less to fear from democratization because it has a greater opportunity to maintain a smooth gradient from aristocratic greatness while further opening opportunities for business and civic leadership within the middle classes.[82]

The expansion of the suffrage allows for what Mill considers an unexpected and even unintended consequence of democracy—progress. As evidence, he cites the model of the advancement of the sciences in America. Citing the "entire contents" of Tocqueville's *Democracy in America* as evidence of democratic progressive activity, a theme that Mill examined at length in chapter 2 of the *Considerations*, Mill observes that everyone in America has the opportunity to be an inventor in the spirit of Benjamin Franklin, even if geniuses of Franklin's magnitude are few.[83] Trials and failures, taken collectively, advance the sciences in the liberal manner described in chapter 3 of this book. In the political realm, Mill also cites the political participant's exposure to "large, distant, and complicated interests" as a key, cultivating aspect of enfranchisement.[84] Just as Mill believes that economic cooperation cultivates prudential and managerial skills, so too he relies on political participation in a busy, multifarious democracy to elevate the aims of any given political actor.

Before all adults can be welcomed as members of this "great community," they must meet some preconditions of enfranchisement.[85] First, Mill uncompromisingly demands that each voter should be able to read, to write, and to do simple arithmetic in order to have a ballot. Again, to vote is to exert power over others. It is to rule them, and Mill consistently holds that it is unjust for the incompetent to rule the competent. Mill also supports a poll tax or some other direct tax that will exclude those who don't pay taxes from voting on taxes. He thinks that this measure will decrease the "American" power of the poor to vote steep progressive taxes on the earnings of the rich. Those who have been on the dole, or recently bankrupted, are also excluded.[86] Mill's justification is that voting on taxes is such an important part of the franchise that it is unjust to give power to raise taxes to those who do not pay taxes. Felons are also disenfranchised. In the case of all of these restrictions on the franchise, Mill looks for features of voters that would disqualify them from an ability to identify their interest with the common interest. Mill's views on the educative justification of felony disenfranchisement are not, for example, in step with present-day circumstances. In an era of increased criminalization (the expansion in the number of felony offenses), criminal conviction does not properly track one's ability to perform the duties of citizenship. Arguably, many or most felonies should *not* result in postrelease disenfranchisement on Millian (educative) grounds.[87]

Mill anticipates that in the future nearly everyone except those relying on parish relief will have the franchise, which means that the numerical majority of voters will be manual laborers. How can a regime of manual laborers make correct choices with respect to policy? More fundamentally, can such a system be just in the eyes of nonlaborers? Mill has a proposal that vindicates the justice of the wise; however, it appears to contradict the most basic norms of democratic citizenship and thus finds favor with "nobody."[88] As Mill explains his proposal, every person capable of independent decision making has an "admitted claim to a voice, and when his exercise of it is not inconsistent with the safety of the whole, cannot justly be excluded from it." Controversially, though, Mill concludes that "though every one ought to have a voice—that every one should have an equal voice is a totally different proposition."[89]

To contemporary democratic ears, this is an exotic opinion. In 1965, President Lyndon Baines Johnson interpreted American political history as resting on the idea that the "dignity of man and the destiny of democracy" depend on guaranteeing equal rights. This is the "purpose" of the nation.[90] Embracing strict political egalitarianism may be a logical consequence of the dignity of man. According to Mill, however, to give greater weight to the opinion of the wiser and better man is to carry out "the natural order of human life."[91] He makes this statement against the "fool" who is the only one blind enough not to see that superior weight should be given to superior opinion. As Mill explains,

> Entire exclusion from a voice in the common concerns is one thing: the concession to others of a more potential voice, on the ground of greater capacity for the management of the joint interests, is another. The two things are not merely different, they are incommensurable. Every one has a right to feel insulted by being made a nobody, and stamped as of no account at all. No one but a fool . . . feels offended by the acknowledgment that there are others whose opinion, and even whose wish, is entitled to a greater amount of consideration than his. . . . It is only necessary that this superior influence should be assigned on grounds which he can comprehend, and of which he is able to perceive the justice.[92]

The present-day reader can be forgiven for thinking that a democracy such as the United States must be a nation of fools, for it is clear that late modern democracies lay many just claims to rule to one side so that the greater majority can pass through their lives in ease and comfort. It is puzzling, then, that Mill, who has been through the trenches with the philosophical radicals on the subject of enfranchisement, immediately turns a critical gaze on the exercise of the franchise just as soon as the war has been won.[93] This pivot makes it especially pressing to address the

crucial question, What "natural order" of life does Mill's theory of justice vindicate?

Mill's answer to this question is not the typical republican solution, which invokes a natural aristocracy and thoroughgoing civic education, often of and by elites.[94] In addition to advocating the educative effects of cooperation, Mill aims to cast suffrage "in a totally different light"—that is, in a manner that avoids the endpoint of democratic mediocritization—by making it the *reward* of mental improvement.[95]

Mill's search for a rational standard of political inclusion leads him to reject a property qualification because the possession of property depends too much on accidents of birth and rank.[96] (Mill's anticipated reform of the property-owning, capitalist system would dissolve this complaint, leaving him the opportunity to use a property standard in a future political system where property tracks merit, but he does not explore this possibility and its potential drawbacks.) Instead, he chooses to represent political competence by the proxy of education, insofar as it is measurable, or by career attainments, in the likely case that education proves too difficult to quantify.[97] Occupations that can be performed by the uneducated are good for one vote. At the top of the chain of mental power, where citizens are fully capable of grasping abstraction and complexity, the highly educated might have six or seven votes each.[98] The only cap to this system is the obvious one, which is that the enhanced electoral capacities of the intelligent should not amount to a number that can be used to oppress the newly created intellectual minority of workers. In fact, Mill unrealistically hopes for a perfect tie of electoral power between the more heavily weighted votes of the intellectual minorities and the opinion of the numerical majority.

Although, in the long passage about Hare's proposal, Mill imagines that proportional representation may make plural voting at some point unnecessary, it is important to note that Mill does not advance the plural voting proposal strategically—not even to compensate for a changing sociological fact of democratizing society. To assert that Mill's plural voting is merely circumstantial and strategic is to minimize the difference between egalitarian liberals who insist that the "one man, one vote" principle is the true meaning of liberal democracy, and Mill, who insists that this sort of democracy is unjust. Mill claims that plural balloting is a key foundation for good government in *any* polity that has reached the threshold of deliberative competence.

Later, in the chapter on pledges (ch. 12), Mill states that deference to education, insofar as education is a good proxy of intelligence, is defensible for its own sake, even in the absence of any useful political consequences.[99] Despite its not being clear from Mill's famous public statements in favor of liberty and diversity, Mill's principled view of political representation ranks the principle of wisdom or knowledge higher than equal participation.

Thus, he Mill consistently defends meritocratic (proportional) equality. What is not clear is whether the demands of social utility could justify overturning the merit principle. Presumably, Mill argues that it is simply never the case that utility requires the elevation of ignorance, but one can think of examples (e.g., the immediate inclusion of uneducated black voters in the post–Civil War United States) where "ignorance" is temporarily or even permanently elevated (e.g., by sortition) in order to increase participation and to avoid electoral domination by wealth or influence.[100] Mill is certainly aware of these risks. In practical terms, such as the inclusion of Chinese immigrants within the polity, or the inclusion of previously excluded black voters, Mill accepts that inclusivity will have short-term negative consequences for deliberation but that inclusion is worth the risk.[101]

It is striking, though, that Mill believes plural voting should not merely be "temporarily tolerated." "Equal voting" is not "among the things which are good in themselves, provided they can be guarded against inconveniences." Equality in the franchise is only "relatively good; less objectionable than inequality of privilege grounded on irrelevant or adventitious circumstances, but in principle wrong, because recognizing a wrong standard, and exercising a bad influence on the voter's mind." From Mill's Utilitarian vantage, it is "not useful, but hurtful, that the constitution of the country should declare ignorance to be entitled to as much political power as knowledge."[102]

With this profoundly meritocratic statement, have we come near to the center of Mill's theory of political justice? For Mill, writing in 1861 at the time of the start of the American Civil War, the United States is committed to a "false creed" of voting. Mill memorably declares that it is "not a small mischief that the constitution of any country should sanction this creed; for the belief in it, whether express or tacit, is almost as detrimental to moral and intellectual excellence, as any effect which most forms of government can produce."[103] To be clear, Mill completely rejects arbitrary aristocracies of skin color or gender. In fact, he calls the United States a "hard" oligarchy, not a democracy, given the existence of slavery.[104] Mill rejects Southern slavery and merely notional equality, such as virtual representation. The right theory, in contrast, is to treat as political equals those who deserve equal shares.[105]

Although it may be shameful to entitle the ignorant to wield political power, how does Mill know that it is not useful, at least for the sake of order (loyalty and obedience to law), if not for progress? Present-day democracies are currently engaged in an egalitarian experiment of giving superior weight to the opinion of less informed thinkers—first, by advocating equal voting; second, by supporting environments in which advertisements and campaign speeches offer very little content or substance to voters; and by encouraging "get-out-the-vote" movements. On the other hand, we also

empower professional and elite decision influencers outside of legislatures (lobbyists, bureaucrats, "insiders"), and permit career politicians to have limited contact with their constituencies and very little contact with the "regular" voter. How does Mill know that populist experiments will not vindicate the proponents of a more expansive notion of recognition, which recognizes people not only for their cognitive capacity to participate in the public sphere but also for their specialness, their unique traits, or their dignity? Perhaps such a regime is less intellectually powerful, but it could be more stable, inclusive, and multifarious. Mutual *esteem* may in fact be a more effective (more stable) political foundation than wisdom.[106]

The answer, of course, is that Mill does not know. Representative governments are experiments designed to teach citizens how to combine democratic principles. If someone is uneducated and thus "superstitiously attached to the stupidest and worst of old forms and usages," they likely will "feel insulted by being made a nobody" by plural voting, even if Mill is right that they are not in fact treated as nobodies by his policy.[107] Clearly, Mill, who thinks that citizens of a modern state necessarily pay attention to the feelings of others, is aware of a very real tension between the feeling of equality and inclusion and the disesteem of plural voting. But if the above interpretation of Mill's blending of conservative and progressive values is correct, the clash of values is intentional and (Mill thinks) progressive. In order to be more than a vague feeling, equality must be counterbalanced by respect for more valuable (and therefore unequal) opinions.[108]

A recent alternative to Mill's meritocratic theory of voting is provided by the "wisdom of crowds."[109] Hélène Landemore, for example, makes the Millian (and Humboldtian) argument that "numbers will naturally increase cognitive diversity." Landemore writes, "I say 'naturally' on the (I think) plausible assumption that cognitive diversity is normally present in any typical group of human beings, since different people come into the world equipped with different cognitive toolboxes."[110] Mill is not an obvious ally of proponents of the "wisdom of crowds." Describing his strategy in the 1835 essay "Rationale of Representation," for example, Mill writes: "It is not necessary that the Many should themselves be perfectly wise; it is sufficient, if they be duly sensible of the value of superior wisdom."[111] Mill is thus attuned to (and often optimistic about) managing the problem of recognizing knowledge, and he focuses on the cultivating effect of recognizing individual intelligence rather than legitimizing collective power. But, again, how much education is required to become "duly sensible" of superior wisdom? Limiting the electoral power of the majority through noneducative, protective measures such as plural voting risks assuming that the public knows what Mill expects voting to teach, namely that each person's knowledge is only partial and limited.

Mill further problematizes his defense of excellence by asserting that morality is even more important than intelligence. However, the relation between moral virtue and political prudence is almost always an uneasy one, and Mill does not fully clarify it. It is easily conceivable that a man of simple education could be of better moral character than an educated one. Mill has "learned" that the lower classes are inveterate liars. He famously tells this to a group of workers while on the hustings, providing evidence that the lower classes appreciate sincerity in others, even if they themselves are liars.[112] But is perhaps the average voter, not the most informed, the moral ballast of a regime? Mill does not appear to think so. Whether he is right, and whether in any event his Utilitarian politician could be *recognized* by the majority, remains an open question.[113] After all, excellence in logic is a different skill than excellence in rhetorical persuasion.

The Secret Ballot

The use of the secret ballot was one of the central tenets of the philosophical radicals.[114] Jeremy Bentham's rejection of "sinister interests" requires the protection of popular will from the effects of money and prestige; one way to accomplish this is secret balloting.[115] Following the lead of Harriet Taylor, Mill flip-flopped on the issue of the secret ballot, and by his writings of 1859 and 1861 he had rejected its use. Democracy, with all its problems and promises, has replaced aristocracy; and voting in public, according to criteria that refer to the common good, is the best way to save democratic voting from narrow self-interests.[116] As a result, Mill would prefer to have all voting done in front of the public eye in order to safeguard the public interest against private (pocketbook or other merely personal) interests.[117]

To buttress his point, Mill argues that voting is a public duty and trust, and the individual voter is not given the ballot "to him for himself," but in trust to the community, by and for the community.[118] "His vote is not a thing in which he has an option," Mill says, once again emphasizing duties over rights. The vote "has no more to do with his personal wishes than the verdict of a juryman. It is strictly a matter of duty; he is bound to give it according to his best and most conscientious opinion of the public good."[119] A voter should behave "exactly as he would be bound to do even if he were the sole voter, and the election depended upon him alone."[120] Coupled with the strong assertion of duty in voting is Mill's belief that voters, when left to themselves, will not carry out this duty. Again, this assertion about the citizen's duty is probably incoherent unless we add, in line with *On Liberty*, that individuals' opinions about the public good remain their own. They may have a duty to vote well, but they must decide for themselves what voting well is, without the equivalent of the cobbler or cordwainer substituting his opinion for theirs.

In sum, Mill has seen—or thinks he sees—that the "social state" in England has changed from an aristocratic to a democratic one. In an aristocracy, the problem is sinister interests. In a democracy, the problem is the individual's self-corruption under the influence of his selfish interests and desires.[121] Why, however, would the exposure of the corrupt individual to the "master's eye" of an equally corrupt public improve the exercise of the franchise? Again, if Mill does not draw a sufficiently ironclad connection between education and political exercise, the surveillance of the public will simply provide oversight of the individual by a different-sized faction.

There are several questions left open by Mill's argument against the secret ballot and for publicity in voting. First, clubs and other associations that employ the secret ballot cannot provide guidance as to its political value and safe use. Mill thinks that belonging to a club is not analogous to participating in a political association. In the former case, one is "under no obligation to consider the wishes or interests of any one else. . . . This [voting as a club member] is a matter on which, by universal admission, his own pleasure or inclination is entitled to decide."[122] Club members have no duty to vote well. The state, in contrast, is the locus of a deep and real obligation requiring individuals to exercise power in a principled, responsible manner. Between the state and the voluntary association, one might add, are the spheres of marriage and economic activity in which one judges and acts *primarily* (at first glance) on inclination and pleasure, but by no means on selfish and narrow grounds, as I have argued above. What distinguishes the state so categorically from (other) voluntary associations? Why are the duties of membership absolute in the case of the state but entirely statutory in the case of a club?

In "Recent Writers on Reform," Mill argues that the state is responsible for "nothing less than [the individual's] entire earthly welfare, in soul, body, and mind."[123] Here, Mill is not making a normative statement concerning what the state ought to control but a descriptive statement: since the power of the state extends "over all his sources of happiness, and can inflict on him a thousand forms of intolerable misery," the individual must be more concerned about the direction of public policy and about the justice of those creating public policy than for the protection of his property. As a matter of brute fact, in the circumstances with which we are familiar, the state has more power in the way of guaranteeing rights, and thus of demanding correlative duties, than any voluntary association.

Contemporary American jurisprudence goes a long way toward denying private associations, such as clubs, the right to enjoin or prohibit certain activities. For example, service clubs (such as the Rotary Club) and business establishments (golf and country clubs) cannot limit membership on the basis of race or gender.[124] Clubs are generally treated more like political associations in present-day America, but Mill would say that our

political association is treated more like a club, without objective duties of service. In *Considerations on Representative Government*, Mill is certain—more certain than he seems to be in *On Liberty*—that government has an aim that is "public" in the sense of requiring the performance of certain moral duties. His embrace of the duties of active citizenship raises difficult questions about groups and the advancement of their interests, and whether group interests are compatible with his fairly demanding conception of our public duties.[125]

Second, Mill argues throughout his works that he is not the promoter of any class, economic or social, yet he defends the participation of minorities in order to protect cognitive diversity, in general, and specifically the opinion of the wise, as explored above. Defending the extension of the franchise in "Recent Writers on Reform," Mill surprisingly acknowledges that the lower legislative chamber will represent even the "prejudices" of the working class. According to Mill, these interests are sinister and absurd, yet even they should be represented for the sake of protective stability—to "ventilate their nonsense, and secure attention to their sense and to the facts of their position." This form of expression is a stepping-stone on the path to "complete justice."[126] Mill famously makes a parallel claim in *On Liberty* about the value of tolerating wrong opinions and half-truths. In *Considerations*, Mill's normative theory of political representation is very demanding about duties, but *On Liberty* is at times almost self-defeatingly pluralistic. An interesting test would be a case where the "absurd opinions" of a group, say, a faction composed of Southern slaveholders, attained representation. If he is to be consistent, Mill should argue that their inclusion in a parliament is defensible because it will ventilate unpopular opinions, allow for their discussion and debate, strengthen the arguments of the opposing side, and permit holders of the unjust minority opinion to recognize their position as unpopular and indefensible. However, Mill also recognizes that rule is power, and representing an unjust view in parliament permits the minority faction to bargain with other parties, obstruct legislation, and legitimize their opinions.

Another tension created by Mill's demand for publicity in voting is whether citizens should be nudged toward taking an interest in politics in the first place. For Mill, who takes a relatively conservative stance on the public trust of voting, the idea of getting out the vote is misguided. Only those who are competent and interested in rule should be able to exercise the public trust of voting. If a person does not meet this standard, they should by no means be brought to the polling booth. Can voters be encouraged by literature or campaigning to vote, or induced to vote in any other way? For Mill, the answer is no: "A man who does not care whether he votes, is not likely to care much which way he votes; and he who is in that state of mind has no moral right to vote at all; since if he does so, a

vote which is not the expression of a conviction, counts for as much . . . as one which perhaps represents the thoughts and purposes of a life."[127]

Mill's point must be unpacked. First, his idea about the duty to vote is not merely descriptive. He is speaking about moral duties and rights. Since individuals have a duty to vote competently, and since it dilutes the vote to give the same weight to the uninformed as to the informed, one wonders whether Mill would actively discourage the uninterested and uninformed from voting, say, for example, through restrictive voter registration. Although Mill does not address that specific policy, in a rather incredible statement to Mary Carpenter, an educational reformer who for him was not sufficiently proactive about the franchise, Mill states about the ballot that he can "conceive no duty not even the most primary duties of private and personal morality, that it is more absolutely essential to the happiness of mankind that every virtuous and rational citizen should fulfill steadily and carefully." Voting is a power that must be exercised "conscientiously and at any cost of labour" to the voter, and we exercise this awesome power over others in payment of "the *deepest debt* that man can owe to his fellow creatures."[128]

This statement on voting would license severe restrictions on flawed political participation; however, Mill's statement to Carpenter must be considered an exhortation rather than a description of his normative theory of voting. First of all, this is a private letter, and Mill's broader theory does not permit socially enforceable duties to be imposed on an unwilling public for their own good. Second, Mill fails to repeat this statement in his discussion of the franchise in *The Subjection of Women*; there, he discusses the franchise as a right and defends it as crucial for self-protection.[129] Finally, to cite another complementary but more limited statement from his "official" writings, Mill argues that the "duty of voting" should be exercised as an obligation and a trust, but (crucially) "neither this [public voting] nor any other maxim of political morality is absolutely inviolable." Thus, the mode of voting in public versus the use of the secret ballot "may be overruled by still more cogent considerations."[130]

In any case, the following is clear. First, prejudicial voter identification and registration laws that aim to exclude certain identity groups because of their descriptive traits would violate Mill's emphasis on equal liberty under law, which is formally protected as a first requirement of justice in chapter 5 of *Utilitarianism*. Second, a proxy that adequately identifies uninformed voters would not easily be found and applied. If, as I observed above, the moral consequences of participation outweigh the intellectual usefulness of *competent* participation, we should not exclude on Millian grounds even a voter who cannot distinguish among the policy platforms of the eligible candidates, if that voter does have a stable preference for the moral character of one candidate, or perhaps even of one party, over another. But from a more commonsense view, trusting any organized power to apply

knowledge and literacy requirements invites abuse of power and discrimination.[131] Finally, Mill argues that voting requirements "should be within the reach of every person" as a demand of justice and violates his own educational requirement by proposing the immediate enfranchisement of African Americans. Mill's practical flexibility in the enfranchisement of African Americans not permitted to have an education suggests that he would not favor discouraging underprepared voters beyond what the state already does when it expresses a preference for competent voters through plural voting.

Pledges

The issue of electoral pledges is enormously relevant in the present-day commercial republic, given the importance of money in electoral politics and the connection between campaign finance and special interests. Money is an important influence on vote choice in these races, but it is not the only factor. Party platforms, campaign promises, and "litmus tests" shape the discursive landscape and limit what candidates say, and when and to whom they say it. Although Mill is a proponent of directness and sincerity in political communication and an enemy of campaigning, both in principle and in his own practice as MP, we can presume that he would accept some of the elements of modern campaigning. One thing that Mill vocally rejects is the public's capacity to extract pledges from elected officials. This is a species of delegation of decisions that threatens responsible decision making and professional statesmanship. In effect, it recreates representative democracy as direct democracy and places the "yoke of public opinion" around the necks of officeholders.[132]

Tocqueville, whose *Democracy in America* helped Mill to see the dangers of delegation, expresses his worries in similarly sharp words. Pledges will "do away with the guarantees of representative government." Requiring a particular mode of conduct or creating a positive obligation to act and think in a certain way "comes to the same thing as if the majority itself held its deliberations in the market-place."[133] In Mill's gloss of the problem in his first review of Tocqueville, pledges are the "one and only danger" of democracy and a direct path to the future stationary-ness of a country such as the United States.[134]

What Mill and Tocqueville see in pledges is the political equivalent of "principling" someone to act in a certain way, regardless of their own informed view. As we argued in the previous section, the citizen is under a duty to carry out the public trust of voting with the public good in mind. Does the legislator who has been returned to office have a parallel responsibility? One would perhaps have expected Mill to argue that elected officials have a duty to carry out the expressed or implied will of the people in

the form of a "pledge." But it is fairly easy to see that the same spirit animating Mill's view on the secret ballot forbids him to allow electoral factions to shape legislative will. The acceptance of pledges—a Tory notion, according to Mill—would be tantamount to binding future political decisions to the interests of factions, or (what is in some ways worse) by the wisdom of the present moment or by the views of amateur politicians who will never be so versed in policy and the political process as professionals.[135]

During a period when long parliamentary terms permit representatives to loosen their ties to the people, this same point is not persuasive. In those cases, pledges are appropriate. In two works from the 1830s, Mill argues that a "liberal confidence" is owed to a "faithful trustee, to execute the trust according to his own judgment." However, Mill judiciously argues that if a trustee can "ruin you" before rotation of office can occur, "you will trust him with nothing that you can by possibility keep in your own hands."[136] The rejection of pledges is a consistent bit of radicalism: discretion should be given to professional representatives where they are accountable to the people, and pledges can be extracted from representatives only when they are not dependent on the people.

Mill clearly thinks of political rule as a trust that should be revoked if it is improperly exercised. He argues that power that is well exercised has two great requirements: responsiveness and intelligence.[137] The latter provides a constraint on the former (and vice versa). Elected officials must be responsive to the public's will, but in many cases they either know the true will of the public better than the public does or they know the process better and what is capable of being achieved through it. As always, good government requires balancing principles. The antipledge doctrine may unduly free the elected official from a sense of responsibility to represent the public good; the delegation doctrine may undermine the filtering effect of representation on public opinion. Mill is aware of the difficulty of creating balanced constitutionalism, arguing that "deference to mental superiority is not to go to the length of self-annihilation—abnegation of any personal opinion."[138] But as the introduction of this book argues, vindicating naked private judgment is not the point of politics, nor does Mill want a "shopocracy" of the middle class to develop.

Mill's balance is liberal and pluralistic. Dissensus about fundamental values (the "fixed point" of the "Coleridge" essay) can make representation impossible, but even in those cases where individual voters and their representative clash over values, voters should ask themselves whether they are sure that they are right and that their representative is wrong. In small matters, voters should allow men of "conscience and known ability" to act as they see fit. In larger matters of conscience, the moderate path is less obvious. As Mill very laconically points out, "A people cannot be well governed in opposition to their primary notions of right, even though

these may be in some points erroneous."[139] In Mill's day, the great questions of politics included tariff laws, the treatment of colonies, the expansion of the franchise, and the enfranchisement of women. In the present day, the questions include gay marriage, abortion, and economic fairness.[140] Consistently, given his commitment to cognitive diversity and the educative power of one-eyed men, Mill argues at several key points in his writings that the best educators are those who are most conscientiously committed to their views. Millian liberals should therefore listen to conscientiously held retrograde opinions, such as those of the sincere, courageous members of the Oxford movement, but more needs to be said on whether such a person can represent an atheist or constituents from other sects or religions.

Mill infers that both electors and elected have (legally unenforceable) moral duties: the former should strive as much as possible to put intelligent persons in office, seek the truth by informing themselves about policy and by monitoring their representatives, and accept their representatives' divergent opinions in issues of minor importance. Elected representatives should, in addition to acting to the best of their ability, also come to their own views on things—and achieve issue ownership on "fundamental articles of belief"—by understanding that they have a duty to seek the best opinion, and that they represent people who may not understand or agree with some of their views. They ought not simply say the "right" thing to appeal to their constituents or to toe the party line, and they should challenge their own views and let them be challenged. The gap between educated political elites and their constituencies may be significant on some issues, but in this way, Mill hopes, not big enough to lead to breakdowns in the system of representative government.

In this book's interpretation of the *Considerations*, the Millian approach does not strictly exclude the type of "litmus tests" that are a constant feature in American politics. Fundamental articles of belief—and records of video rentals, as in the case of Supreme Court nominee Robert Bork—have been aired in a highly partisan, democratic version of publicity that reminds one more of a witch hunt than the conscientious collision of adverse opinions. Surely, Mill would condemn the partisanship of this approach, but he does not exclude it, perhaps for fear of falling into the opposite trap, where matters of conscience are marginalized, and public life no longer addresses the great themes and questions of foundational political importance.

Further Formal Filters of the Public Will

Yet another filter on public opinion is the indirect election of some government officers, as occurs in the United States. In Mill's time and today,

the U.S. president is elected by an electoral college of pledged delegates, which, according to the U.S. National Archives and Records Administration, strikes a "compromise between election of the President by a vote in Congress and election of the President by a popular vote of qualified citizens." In Mill's day, senators were elected by their state legislatures rather than by the direct vote of citizens in their states.[141] The founders maintained that the indirect election of senators would make one chamber of the federal legislature dependent on the states, thus providing a counterweight to the power of the federal government. The founders expected the government to increase in prestige as its members increased in power and visibility, lending credence to worries about the centralization of power.[142]

Mill supports some indirect elections, although not as a necessary element of his normative theory, but as another formal filter limiting the selfishness of electors who lack enlarged notions of participatory citizenship. Indirect election may act as a "slight impediment to the full sweep of popular feeling."[143] Here as elsewhere, the aim of elections is to filter the will of the majority by allowing the public will to pass through intermediate bodies. Mill theorizes a two-step indirect election process. This process would involve: (1) a personal relation of respect between the elector and the elected, with the elector voting for someone to whom he entrusts his political will; and (2) either a pledged decision to pick a certain person or ticket, as in the case of the American electoral college, or a free decision to elect someone whom the elector judges to be the best fit for the job.

With respect to the first step (the election of a decision maker or delegate), Mill worries that this step may be self-defeating. If an elector wants to ask his neighbor for advice in voting, he is free to do so, but to vote for someone who will then exercise the franchise on his behalf removes the initial elector from the democratic process. According to Mill, "If the primary electors adopt this view of their position [that they have delegated responsibility to another], one of the principal uses of giving them a vote at all is defeated: the political function to which they are called fails of developing public spirit and political intelligence."[144] This is an important point. If elections are to be indirect, the initial elector must take as much responsibility for the choice of the elector as the elector does in making the ultimate decision for a candidate. However, this responsibility decreases the need for the second elector's participation and invites confusion in cases where the original voter ends up disagreeing with the ultimate choice of the person that he empowered.

Mill's realism also leads him to criticize the U.S. electoral college's indirect election of the president. The theory of the electoral college is not in itself objectionable on Millian grounds. As Alexander Hamilton describes it in "The Federalist No. 68," "A small number of persons, selected by their fellow-citizens from the general mass, will be most likely to possess

the information and discernment requisite to such complicated investigations."[145] However, in a move that violates Mill's basic commitment to competence, the pledged delegates of the college are chosen not because they can choose the best president but because it is already known whom they will pick, namely the candidate of a particular party. Mill would likely be a strong supporter of so-called faithless delegates who vote their political conscience (although not their personal wishes) rather than as they are expected to vote. This is a dangerous situation, since the interposition of faithless electors obviates the need for public engagement, whether the college breaks faith to save the electorate based on new information discovered at the eleventh hour, or whether it simply uses its judgment to overrule the public.[146] About the first faithless elector in 1796, an oftenquoted letter says, "What, do I choose Samuel Miles to determine for me whether John Adams or Thomas Jefferson shall be president? No! I choose him to act, not to think." Mill instead asks that all representatives think as well as act.[147]

The fact that the electoral college does not necessarily exercise enlarged judgment renders this mode of election much less favorable than the system in which state legislatures elect senators. State legislators are elected not (only) for their partisan commitment but for their capacity to fulfill their legislative duties. For Mill, senatorial elections are the best in the U.S. system.[148] However, this superiority is only possible in a federal system where local legislatures deal with issues of real importance. In Mill's England, at least prior to the passage of the Reform Bills, corrupt local governments were even less capable of making policies than enlightened individuals. Thus, indirect elections that rely on the competence of intermediate bodies are not a necessary element of a normative theory of representative government, although in the right circumstances they are valuable.[149]

Mill's suggestion concerning indirect elections is an interesting counterpoint to the notion of centralization forwarded by American "progressive" democrats such as Herbert Croly, the son of positivist David Croly and a cofounder of *The New Republic*. The wisdom of the progressives holds that truly democratic citizenship requires an enlarged sphere or "great community," a notion that Mill theorizes throughout the *Considerations* and his other political writings.[150] However, Mill prefers a compromise between local authorities and national administration. As he argues in the conclusion of *On Liberty*, the best approach to good government combines the greatest centralization of information with the greatest diffusion of power to local bodies.[151] In this respect, Mill remains a federalist who believes in efficient administration carried out by those with local knowledge.[152] Progressives approve of the direct elections of senators, for example, and Croly argues that it is more democratic to theorize national rather than local citizenship. Support for the direct election of senators is justifiable. As

the historiography of the federal principle makes clear, gridlocked senatorial elections in state legislatures caused serious problems from the period of the Civil War into the early twentieth century.[153] As a practical theorist, Mill would agree that the electoral system is broken if senators cannot be returned to office; however, through more efficient direct elections, local elites may gain the power to control their representatives in the U.S. Senate, not the people.

In order to understand Mill's views concerning presidential and senatorial elections, his more general views of these offices themselves should be noted. In a short review from 1840, Mill argues that a bicameral legislature "would be theoretically the best form of government for a state of society, like that of modern Europe; subject to the two conditions, that it were possible to introduce it, and that, if introduced, it would *work* without a civil war between the two houses."[154] The *Considerations* provide further commentary on those conditions. In chapter 13, Mill argues that an upper chamber is *not* required for good government. A unicameral legislature provides sufficient filtration of the popular will, or, to put the point negatively, a second chamber cannot sufficiently impede an out-of-control lower chamber, because it is likely to share the same character and defects.

The real use of the second chamber is to remind legislators that they are not the voice of last resort and that their power is limited by another body. Accordingly, Mill writes that he sets "little value on any check which a Second Chamber can apply to a democracy otherwise unchecked," and he thinks "that if all other constitutional questions are rightly decided, it is but of secondary importance whether the Parliament consists of two Chambers, or only of one."[155]

Speaking here like a true democrat, and likely under the influence of the debate over a hereditary second chamber, Mill expects that a popular assembly representing the people as a whole is the needful chamber. A second chamber would likely represent a class.[156] To test Mill's idea, one would have to look at the function of the upper chamber in refining and enlarging the public will. In some respect, the question turns on specifics of institutional design; for instance, U.S. House representatives sit on fewer committees because the House is better able to divide its committee memberships among its 435 representatives. Senators sit on more committees and, in theory, are less able to specialize. On the other hand, senators gain a national profile and embody the "national character."[157] They function as opinion leaders in times of stress or conflict and, owing to the U.S. Senate rules governing cloture, they can engage in extended debate, bringing attention to an issue (and to themselves) even when pressed onward by the ceaseless stream of political events. Although it is possible to owe one's election to the Senate to money or to class interests, effective senators develop an institutional interest in and loyalty to this deliberative body.

Mill devises his own justification for a senate, given that this body will become unnecessary once "conventional rank and individual riches no longer overawe the democracy."[158] In his plan, the senate should represent personal merit and professional training by automatically inducting (or restricting eligibility to) senior members of the government, the professional civil service, and even the academy. Since it is impossible simply to dissolve the existing House of Lords, Mill suggests that the existing peers choose representatives from among the ranks of these proven, professional administrators. As with plural balloting, Mill thinks that "any representation of the speculative class" is "a thing in itself desirable," and he suggests that certain professorships should come with senatorial seats.[159] Such a body, he thinks, would be at the forefront of progress and impossible to cry down as a mere obstruction of the popular will.

But *would* such a body do the people's will? Would it have legitimacy in the eyes of the people? These are the types of questions on which Mill's defense of expert administration hinges. As a matter of practice, the appointed Canadian senate is the sort of body envisioned by Mill: however, its members consist of party stalwarts and others who are rewarded with a sinecure for their loyalty or service. It is not perceived by the public as a deliberative institution, as the U.S. Senate is, and its legitimacy is questioned even by friends of the democratic principle. In a similar vein, Mill's academician-politicians might sensibly be cried down by the people as mere theorists or logic choppers of the type that Mill himself questions—one-eyed men, in other words.

As for the executive, Mill conceives of that office in a manner very similar to that of "Publius" of the American *Federalist Papers*. Like Publius, Mill argues that a competent executive must be both a decision maker of last resort and the focus of popular criticism. To meet the requirements of the position, he must be powerful; in what may seem an irony of constitutional government, in order to be responsible to the people, he must be the obvious voice of last resort. For this reason, Publius and Mill (the latter quoting Bentham) argue that boards of directors are "screens" allowing incompetent or ill-intentioned executives to hide behind a plurality of voices and point fingers at each other.[160] A single decision maker can and should have advisors, especially when it comes to civilian control over matters of technical competence, such as the administration of the army and navy. These advisors should form councils that are merely consultative, answerable to their superior(s), but not elected.

In a famous thought that is often quoted as if it sums up Mill's support for bureaucratic-managerial government, he writes, "No executive functionaries should be appointed by popular election. . . . The entire business of government is skilled employment."[161] The opinion that government is "Skilled Employment" also shows up in the 1866 essay "Grote's Plato," where Mill

seems to favor a "Platonic monopoly of substantive political knowledge and influence" embodied in a "competent minority."[162] But Mill does not agree with Plato's desired combination of "infallibility" in rulers and the "comparative imbecility" of everyone else, or with the Platonic claim that the "business of rulers is to make the people whom they govern wise and virtuous" by direct intervention.[163] Whatever the merits of this interpretation of Plato, Mill argues that the defense of expert political wisdom is "only one half of the truth." Plato's doctrine was "an exaggerated protest against the notion that any man is fit for any duty; a phrase which is the extreme formula of that indifference to special qualifications, and to the superiority of one mind over another, to which there is more or less tendency in all popular governments . . . though it would be a mistake to regard it in any of them as either universal or incurable." To be clear, Mill defends a similar notion of meritocratic competence and is confident that the remedy for majoritarian mediocrity can be found within representative democratic theory.

Mill himself thinks that a professional civil service should perform important administrative tasks, and that these appointments are not something on which the public should vote. Mill appropriates as a model of executive governance the governor-general of India, a political appointee with a specific set of skills who is advised by a council of professional Indian administrators over whom he has final say. The governor-general remains responsible for all decisions, but experts also inform him at every step. Here and elsewhere, Mill is amazingly sanguine about this mode of government. In a typically subtle blending of praise and blame, he calls it "one of the most successful instances of the adaptation of means to ends, which political history, not hitherto very prolific in works of skill and contrivance, has yet to show."[164]

The problem of translating expert administration from a context in which debate and deliberation are (allegedly) nonexistent, such as British India, to the deliberative context of England, the United States, and other advanced democracies, remains a real concern today, just as it was in Mill's time. Thus, the legitimate power of intellectual elites may in fact depend upon the lower classes. Although they are not rational and informed, they are "functional for the system as a whole," as one tough-minded scholar observes.[165] Mill makes roughly the same point when he is unwilling to prefer administrative excellence over the cultivation of individual character and mental power.[166] In a Benthamic observation in his first review of Tocqueville's *Democracy in America*, Mill writes that the idea of a "rational democracy, is, not that the people themselves govern, but that they have security for good government." Power ultimately remains with the people, but government should be exercised by the wise, and they "must always be a few." The people "ought to be the masters, but they are masters who must employ servants more skilful than themselves."[167]

The degree of irrationality that is politically tolerable remains an important question. Mill rejects the admission of "mere personalities" into politics, but one wonders what would happen to political engagement, even in a democracy, if the regime were entirely one of public law and not of political men.[168] Speaking on this point, Walter Bagehot distinguishes two elements of proper constitutionalism: the "effectual" element of rule, in which parliament actually governs through its prime minister and cabinet; and a "dignified" element, which presents a figurehead claiming authority and demanding loyalty.[169] When one considers a constitution to be a "parchment barrier" or a merely "mechanical" government, without taking into account concrete, historically informed constitutional practices and the opinions and reputations of voters and human holders of office—as Mill learned to do from the historically informed continental schools of constitutional interpretation—one risks making a constitutional order that the people simply cannot believe in.[170]

The trend of liberalism is to delegitimize irrational longings for past greatness, whether that appeal is preserved in the figure of Edmund Burke's Marie Antoinette, in Guizot and Tocqueville's France, in Carlyle's hero, or in Bagehot's "dignified" rule.[171] The fiscal point behind the austere, antinostalgic view has something to recommend it: the sovereign grant for the English monarchy in 2018 was over $100 million, and the actual annual cost of the monarchy may be closer to $500 million. But there is a point to be made beyond the fiscal point. The executive, in particular, wears many hats, acting as legislative leader, commander in chief, and head of state. In the latter capacity, he or she is required to exercise the "dignified function" in the form of giving state dinners, welcoming and recognizing ambassadors, and conducting diplomatic relations as the voice of the nation.[172] State formalities might look different (more austere, yet more inclusive) if all nations were democracies, but they are not. Moreover, there is no guarantee that the people would be more fiscally responsible when given the choice to cut costs at the price of national prestige, and no guarantee that a more austere state would outperform a spendthrift state in the domain of projecting power and protecting its own prestige.

The final and perhaps most important part of Mill's administrative vision is his reformed parliament. The parliament's role is not to be the actual administrative and law-making body. Instead, Mill designs it to delegate power to the prime minister and his cabinet, and to approve such legislation as is written up by a professional Commission of Codification.[173] Just as any constitutional order has a "fixed point," a representative democracy also must have a locus of stability, a "strongest power" that provides the ballast for the ship. In Mill's England, this is the will of the people and their representatives.[174] But as one might well imagine, the ballast doesn't steer the ship, and Mill holds that the actual exercise of the functions of

government is skilled work for professionals. Popular assemblies should simply exert ultimate *control* over these professionals.[175]

Diminishing the ruling power of assemblies is in keeping with Mill's broader educative vision. Thus, for example, a liberal/radical elector would expect his representative to stand on the side of repeal when considering the Corn Laws, but in matters of less legislative import he would accept whatever decision his representative took on the issue at hand. The liberal/radical representative would, in turn, support legislation repealing the Corn Laws but would not be involved in crafting the actual policy, since the issue of exactly how and when protectionism should end is the province of the professional political economist. In all cases, the *initiation of legislation* occurs at the lower level so as to protect the popular roots of government (the democratic principle), whereas the actual legislative work is done at the higher level (to protect the merit principle). The draft legislation is then passed back down to the representative assembly for approval.

Parliament cannot amend bills, which they vote only up or down. As Mill explains, a representative assembly should not govern; instead, it should "watch and control the government"; "compel a full exposition and justification" of questionable acts; censure these acts, where appropriate; expel from office those unworthy of the public trust; and "expressly or virtually appoint their successors."[176] These enumerated powers form a "rational" limit on the power of numbers over skilled legislation and administration. In fact, separating control of government from the power of the "specially trained and experienced Few" who conduct the government's business is the only way that representative government will function.[177]

One of the virtues of the British House of Commons and the American House of Representatives as they are currently constituted is that they blend committees' professional expertise with the voice of the people. Both "control and criticism" and legislative agenda setting are left to the legislature as a whole, while professional standing committees develop policies and debate nominations internally. In this way, morals, broader political principles, and narrower public policies are all the subject of contestation between competing groups at different tiers of the hierarchy.

It must be noted that from Mill's day, journalists also contributed to the control and criticism of British institutions by exposing ill-functioning institutions to public evaluation.[178] Reform advanced by public opinion is not so scientific as it could be, but it has the virtue of allowing partisan and moral commitments to be aired rather than allowing partisanship to disappear behind a screen of neutral, scientific legislation. As the business of professional legislative committees becomes more technical and abstruse, the media will tend to play a larger role in informing the public; if it does not, the political process will be divorced from public perceptions and opinions, and democratic legitimacy will suffer.

Truly Democratic Politics

Like Bentham before him, Mill invokes the power of "publicity" as a key antidote to the duplicitous secret interests and machinations of those in government. However, Mill concludes that the sinister interests of the few are not the only or even the primary concern of democratic society. The tyranny of the majority is the most significant political problem in an age of democratization.

In order to assess the real scope and dangers of majority tyranny, Mill challenges the capacity of the people to make informed decisions on issues for which it is difficult to get adequate information. In Mill's view, democratic publics can take ownership of decisions most effectively by combining the sovereignty promised in the democratic principle with the professional drafting skills of a legislative council, the machinery of separated powers, and electoral filters such as indirect elections, the overrepresentation of the wise, and public voting. Mill is particularly concerned that informed minorities will be excluded from representation in a single-member, first-past-the-post (FPTP) voting system. Some of his more radical reforms are attempts to deal frontally with this problem.

Plural voting allows the educated individual to have more influence in politics than any single uneducated individual. In the aggregate, the proposed overrepresentation of the educated aims at a nearly impossible balance between grades of intellects. Even if the plan is only to achieve a parity of power between educated and uneducated, it suffers from two obvious problems: unequal recognition may delegitimize representative government, and it may be difficult or impossible to measure competence. Mill deals with the tendency of single-member, FPTP systems to result in a two-party system by advocating a new schema of minority representation (Hare's transferable vote) that will allow broader, potentially party-less coalitions to form within a legislature. The distinction between the legislators of a lower chamber who *approve* legislation without the power of amendment, and a Commission of Codification that drafts legislation for approval, also intends to recognize governance as skilled, professional work. By electing representatives, the people participate in setting the legislative agenda, but by banning pledges, Mill keeps them one step removed from their representatives. By creating a legislative commission, Mill keeps the general run of representatives one step removed from lawmaking. Finally, the indirect parliamentary election of the executive also allows more elite control over the pivotal figure in a democratic republic.

Missing from Mill's particular variation of representative government is the distinctively American approach to government. In an oversimplified description, an executive is partly a lackey and partly a god whose energy and unity provides a counterbalance to the passions—and to the

deliberative excellence and prima facie legitimacy—of representative assemblies.[179] The American system offers a deeper separation of opposing powers, whereas Mill's approach blends powers for the sake of legislative effectiveness. Mill's political vision is agonistic, but he is quite focused on formal institutional checks and balances and less focused on the need to foster interbranch competition, the mainstay of the American system.

By way of summarizing Mill's analysis of democratic politics and his commitment to synthesizing masses and elites, one can ask whether the *Considerations* successfully answers the questions concerning the present and future of participatory democracy that Mill raises in his reviews of Tocqueville's *Democracy in America*. In these reviews, Mill argued that a key problem of democratic government was the inertia of mass opinion. He believed that England was partially insulated from the mediocritization of opinion in democracies, and he pointed to a permanent aristocracy as the key safeguard of excellence. In the *Considerations*, he solves for the fact that the connection between the leisured aristocracy and public-spirited activity is only traditional and not necessary. Some would argue even this historical connection between aristocracy and public service does not exist, but Mill disagrees, associating both learning and useful political energy with the clergy and aristocracy. However, by 1847, Mill was not certain of the value of the leisured class.[180] In any event, Mill's answer is to parachute an aristocracy of merit into what is or soon will be the backyard of the democracy, namely its *right* to speak, to vote, and even to rule with perfectly equal liberty.

Mill, for his part, thinks that he has solved these problems in his theory of representative government. The representative democracy that represents "outnumbered" voices that deserve to be heard is "alone equal, alone impartial, alone the government of all by all, the only true type of democracy," in contrast to the "falsely-called democracies which now prevail."[181] But does Mill theorize public responsibility in a way that is sufficiently educative, restraining and retraining the people to participate in self-government? As we have seen above, Mill's sociological argument—that unwisdom is caused by narrowness of association, and remedied by enlargement of political, economic, and intimate (marital) association—is a function of his belief that political virtue can be learned. The *direct* education of citizens in political virtue, in the spirit of classical republicanism, is too compressive and not sufficiently sensitive to differing contexts and circumstances. The Platonic doctrine that "not every man is fitted for every duty," and its implication that some must rule over others, is stationary, not dynamic. Mill mistakenly adopts this position for the Indian subcontinent, where a foreign despot rules a native population for the good of the ruled. His theory is more participatory in places such as England, where publics are capable of equal discussion and debate.

Mill arguably misstates the degree of limitation of popular power in the United States' system of government. In spite of the "one person, one vote" principle, the American people are willing to delegate almost all governmental power to professional statesmen from whom they do not typically force pledges. The American system realistically, if not optimistically, permits the ambitious to rule temporarily and for limited ends. Thus, as Jeremy Bentham came to think, although for different reasons, American government presents an excellent interpretation of a representative model of government that is popular, and yet transacts much of its business through informed and responsible elites.

However, whether we speak of Mill's day or the present day, Americans do not elect the very best of their society to wield power, nor do the people show that they want those whom Mill would consider to be the best qualified. Democracy, as a general rule, doesn't think that it needs *savants* to represent it; on a closely related point, it does not need to guillotine them in periods of political upheaval. The prospects for the dynamic self-correction of democracy are thus modest, yet encouraging: ambition and public spirit prompt individuals to run for elected offices; offices create the conditions for responsibility and publicity; and many things are done fairly well, if not with the long-term, unified vision of the *most* competent individuals.

Chapter Five

Democratic Religion

Earlier chapters of this book explain Mill's theory of education, which he believes is a lifelong endeavor that begins at home and with the cultivating effects of small-group association. These small-scale, more or less intimate associations prepare individuals for a life of freedom and equality rather than passivity and dependence. As chapters 3 and 4 argued, Mill is particularly concerned with avoiding entrenching existing social hierarchies as well as creating new hierarchies of knowledge and expertise. This chapter deals with the religious humanitarianism of the *Three Essays on Religion* and explains how Mill's theory of education applies not to small-scale cooperation or political participation but to the species as a whole.

Readers of *Utilitarianism* have long debated Mill's argument that Utilitarianism can and should be taught like a religion. Some have concluded that Mill's liberalism is an antidote to the self-created problem of oppressive Utilitarianism.[1] Others argue that Mill is a thorough secularist whose "religion" does not even qualify as a civil religion because it is so transparently nontheistic.[2] Some of Mill's Victorian readers thought that he was an atheistic and utopian thinker, whereas others thought that his religious writings supported emotional theism.[3] In fact, Mill's religion of humanity gained few positive notices, although the great diversity in interpreting Mill is heartening. Perhaps underneath the competing criticisms we can find something complicated and worthy of interpretation.[4]

When they are interpreted properly, Mill's writings on religion reveal his persistent respect for existing traditions of religious belief. Most important, these writings aim at strengthening the educational resources available to liberalism. One friendly critic of Mill argues that the "pervasive weakness" of Mill's mature liberalism lies in Mill's failure to anticipate that "widespread manipulation of opinion in democracies might undermine and possibly negate the educative role elites . . . had necessarily to play in reforming society." This is the problem that Mill's writings on religion address.[5]

The *Three Essays*

Mill's adopted daughter, Helen Taylor, published the *Three Essays on Religion* after Mill's death. "Nature," "The Utility of Religion," and "Theism" were at least partially edited by Mill before his death. "Nature" was finished in February 1854. "Utility of Religion" was completed in early April 1854. According to Helen Taylor, Mill wrote "Theism" between 1868 and 1870.[6] "Utility of Religion" is the most interesting and rewarding essay of the three, but taken as a whole, all of the essays have a high level of consistency of purpose (if not of art). Rather than arguing that religion is useful merely as a "supplement to human laws, a more cunning sort of police, an auxiliary to the thief-catcher and the hangman," Mill upsets the stereotypical picture of late modern liberalism by arguing that "the best of mankind absolutely require religion for the perfection of their own character, even though the coercion of the worst might possibly be accomplished without its aid."[7] This somewhat shocking statement may sound as if it concedes too much to human frailty, but for Mill the achievement of excellence *without* religion is the unlikeliest outcome of late modernity's crises and revolutions.

Religion, then, is not a merely transitional stage in human development on the way to a scientistic society. Instead, Mill argues that a *transitional age* is defined by the deficits of the current religion, resulting in "weak convictions, paralysed intellects and growing laxity of principle."[8] An organic age will have a religion that reinforces energy and obedience. These striking claims about the persistence of religion—certainly an embarrassment to a materialistic interpretation of Mill—are taken from Mill's canonical writings of the 1860s and 1870s. Thus, quite unlike a thinker such as Marx, Mill includes religion as an important glue of genuine individuality and real social life.[9]

It is important to get Mill's meaning right. For him, religion is not a component or element of modern life, as it is for many liberals. It is not the basis of the morality of modern life, as it is for many theists. Mill seems genuinely to believe that religion, understood as a duty to promote social utility, is required for happy and noble life. Modern Christianity, though, has done a poor job of advancing human learning after the years during which it kept learning alive in the Middle Ages, and in particular during the advancement of scientific knowledge in the nineteenth century. Teaching Utilitarianism "as a religion" is a better path.[10] Here, though, Mill is clear sighted enough to understand that teaching the feeling of unity may create dependent, enervated persons. Clearly, he cannot deny the agency of future generations of children by teaching *that* sort of Utilitarianism, or by teaching Utilitarianism *in that way* in the present day. Whatever else they do, Mill's writings on religion must not contradict his central commitments

to educative liberty and his rejection of thoughtless "principling." How to educate without dependence is the puzzle of the *Three Essays*.

Liberal Utilitarian Religion

Mill owes his strategy of teaching social utility as a religion in late modernity to Auguste Comte. The content of Mill's religious humanism, though, is Benthamic and Utilitarian. The apparent disconnect of a Comtian sociology with a Benthamic theory may be partly explained by Bentham's outright, avowed atheism.[11] Whether it was because of Bentham's own painful confrontation with established Christian religion as a young man, when he perjured himself by swearing to the Thirty-nine Articles in order to graduate from Oxford, or because he thought that the people no longer needed to see society through a religious lens, Bentham resisted thinking of religion as useful in the Comtian way.[12]

Mill, in contrast, is astonishingly laudatory in his appraisal of Comte's religious humanism. Not only was Comte justified in developing philosophy as religion but he also discovered the "essential conditions" of religion. Thus, for Mill, the coincidence of Comte's religion of humanity and "all other religions" will result in the improvement of other religions, at least "in their practical result."[13] Mill is not arguing, though, for the replacement of all religions by Comte's positivist sociology. By arguing that other religions should be "brought to coincide" with Comte's philosophy, Mill means that rights-oriented arguments for toleration and religious free exercise are not enough to advance liberalism. Instead, we should think about the "practical result" of all religious teachings, that is, religion from a Utilitarian point of view. Mill is thus less interested in the divine object of belief than in the transformation of the *subject* of belief. Mill also does not subscribe to Comte's simplification that "there is, at bottom, but one religion, at once universal and final."[14] There are instead many believers and many varieties of traditional and nontraditional religious belief.

From his early letters to the Saint-Simonians, to his essay on Coleridge, and to his reviews of Comte and the *Three Essays*, Mill is consistent in his defense of freedom of religious thought. During his Coleridgian renaissance of the 1830s, Mill asks whether there is any use in condemning religious philosophy. "Religious philosophies," he concludes, "are among the things to be looked for, and our main hope ought to be that they may be such as fulfill the conditions of a philosophy—the very foremost of which is, unrestricted freedom of thought."[15] Religious and even philosophical instruction is advanced by true believers, dogmatists who devote their lives to one school of thinking.[16] Students can learn from these teachers without necessarily wanting to be them. Comte is such a teacher. His earlier

writings are immensely valuable, but the political implications of his later writings are a "monumental warning to thinkers on society and politics, of what happens when once men lose sight, in their speculations, of the value of Liberty and of Individuality."[17] How, then, do Mill's own writings on spiritual power, although clearly inspired by Comte, advance the pursuit of liberty and individuality? How do they do so without abandoning the beneficial effects of a restraining and retraining education? Part of the answer to this question lies in Mill's assessment of the educative failures of Christianity, the majority religion of his day. Before we discuss Christianity, however, it is useful to summarize the *Three Essays* and to consider the unsettling effect they had on Mill's contemporary Christian and secular audiences.

The Debate over the *Three Essays*

The first wave of the debate over the *Three Essays* dates back to Mill's Victorian students and critics. John Morley, a progressive disciple of Mill who edited the *Fortnightly Review*, argues that the essays foster the "springs" of superstition by permitting reasonable hope for irrational salvation.[18] We revisit these criticisms below. The conservative Utilitarian James Fitzjames Stephen, in contrast, rejects as fanciful Mill's decision to replace a punitive religion of divine rewards and punishments with a religious humanism based in choice, liberty, and persuasion.[19] In Fitzjames Stephen's pessimistic view of human motivation, it is continual fear of punishment that allows society to function. Mill, of course, disagrees. Fear is not the way to rule humans or to keep them in check. Human fear did not create the gods, and fear does not sustain belief in God or gods. In a parallel to John Stuart's criticism of his father's narrow premises, Mill is more realistic and descriptive in his religious sociology than Stephen, insofar as Mill admits that there are several sides, including human love and reverence, in the human relation to the divine.[20]

The debate over Mill's religious humanism was revisited during the important libertarian and conservative counterrevolution against the liberal individualism of the 1960s. As noted in chapter 3, worries about Mill's doctrine were prompted by renewed concerns about Millian liberalism's compatibility with collectivism and central planning. Those who regarded Mill's moralizing as unfriendly to liberty therefore questioned his commitments. They considered his secular religion a threat to the foundation of constitutional liberty, which has traditionally been buttressed in the modern world by revealed religion. Perhaps owing to the perceived importance of vigorously rejecting any taint of communism or socialism, Mill was accused of moral totalitarianism.[21]

To an undue degree, these earlier debates over Stephen's hardheaded Utilitarianism or 1960s individualism have determined the contemporary debate.[22] Readers of the *Three Essays* should instead read "Nature" and "Theism" as supporting the claim Mill makes in "Utility of Religion" concerning the place of religion in a free society. In "Nature," Mill rejects the easy error of thinking that human happiness depends on receiving normative guidance from "nature." This chiefly critical essay destroys the shibboleth that something is inherently good because it is done (as they say) "'according to nature.'"[23] In "Theism," Mill explores the logically consistent forms of theistic belief in god and the afterlife. In both cases, utility is the standard, as I explain below.

The non-normativity of nature is an old Benthamic commitment and a valuable way of exploding the patterns of traditional political discourse. As Mill reminds us, Bentham lampoons the deduction of moral principles from justificatory phrases such as the "law of nature," "right reason," "the moral sense," "natural rectitude," and the like. Instead of providing reasons for respecting a sentiment, such as approbation for natural man, Bentham accuses those who reason according to nature of setting up their sentiments as the evaluative standards of their actions. A nasty case of self-justification results, when we approve of something because it is our own, and because we feel the immediacy and evidentness of an opinion to which we are merely accustomed.[24]

In the essay "Nature," Mill therefore distinguishes between two understandings of nature: nature as a mere collection of facts, inclusive of all that humans are and all that they do, as well as all nonhuman facts; and nature as the human domain of value. Mill argues very firmly in the Baconian-Lockean tradition that nature does not provide guidance for action, nor is it a source of human value.[25] The maxim *Naturam sequi* ("follow nature") is misguided or incoherent. The maxim *Naturam observare* ("observe nature") is appropriately naturalistic and provides the empirical foundation for political judgment.[26] Thus, in theory, Mill recommends unseating nature as a "test of right and wrong, good and evil" and replacing it with an empirical science of ethology as part of a "morality of justice."[27]

Mill does not always follow his own rules in his writings.[28] Above, Mill's theory of voting relied on a "natural order of human life." In *On Liberty*, he violates his own maxim, arguing that minds "bowed to the yoke," withered and starved, viewing eccentricity as a crime, and having no inclination outside of what is customary, are progressively enslaved, "until by dint of not following their own nature, they have no nature to follow." Moreover, Mill recognizes that his educational project stands or falls on the malleability of the human mind and the equality of individual cognitive capacity. If everyone is not equal by nature, then progressive education must, it seems, "follow nature" and its hierarchies, with all the consequences that would bring

for political equality. But in Mill's defense, his point is precisely that it is crucial to observe human capacities and to design education and religion to suit these capacities. An educational project designed for fallen natures *follows* nature; an education designed for humans as they are and as they may soon become *observes* human capacities, whatever they happen to be, and moderates the reformer's dreams accordingly.

It is puzzling that Mill would blame nature, which is the set of actual and possible facts, for wickedness, which would require him to judge the set by the values of one subset. Yet, in a rhetorically charged passage tinged with righteous indignation, Mill describes how nature "impales men, breaks them as if on the wheel, casts them to be devoured by wild beasts, burns them to death, crushes them with stones like the first christian martyr, starves them with hunger, freezes them with cold, [and] poisons them by the quick or slow venom of her exhalations." Mill's palpable anger is motivated not only by the quantity of death but by the quality of the lives of those who die early or painfully. "She [nature] mows down those on whose existence hangs the well-being of a whole people, perhaps the prospects of the human race for generations to come, with as little compunction as those whose death is a relief to themselves, or a blessing to those under their noxious influence."[29] The indiscriminateness of nature is the crucial feature that Mill abhors. He argues as if nature has a duty to promote the interests of man, or at least not to impede human actions. In "Nature," Mill casts nature as a superior power that uses its energy irresponsibly and must therefore be restrained, as if the question were once again one of maladministration and the abuse of power.[30] It is not clear that this "political" reading of natural power is coherent, but it does emphasize the importance of Mill's criticism of irresponsible power.

The most important of the *Three Essays* is "Utility of Religion." It contains Mill's constructive thoughts on the role of religion in public life, or the "utility" of religion. In this essay, he flags a discursive problem with emerging democracy, namely the tendency of democratic citizens to fall into individualism, or what Mill typically calls selfishness.[31] As he observes in glossing a socialist criticism of society, modern society is characterized by a Hobbesian "opposition of interests. . . . [U]nder it every one is required to find his place by a struggle, by pushing others back or being pushed back by them." Individual selfishness should instead be sharply distinguished from Millian individuality, that is, the good sort of independence from others and from governmental control that this book has previously analyzed.[32] That sort of individuality is at the heart of Mill's liberalism and forms the core of the central chapter of *On Liberty*. For Mill and his social context, though, bad *individualism* is a political swear word, and "Utility of Religion" argues that a new religiosity is needed to counterbalance it.

Despite the negative valence of some statements in *On Liberty*, it is misleading to think of *On Liberty* either as a polemic against Christianity or as an argument in favor of disenchantment and against "religion" *in toto*.[33] If anything, Mill's tendency is in the opposite direction. Like many culturally Protestant English thinkers, Mill actually embraces much of Christianity. He praises the morality of Christianity, and specifically the Christian notion of equality. Mill attacks pride and self-worship under the generic Greek term *pleonexia* ("the desire to have more"). The sort of uninformed pride that the martial Greek *polis* culture admired is "the love of domineering over others; the desire to engross more than one's share of advantages . . . ; the pride which derives gratification from the abasement of others; the egotism which thinks self and its concerns more important than everything else, and decides all doubtful questions in its own favour."[34] Mill's total rejection of this contentious pride and its characterization as a form of low-minded egoism takes him out of the life world of classical thought and places him within the Christian sphere.

Like Christian critics of a fallen nature, Mill thinks that self-worship is an anthropological fact.[35] The more we descend the "scale of humanity" that Mill sometimes invokes, the more intense self-worship becomes. Christianity appears to be a key, historical disruption of self-worship, leading to an egalitarian and meritocratic society in which individuals claim no special privilege or favor beyond recognition for their individual contributions.[36] As an admirer and student of the Greeks, Mill recognizes that something has been lost as well as gained through a Christian overcoming of the Hellenic "high sense of personal dignity," which is decidedly not pleonectic but just as certainly not equivalent to Christian humility.[37] Magnanimity, personal dignity, and honor in the ethical realm, and obligation in the political realm, are features of Greek political theory worth keeping alive. Mill does not bend in the other direction in order to defend humility at the expense of magnanimity. But one source of Greek political energy that is "permanently incompatible" with modern society is the inegalitarian "love of domination, or superiority, for its own sake" that Christianity usefully overcomes.[38]

A consequence of Mill's intention to overcome selfishness is that his liberalism cannot be a private affair, as it is sometimes thought to be, and that religion cannot be confined to a merely private sphere. It is therefore incorrect to think that Mill's *On Liberty* makes "human perfection" a "private" matter and "our responsibility to others" a "matter of permitting them as much space to pursue these private concerns . . . as is compatible with granting an equal amount of space to all."[39] The movement of thought that frees religion from public obligations and reserves it for individual choice is typically associated with Mill by critics such as John Henry

Newman and Matthew Arnold.[40] But it is not Millian to conclude that privacy trumps social duty; in fact, the substance of Mill's criticism of modern Christianity is precisely that it elevates privacy over duty. For Mill, in contrast, "it is the business of a church to be a schoolmaster to the state," and it is "the business of a church to fill the minds of the people with ideas and feelings of duty by which the temporal rulers shall be restrained, and of which they shall stand in awe."[41]

By writing the *Three Essays*, Mill acknowledges the problems of liberal individualism and atomism. He clearly indicates that his answer is to teach the equal but meritocratic social duties of Utilitarianism as the content of a civic religion, combined with *On Liberty*'s doctrine of individualization in how views and opinions are held, and not to place religious belief in an uncriticizable and irrelevant private sphere.[42]

Precursors

The simplest way to interpret Mill's religious writings is to argue that they use nineteenth-century concepts of imagination and persuasion to sanctify eighteenth-century critical Utilitarianism.[43] Utilitarianism, at its root, imagines society in terms of the aggregate interest of self-interested individuals. Since nineteenth-century Christianity fails to unify and organize eighteenth-century atomistic society, Mill argues that we need more than Christianity. Mill therefore attempts to buttress traditional revealed religions by deploying the tools that he himself relied on during his mental-spiritual crisis of 1826–27, described in chapter 5 of the *Autobiography*. Mill advocates employing the imagination as a "canvas" on which to "invent or copy" ideal images of activity and excellence.[44] In sum, he learns to teach Utilitarianism in a new way that he identifies as religious.

Seen in this light, Mill's religion of humanity is a quintessentially *civic* religion. However, scholarly opinion as to Mill's religious writings is divided. For Terence Ball, a Millian religion's aim "is to impart civicly [*sic*] useful knowledge and to instill a sense of civic responsibility and restraint."[45] In contrast, Ronald Beiner defines civil religion as "*the empowerment of religion, not for the sake of religion, but for the sake of enhanced citizenship*—of making members of the political community better citizens." Liberalism, in contrast, "is the rejection of the idea of empowering religion *even for the sake of enhancing good citizenship*."[46] For Beiner, Mill is both a naturalistic thinker and a liberal, and thus not a civil religionist.

Mill's contemporaries provide some needed context in which to decide whether a Millian liberal can also be a civil religionist. Tocqueville argues eloquently and at length in *Democracy in America* for an important place for religion in America, chiefly by showing that religion reminds

selfish individuals that there is something larger and greater than they are. Revealed religion is both a spur to public-spirited conduct and a restraint on selfish conduct. As Tocqueville writes, there is "no religion that does not place man's desires beyond and above earthly goods and that does not naturally raise his soul toward regions much superior to those of the senses." Religion imposes species-oriented duties on individuals, and draws persons, "from time to time, away from contemplation of himself. This one meets even in the most false and dangerous religions."

In a particularly cutting observation that suggested the title of this chapter, Tocqueville comments that religious peoples are strong in just the area (cultivated self-transcendence) "where democratic peoples are weak." For Tocqueville, this point illustrates "how important it is that men keep to their religion when becoming equal."[47] As I showed in the introduction to this book, Mill is well on the way to agreeing with Tocqueville's insight, both in arguing that each society needs a fixed point and in concluding that religion helps to create the consensus necessary for liberty to exist.[48] From the vantage of religion's usefulness for moral regeneration, it is easy to see that Mill agrees with Tocqueville on the need for objects of religious emulation, ideal or real, and on the need for cultivating forces of compression and repression that can organize democratic peoples. Where Tocqueville and Mill part ways is that, for Tocqueville, a democratizing people must *keep* to *their* religion, that is, to a form of Christianity. For Mill, a democratizing people can and perhaps should create a new religion better suited to curbing the specific tendencies of democratic peoples.

Complaints that Mill is not a civil religionist are therefore justified in the sense that Mill is not engaged in the same rhetorical accommodation of reason and revelation that motivates the writings of familiar English civil religionists such as Thomas Hobbes and John Locke. Mill rarely uses scripture to buttress his claims, as Locke very often does. Mill's aim is not to argue for the harmony of revelation and reason under the control of the sovereign, as Hobbes does, or for the complete separation of church and state, as Locke does, but instead to blend religious and political education.

Part of the reason that Mill is neither a religious harmonizer, as John Locke often appears to be, nor an antireligious sermonizer, such as Bentham clearly is, may be biographical. Mill simply did not have a religious education, and he therefore falls in the very small minority of modern thinkers not acculturated within scriptural authority and teachings. As Mill explains in 1833, he read the New Testament for the first time at the age of twenty-seven. Since it was new to him, he had "no habitual associations of reverence, nor on the other hand any of contempt like so many who have become sceptics after having been taught to believe; nor have I, like so many, been bored or disgusted with it in my youth."[49] Likewise, since it is new to him as an adult it cannot have that unspeakable power that

early religious instruction has on young minds, perhaps suggesting to Mill that religious instruction is more moderate than it seemed to many of his philosophical peers.[50] When J. S. Mill develops his mature political theology, it consists in very much weakening the antitheological, anti-Christian ire found in earlier freethinkers such as Hobbes and Bentham. Christianity, for Mill, is not *necessarily* the enemy of civic health that it is for some other liberal thinkers. Rather, he finds Christianity more tolerable than did many thinkers who were forced to make ethical compromises by Christian majoritarianism.[51]

Religion as Ethical Differentiator

Although the prospect is admittedly somewhat unlikely on its surface, Mill's religious humanism may provide a resting place or compromise position for the competing social theories of egalitarians and liberals, progressives and conservatives. As John Rawls argues, the principle of fraternity is frustrated in theories such as Mill's, where fraternity describes, not a basic right, but "certain attitudes of mind and forms of conduct" Instead of a fraternal attitude, Rawls proposes his difference principle as one way to formulate a contentful notion of fraternity—that is, "the idea of not wanting to have greater advantages unless this is to the benefit of others who are less well-off."[52] Consistent with Mill's belief that cooperation and fraternity are necessary for liberalism, it is not incorrect to think that Mill would endorse equality and fraternity in something like a "basic structure" of justice. However, he stops short of embedding fraternity into public reason, offering his civic religion to fill the gaps.[53]

What is gained by keeping the agreement rough and the principle less formalized, as Mill does? The agreement of conservatives who also recognize the importance of fellow feeling without agreeing with Rawls's difference principle, for one thing. From the vantage of liberal-conservative agreement, making fraternity bound by rules may actually undermine fellow feeling. Rules may look (and sometime be) superior to mere habits and practices, but principled habits, which must be constantly revisited and rethought, are in many cases *more* demanding than rules. Although this is clearly only a Millian suggestion that cuts against the Rawlsian grain, the prudence that is required to achieve fraternal conduct in Mill's liberal approach may be of greater educative value than enveloping individual decisions in a basic structure of liberty, as Rawls does.

We return now to the basic question of how religions elevate individuals. Religions can act as countermajoritarian influences, as Tocqueville argues. Religions can disseminate opinions about what behavior is good and bad for citizens and give them something to look up to in order to enhance

their dignity. Without religion, Mill thinks, a market democracy cannot sustain the image and meaning of citizenship that is required to avoid mobocracy and shopocracy, that is, regimes that are driven by mere interests (selfishness). In this way, democratic religion enhances cooperation and impedes selfishness.

Before looking in more detail at Mill's plan for a new religion of humanity, it may help to comment briefly on versions of the argument for ethical improvement that are more extreme than Mill's. Mill observes that Catholics are sometimes criticized for having two moralities, one that is appropriate for salvation and another that is appropriate for saintliness. Mill finds a liberal lesson in these tiers of commitment to religion. It may be liberal to have a double standard, as Mill found when theorizing companionate marriage as discussed in chapter 2 of this book. Auguste Comte, in contrast, follows the "despised" Protestants in creating a single moral standard. "Like the extreme Calvinists," Mill says, "he [Comte] requires that all believers shall be saints, and damns them (after his own fashion) if they are not."[54]

In the *Autobiography*, Mill takes a similar line in criticizing Comtian extremism, this time claiming that Loyolan Catholicism and Comtism are nearly equally despotic in the moral demands they impose.[55] Mill explains his meaning further in a short criticism of Catholic pastoral power in *On Liberty*. There, he writes that the problem with Catholicism is not only that the upper end of belief requires too much saintliness but, more important, that it is considered appropriate for those on the lower tier to believe others on trust. Members of the clergy "may admissibly and meritoriously make themselves acquainted with the arguments of opponents, in order to answer them," whereas the masses lack the cultivation that comes from confronting errors and laboring to understand and defeat them.[56] For Mill, this aspect of the Catholic approach is exactly the opposite of the one that is needed for the general moral regeneration of the people.

Criticism of Christianity

The *Three Essays* distinguish between three patterns of belief, not all of which are compatible with liberalism: religious beliefs that are reasonable, those that are compatible with reason, and those that are incompatible with reason. Mill calls reasonable beliefs the "religion of humanity." Traditional theism is compatible with reason, but only if theists view the world as a mixture of good and bad principles and hold that God is responsible for the good in the universe, but not for the bad. Below, I call this "weak theism." Finally, "bad religion," such as the strict Calvinism which Mill criticizes in *On Liberty*, is incompatible with reason.[57] This form of strongly

theistic belief holds that God is all powerful but that he cannot be judged or held responsible for what humans call evil by virtue of the immense gap between divine and human reason.[58] According to Mill, the voluntaristic belief that God is mysterious and all powerful is stultifying, demoralizing, and inconsistent with liberalism.

Owing to his criticisms of revealed religion, some of Mill's contemporaries understood his political theology to be inconsistent with theism.[59] But Mill's theory is not primarily irreligious and antitheistic. As another contemporary commentator observes, Mill *doubted* everything, but "he distinctly rejected only the divine omnipotence."[60] According to Mill himself, belief in divine omnipotence contradicts the "Theism of cultivated minds."[61] Mill's rejection of the form of theism that I call "strong theism" reflects his concern that some (but not all) religions adulterate mental independence and threaten practical reason. This understanding of religion is very much in keeping with Mill's theory of education, which is committed to freedom and the rejection of determinism, equality under law, the demotion of vanity and pride, and the criticism of the type of power that fosters determination and dependence. Just as Mill applies his theory to criticize nature's arbitrary power, he also applies his criticism to divine power.

Problems with Strong Theism

Mill argues that it is a "great error" to find in Christianity a "complete rule for our guidance."[62] Mill rejects dogmatic projects that suspend Christianity "above thought," so that "religion, instead of a spirit pervading the mind, becomes a crust encircling it."[63] Utility is missing from such a project. There is also no complete a priori rule in anything, whether religion or a science, because a complete rule of conduct provides no room for interpretation, no recognition that much depends on how one observes a rule, and no attention to the changing circumstances in which rules are said to apply. In the case of the Christian believer who is squeezed between monolithic principles and everyday practice, Mill finds an excellent test case for his theory that the "uncertain and slippery intermediate region" is where political theory perpetually seeks application. The dogmatic Christian believer has a "collection of ethical maxims, which he believes to have been vouchsafed to him by infallible wisdom as rule for his government."[64] These maxims conflict with the "set of every-day judgments and practices" that the Christian follows. The result is incoherence, where rules of thumb and infallible rules of conduct simply do not map onto each other.

A second, more fundamental problem with some forms of Christianity is theological voluntarism, which is antirationalistic. A long line of rationalists

and *philosophes* have argued that God's providential order cannot be so mysterious that it undermines political rationality and individual mental liberty. Bentham, in one commentator's view, "contrasted the world of experience with the world of the imagination peopled by insane believers in the incredible."[65] In educational terms, irrational belief has grave social consequences both for the believer and for society. For example, Bentham observes that from "*imaginary* grace, imaginary *mystery*, imaginary *sacrament*, come imaginary *blasphemy*, imaginary *sin*; from imaginary sin comes *real antipathy*; and . . . *real oppression*," which Bentham calls "the *chronical* disease," and "*real persecution*," or "the *acute*" disease.[66] In taking this stance, Bentham, far from being permissive about what people thought gave them pleasure or pain, was radically critical of existing patterns of beliefs insofar as they led to persecution. The Benthamites may have been "stone-blind to the real condition of opinion in England," but the Benthamites themselves thought they had good reasons for weakening religion.[67]

Mill, in contrast, recognizes but in the same gesture circumscribes the value of the aesthetic experience of religious belief. Religion's "persistency in the cultivated" is traceable to the reasonable desire to receive "credible tidings" from the "mysterious region." In Mill's eloquent characterization of the human relation to this region, "Human existence is girt round with mystery: the narrow region of our experience is a small island in the midst of a boundless sea, which at once awes our feelings and stimulates our imagination by its vastness and its obscurity." The boundedness of knowledge is defied not only by infinite space but also by infinite time, so that nonknowledge stretches out in multiple dimensions about which humans desire to gain knowledge.[68]

Here, in a passage of almost Shakespearian eloquence, Mill dons the garb of the poet to write respectfully of the natural sense of the oceanic, the vastness of the world and of the universe, and of the pressure to believe in higher powers generated by the finitude of the individual. Nevertheless, in spite of Mill's recognition of the disproportion between infinity and finitude, and the feeling of awe or wonder that this disproportion evokes, James Mill (and, as I read him, John Stuart Mill, in his personal beliefs) followed in Bentham's footsteps and came to "reject not only all revealed religion but the belief in a supreme governor of the world."[69]

The gap between John Stuart Mill and Bentham, and Mill's debt to Bentham, should not be exaggerated or understated. Mill characterizes all of Bentham's religious writings as of "exceedingly small value" in his 1838 essay on Bentham.[70] But in the *Autobiography*, Mill cites the essay published under the pseudonym of Philip Beauchamp as "one of the books which by the searching character of its analysis produced the greatest effect upon me."[71] In this Benthamic manuscript, which was collated by George Grote to form the Grotean text titled "An Analysis of the Influence of Natural

Religion on the Temporal Happiness of Mankind," Bentham wrote of the malevolence of the divine, and the "tyranny" of God's justice.[72] This insight is the core of Mill's criticism of theological voluntarism and obscurantism and a step along the path that leads away from strong theism.

In his normative theory of religion, Mill rejects two crucial theistic claims: that God's justice is inscrutable and that God is all powerful and omniscient. For Mill, belief in an omniscient, omnipotent god is rendered untenable by the existence of evil in this world, and unpalatable by the fact that an unknowable and incomprehensible god—for instance, the god whom Kierkegaard depicts making prima facie unreasonable demands on Abraham in *Fear and Trembling*—can require uncivic and personally demoralizing activity. For Mill, one cannot be both a strong theist and a believer in civic religion because of the ever-present possibility that theism requires the type of unreasonable sacrifice of practical and political reason that civic life prohibits. Where the two clash, Mill clearly prefers his Utilitarian interpretation of reasonable conduct.

In sharp contrast to Bentham's irreligious rhetoric, however, Mill largely disengages from antitheistic polemics. He makes a conscious effort to maintain rhetorical distance from the vocal secularists of his age, such as George Holyoake, and he is (mostly) moderate in his polemics when his views bring him into conflict with more theistic thinkers in his own broad intellectual circle.[73] In his reviews of works by Adam Sedgwick and William Whewell, Mill refuses to defend the Christian Utilitarian William Paley. He tries to save the broader Utilitarian position while pointing out Paley's errors. However, in responding to Whewell and Sedgwick, Mill saves his most vehement prose for intuitionism. Following Bentham's lead in the opening of the *Introduction to the Principles of Morals and Legislation*, Mill argues that intuitionism either sanctifies the personal feelings of its adherents or is reducible to a Utilitarian position. In the *Autobiography*, Mill held that intuitionism was "the great intellectual support of false doctrines and bad institutions." In "Coleridge," Mill cites it as the key justification for deifying any "reigning prejudice," national or individual.[74] In his metaphysical polemics with William Hamilton (1730–1803) and Henry Longueville Mansel (1820–71), Mill sought to knock down, if not to refute, the intuition that there is a god whose essence transcends human reason.

Mill's writings against Henry Longueville Mansel and his teacher, William Hamilton, are perhaps the most evocative of his anti-intuitionism, and deserve special notice in a discussion of religion as education. Mansel argued that "it is our duty to bow down in worship before a Being whose moral attributes are affirmed to be unknowable by us, and . . . perhaps extremely different from those . . . we call by the same names." William

Hamilton precedes him in thinking that a "God understood would be no God at all."[75] Mill agrees with Hamilton that we have no direct intuition of God, stating, "The doctrine, that we have an immediate or intuitive knowledge of God, I consider to be bad metaphysics."[76] But he rejects Hamilton's a posteriori reasoning about the concept of God. Hamilton's Absolute is an unthinkable "God," an infinite being who bears no relation to a finite knower.[77] Mill thinks that the Absolute is not unknowable, as Hamilton asserts, but entirely self-contradictory. No concept can possess "in absolute completeness *all* predicates . . . absolutely good, and absolutely bad; absolutely wise, and absolutely stupid; and so forth."[78] As Mill continues, either we must give up the idea of the Absolute, as Mill himself does, or give up the law of contradiction, which Mill will not do.[79]

For the purposes of an educative religion, it is also unacceptable to think that "we cannot know the divine attributes in such a manner, as can entitle us to reject any statement respecting the Deity on the ground of its being inconsistent with his character," for to do so would allow no response to those who say that God is wicked and a source of intentional evil to humans. Hamilton's disciple Mansel "must say that we do not know what Wisdom, Justice, Benevolence, Mercy, are, as they exist in God."[80] For Mill, this obviously defeats the purpose of religion. However, it *is* interesting to ask whether believing in a god who "possesses absolutely and infinitely *some* given attributes, which in their finite degrees are known to us,'" is advisable.[81]

For Mill, quoting and then rejecting Mansel, the "infliction of physical suffering, the permission of moral evil, the adversity of the good, the prosperity of the wicked, the crimes of the guilty involving the misery of the innocent, the tardy appearance and partial distribution of moral and religious knowledge in the world" are *not* facts reconcilable "with the Infinite Goodness of God," as Mansel claims that they are.[82] For Mill, the goodness and justice of God must be the same in kind, although not necessarily the same in degree, as what we refer to when we speak of human goodness and justice. Summarizing the same point in one of his most famous quotations, Mill writes that "there is one thing which he [a god of Mansel's variety] shall not do: he shall not compel me to worship him. I will call no being good, who is not what I mean when I apply that epithet to my fellow-creatures; and if such a being can sentence me to hell for not so calling him, to hell I will go."[83] Such a god, if it existed, may have the power to punish human beings for reasoned unbelief, but the existence of a power to punish would not make its power right. It would be, like Mill's "nature" or the anthropological fact of self-worship, something to amend; the source of unpredictable and unjustifiable *noyades* (mass drownings) that humans should struggle against.[84]

Mill repeats his criticism of supernatural religions in the *Three Essays*. He asks, for instance, whether there is "any moral enormity which might not be justified by imitation of . . . a Deity" who "could make a Hell; and who could create countless generations of human beings with the certain foreknowledge that he was creating them for this fate."[85] Mills also deploys this criticism against Calvinism, the religion in which his father was raised, in *On Liberty* to attack "Christian passivity." For Mill, the Calvinist doctrine of obedience is enervating. Under it, "man needs no capacity, but that of surrendering himself to the will of God," and he needs no cultivation of his character to lead a good life.[86] For Mill, this doctrine is no better than "Asiatic fatalism," and quite of a piece with the scientistic fatalism that he criticizes in the *System of Logic* and the *Autobiography*, and also with the paralysis resulting from the Mahomedan fatalism that Mill rejects in the *Examination*.[87]

In *On Liberty*, Calvin's God is accused of the abuse of power that is Mill's basic theme in the human world. The arbitrariness of predestination, which violates human equality of opportunity and the meritocratic principle, supplies an important context for Mill's emphasis on equality and merit. For Calvin in the *Institutes of the Christian Religion*, predestination is the "eternal decree of God, by which he determined with himself whatever he wished to happen with regard to every man. All are not created on equal terms, but some are preordained to eternal life, others to eternal damnation; and, accordingly, as each has been created for one or other of these ends, we say that he has been predestinated to life or to death."[88] In this passage, we see Calvin's vision of divine ethical differentiation, or God's power to elevate and demote individuals without regard to outward merit. For Mill, this violates justice, which is enough to disqualify Calvinism as a useful religion. In this respect, Mill does not contradict the position on ethical religion and God's inscrutability that he takes in *On Liberty* by what he writes in the *Three Essays* or in the *Examination of Sir William Hamilton's Philosophy*; in fact, a basic agreement of the arguments underlies *On Liberty* and these essays.[89]

Mill is not particularly exercised by the possibility that historical Christianity, or a romanticized version of it such as Thomas Carlyle supplies in *Past and Present*, provides an antidote to his metaphysical objections.[90] Carlyle argues that it is not Christianity but modern moral philosophy that makes the world unintelligible, an argument that Mill certainly rejects. Mill also overlooks the liberalizing purpose of Calvin's criticism of the pastoral power. In Calvin's defense, he intended the *Institutes* as a *liberal* rejection of the power of the parish priest. Noting the dependence of the believer on this figure, Calvin sought to liberate believers *from* clerical government, "lest in a matter which God prescribes no certain rule, our consciences be burdened with a certain yoke."[91] Mill may therefore misrepresent Calvinism when he describes it as a dogma of prostration and obedience.[92]

Beyond his principled objections to them, Mill does not enter into the process of examining the consciences informed by these sorts of theisms. Nor does he instruct the conscience in traditional, "weak" theism. Mill's religious writings do not describe the inner dialectic that goes on between the social self that is pressed on all sides by a potentially misinformed public opinion, and the inner man ("the man within the breast") whose conscience is improved by ideal images and noble sentiments.[93] But in his religious and social and political writings, Mill certainly intends to make liberal and egalitarian principles clear to readers so that they can apply them in domains such as women's rights, the workplace, and churches. No amount of recontextualization of Calvinism, nor the recognition that in America and England it had the unintended, salutary consequence of supporting worldly, commercial activity, can save Calvinist predestination from Mill's objections to its metaphysics.

To recap, theological voluntarism is the root of Mill's criticism of Calvinism. In a helpful gloss in his scathing review of Blakey's *History of Moral Science*, Mill explains that theological voluntarism is a doctrine that something is good because God makes it good. "What we call evil," Mill explains, "is only evil because he [God] has arbitrarily prohibited it." As one should by now expect, Mill rejects this dogma, which "takes away all motives to yield obedience to God, except those which induce a slave to obey his master. He [God] must be obeyed because he is the stronger. He is not to be obeyed because he is good, for *that* implies a good which he could not have made bad by his mere will."[94] In the same review of Robert Blakey's *History of Moral Science*, Mill rails against the "infinitely mischievous tendency of a theory of moral duty, according to which God is to be obeyed, not because God is good, nor because it is good to obey him, but from some motive or principle which might have dictated equally implicit obedience to the powers of darkness." This, again, leaves believers with "only the abject feelings of a slave."[95]

In his criticism of Mill, Bain also contends that *On Liberty*'s criticisms of Christianity are too blunt, and that Mill's essays leave him open to criticism from all sides. "The whole subject [of Christianity] is extraneous to his treatise," Bain says, "and impedes rather than assists the effect that he desires to produce."[96] Bain's judgment is strategically sound, but quite wrong nonetheless. Christianity is crucial to Mill's educational theory. There is more truth in Hamburger's observation (cited above) that Christianity is the main rhetorical opponent in *On Liberty* than in Bain's claim regarding Christianity's marginality, but it is crucial to recall that Mill excludes only "bad religion" and a human dependence on an unknowable power, not all theisms. At least two versions of Christianity— Catholic pastoral power and Calvinist voluntarism—promote dependence and inhibit mental power,

but Mill leaves the discussion open to argue for (or to develop) a new Christianity that meets the demands of justice.[97]

Mill's criticism of strong theism seems to lack a deep and important subtext. Søren Kierkegaard's *Fear and Trembling* and Pascal's *Pensées*—texts that Mill either apparently did not read or (in the case of Pascal's) did not admire—show the inner voice of faith in dialogue with human reason in a frankly deeper register than the reader finds in Mill's religious writings. If we were trying to understand the phenomenon of the doubting and anxious Christian, we would not find the equivalent in Mill's texts. But it is not Mill's aim to analyze the believer's tortured conscience. Even when he is marshalling resources to criticize voluntarism, Mill does not mount an argument against the possible existence of a voluntaristic god so much as point to the absurd consequences of concluding that there is such a god. Mill's famous declaration "to hell I will go" is a commitment (to borrow a phrase from his legal writings) to "stand the consequences" of his own empirically based arguments about reasonable liberty.[98] His statement, which, in an important sense, is the most consequential decision of his life, is a wager on the ultimate intelligibility of the world.

As Mill explains when describing Comte's atheism, "no other Ruler of the World will be acknowledged than one who rules by universal laws, and does not at all, or does not unless in very peculiar cases, produce events by special interpositions."[99] For Mill, there is simply no evidence of revelation. His decision to side with the empiricists against the transcendentalists is based on his rejection of "hidden causes" that are "radically inaccessible to the human faculties." Readers unconvinced about the normative value of the free use of reason, and inclined for example to choose Christ over the truth, must look elsewhere for the tortured encounter between reason and revelation.[100]

Weak Theism

The acceptance of an inspiring theistic faith requires believing that God is benevolent and engaged in the advancement of human concerns but is not all powerful. From the 1850s through the 1870s, Mill remains steadfast about this principle, and nothing in his earlier writings shows that he ever changes his mind. What Mill calls the "limited power" hypothesis of God's essence is the "only tenable [theistic] hypothesis" and the "only admissible moral theory of Creation."[101] To the extent that nature provides evidence of any god, it is of a "Being of great but limited power, how or by what limited we cannot even conjecture; of great, and perhaps unlimited intelligence, but perhaps, also, more narrowly limited than his power: who desires, and pays some regard to, the happiness of his creatures, but who seems to have other

motives of action which he cares more for, and who can hardly be supposed to have created the universe for that purpose alone."[102]

Although Mill says that we cannot conjecture about the powers limiting God's power, or about his plans and projects, to the extent that we reason about them, we must think of them as consistent with what humans find valuable. God's purpose and activities must therefore resemble our own, and his "other motives" must be reasonable by humanity's moral lights. These "other reasons" cannot be trivial or immoral: for example, the god or gods could not desire to "kill us for their sport," as Gloucester complains in *King Lear*. Mill thinks that it may be inspiring for humans to think that they join with like-minded gods in pursuing the same ends, albeit in the case of humans with merely finite resources and capacities. Thus, a "virtuous human being," Mill writes of weak theism, "assumes in this theory the exalted character of a fellow-labourer with the Highest, a fellow-combatant in the great strife."[103]

Mill himself is not a theist, but his political theology is not antitheistic or anticlerical. He says he admires the "personal morality of Christ," which, he reports to Thomas Carlyle, is not the "namby-pamby" Christ of some Christian believers.[104] Mill appears sincerely to admire the religion *of* Jesus, namely Jesus's own social faith, but not the Christian doctrine *about* Jesus as the Savior. Consistent with "Nature," Mill holds that the "morality of the Gospels is far higher and better than that which shows itself in the order of Nature."[105] Despite the excesses to which chivalry runs, the treatment of women inspired by the church is far preferable to the treatment of women in the ancient world. Mill believes that "some of the precepts of Christ as exhibited in the Gospels . . . carry some kinds of moral goodness to a greater height than had ever been attained before."[106]

Except for some youngish radical statements on the Catholic clergy, Mill does not engage in public anticlericalism. He does not rail against the priesthood, and he admired free-thinking anticlerical intellectuals such as Richard Carlile more for their courage and their practical efforts to free the press than for their beliefs in the threat to structural political integrity occasioned by clerical power. Mill is a methodologist first, and only second a polemicist.[107] Mill, though, is quite clear that *he* personally thinks that there is no proof of the existence of a god or an afterlife. He argues the lack of evidence even for a god of limited power throughout the *Three Essays*; his own conclusion is made especially clear in one extraordinary passage: "Though conscious of being in an extremely small minority, we venture to think that a religion may exist without belief in a God, and that a religion without a God may be, *even to Christians*, an instructive and profitable object of contemplation."[108] This passage—obscured, if not exactly hidden in the review essay on Comte—is the strongest evidence of Mill's own atheism. Further evidence of his personal (dis)belief is found in his

letters. In one of his earliest letters, addressed to the above-mentioned deist and freethinker Richard Carlile, who was editing the *Republican* from Dorchester Jail, Mill describes himself as an atheist who denies an immaterial "cause" of the "material world."[109] His letters also include a draft letter to Arthur Helps in Harriet Taylor's hand. Here Mill argues that the most enlightened thinkers "are like myself absolute unbelievers. Indeed I do not believe that lofty character is in these times consistent with the utter prostration or indolence of intellect requisite for belief in the low puerilities which now usurp the name of religion."[110]

Owing to these atheistic passages, some commentators have observed a "rather bizarre discrepancy" between the rationalist "Utility of Religion," written in 1854, and "Theism," drafted sometime between 1868 and 1870.[111] There is a rhetorical gap between these essays; Mill professes his atheism in the first but argues in the second that "the indulgence of hope with regard to the government of the universe and the destiny of man after death, while we recognize as a clear truth that we have no ground for more than a hope, is legitimate and philosophically defensible."[112] Mill may have changed his rhetoric out of his sense of anger or bereavement or (more likely) hope after the death of Harriet Taylor Mill in 1858. We find clear evidence of this anger or frustration in passages of the 1854 diary, written when Mill was worried about his health and Harriet's, and in the entirety of "Nature," which is built on a "gloomy" criticism of the justice and goodness of the natural world.[113] However, there is no substantial discrepancy between the rationalistic "Utility of Religion" and the hesitant, cautiously empirical, probabilistic, and yet still straightforwardly nontheistic "Theism." In the latter text, it is true, Mill does not cut what Morley describes as the "springs" of supernatural hopes. Mill very briefly weighs the evidence for an intelligent designer and finds probative support for a designer god. He even offers "room to hope" that a divine being has granted us the gift of immortality.[114]

In the *Logic*, Mill identifies the following fallacy of confusion: "not so much a false estimate of the probative force of known evidence, as an indistinct, indefinite, and fluctuating conception of what the evidence is." For some friendly critics of Mill, this comment on the probative force of theism is, at best, a fallacy of ambiguity. However, Mill's *Three Essays* do not show him as a thinker who pines to hold God, immortality, and the soul as regulative ideals.[115] Instead, Mill argues that what we (already) know to be morally upright behavior is agreeable to God, and that it is therefore possible to expect a reward for moral behavior—to hope. Mill sustains the rationalist argument from "Utility of Religion" in "Theism," arguing even in the latter text that "whatever be the probabilities *of* a future life, all the probabilities *in case of* a future life are that such as we have been made or have made ourselves before the change, such we shall enter into the

life hereafter."[116] The crucial point is that we will not experience any "sudden break in our spiritual life" that would save us from ourselves and from our bad character.[117] God's future state functions according to the same principles as our present state. To permit transformational hope would be to permit rewards for bad conduct, and Mill rejects what he takes to be demoralizing hope. Moreover, he personally eschews the consolation of a future state in 1854, while expecting his imminent death and angry that his wife is also sick. In that context, Mill states his conviction that "all appearances and probabilities are in favour of the cessation of our consciousness when our earthly mechanism ceases to work."[118]

In "Theism," Mill argues that the foundations for the belief in the immortality of the soul are strong. One can cite the "disagreeableness of giving up existence . . . and . . . the general traditions of mankind" as evidence of the propensity to believe in immortality.[119] Mill, though, resists the appeal to obscure instincts or the weight of custom. "We are told that the desire of immortality is one of our instincts," he writes, "and that there is no instinct which has not corresponding to it a real object fitted to satisfy it."[120] But "what is called the desire of eternal life is simply the desire of life."[121]

This is a sensible reply. However, Mill's full treatment of the desire for immortality is less convincing. In "Utility of Religion," Mill offers the belief in the unending progress of the species as a substitute for immortality. He writes, "Let it be remembered that if individual life is short, the life of the human species is not short; its indefinite duration is practically equivalent to endlessness; and being combined with indefinite capability of improvement, it offers to the imagination and sympathies a large enough object to satisfy any reasonable demand for grandeur of aspiration."[122] Here, at the spiritual core of Mill's progressivism, the reader finds this affirmative statement explaining why it is reasonable to accept our finitude without resignation or demoralization. Mill reasons that the finite but indefinitely extended history of incremental progress is much like eternity. The key question is whether an individual will find the extremely lengthy extension of social progress sufficiently satisfying to justify the sacrifices that are required to advance social utility. Moreover, "a very long time" is simply not eternity; when a society is effaced and its heroes are forgotten, a world dies. Again, it is an empirical question, and a very important one, whether Mill's answer to this question is satisfying. If it is not, it makes sense of the claim that Mill does not sustain his agnosticism about the afterlife in "Theism."

Another problem with "Utility of Religion" is Mill's invocation of a "Theism of the imagination and feelings."[123] Mill supposes imaginative theism to be consistent with the "scepticism of the understanding," but it may be the worst of both the secular and theistic worlds. First of all, one must place this statement in the context of Mill's corpus of writings. In

the *Logic*, Mill provides the following crucial context: "If the sophistry of the intellect could be rendered impossible, that of the feelings, having no instrument to work with, would be powerless."[124] The properly analytical education, leading to genuine thinking power in the people, disarms the illegitimate engagement of the emotions. Second, Mill seems to mean simply that selective focus on some of the world's facts can be elevating.[125] As he explains, "When imagination and reason receive each its appropriate culture they do not succeed in usurping each other's prerogatives. . . . The true rule of practical wisdom is not that of making all the aspects of things equally prominent in our habitual contemplations, but of giving the greatest prominence to those of their aspects which depend on, or can be modified by, our own conduct."[126]

A "Theism of the Imagination" can motivate public-spirited action by providing an ideal image of a "morally perfect Being."[127] Mill does not provide a positive image of God in his own religious writings, but he provides important critical commentary on the appropriate image, both with respect to God's rational character, as above, and the moralizing effects of a reasonable god on believers. Given that Mill thinks that a moral god will have the same predicates as a moral human being, one can also look in Mill's corpus for images of human excellence that are imperfect versions of moral virtue.

Mill is quite aware of the problem of emotional extremism. As he writes in his 1854 diary, "Much feeling and little thought are the common material of a bigot and fanatic."[128] Mill allies himself with those dissatisfied thinkers whose "feelings are wholly identified" with the radical amendment of the human world.[129] He believes in perfectibility, arguing that "most of the great positive evils of the world are in themselves removable," but he is also cautious and realistic. In the "slippery" region, then, what Karl Mannheim calls the "democracy of impulse" remains an important threat to liberty. Under its influence, democracy "may well act as an organ of the uninhibited expression of momentary emotional impulses."[130] There is no reason to think that "emotional religion" will not contribute to the same problem: for example, the "self-evident" feeling of the inspired American Methodist shaped the practices acceptable in American politics.[131] Moreover, unscrupulous leaders may seek to "ride 'the whirlwind and direct the storm,' regardless of the human suffering." Such, according to the *Westminster Review*, was the case with Joseph Smith.[132] To radicalize hearers in the name of moods and emotions—modes that are easily coopted for radicalism—violates the principle *quieta non movere* ("do not move settled things"), which Mill identifies as the rational principle of partnership between church and state. As he writes of that partnership in 1840, "On condition of not making too much noise about religion, or taking it too much in earnest, the church was supported, even by philosophers—as a

'bulwark against fanaticism,' a sedative to the religious spirit, to prevent it from disturbing the harmony of society or the tranquillity of states."[133]

Mill clearly does not want to excite religious enthusiasm, but he supports conscientious believers who stick to their positions, even in the case of views that he himself rejects. In fact, Mill gives more respect to believers who strictly adhere to their own doctrines than to latitudinarians who "conform to just as many . . . rules and authoritative precepts as to them appear reasonable."[134] This preference for sincere belief over tepid mutuality distinguishes Mill's antagonism of adverse opinions from the typical range of roughly neo-Lockean arguments for toleration. However, it must be added that Mill gives even greater rhetorical weight to courageous *non*-believers, and he also expresses his regret that capable, sincere men are attracted to what he calls dead ideas. If this early (1831) letter is any guide, Mill regrets the passivity of bright men chained to the "inanimate corpses of dead political & religious systems, never more to be revived."[135] And he extols the virtue of the person with "the manliness to speak out, with simplicity and without ostentation, the fact of his unbelief," calling him "a religious man."[136]

Although it is unwise to attempt to cobble together a theory of toleration from these scattered comments, widely separated in time, the affirmative point is that emotions are an aspect of engagement and public spirit. Millian toleration does not marginalize belief or promote tepidness. Mill locates himself between sincere proponents of what he takes to be ill-considered opinions, and the disengaged intellectual jobbers whose enervation and insincerity threaten the marketplace of ideas *more*, it seems, than radicalism and fervor.

In a May 1865 letter to William Ward, an English theologian and Roman Catholic convert, Mill admits that "the *only* opposition which I deem injurious to truth is uncandid opposition." However, he qualifies this statement by arguing (in a much earlier writing) that people are free to advocate whatever they wish, "*provided* that the portion of truth they contend for is one which the age specially needs, and provided (he must add) they have not the power of burning him for heresy."[137] He therefore demands more *for* religious pluralism than earlier rationalists while also demanding restrained engagement *from* the religious believer.

The Religion of Humanity

Mill's religion of humanity is a human-centered, rationalistic religion. It features a motivating iconography of imaginative grandeur but little of the content or organization of a traditional religion. Crucially, Mill's version lacks the *systematic* exposition of Comte's positivistic religion—a doctrine

(*dogme*), a moral rule (*régime*), and a system of worship (*culte*).[138] There is no doctrinal teaching about any of the following crucial concepts: divine being, soul, immortality, afterlife, or theological punishment. There is no priesthood and no rituals, and none of the "principling" in sworn articles of faith that characterized English life up to and including the nineteenth century.[139] Comte's religion is a lamarchy with Comte at its head, while Mill's civil religion has no head. Instead, it is based on a belief in the corporate good of humanity, the almost indefinite extension over time of that humanity, and the power of memory to draw present-day utility from past acts and achievements.

As was observed above, some critics think that Mill's position is "useless," not useful.[140] But this criticism mistakes Mill's ambition. Mill intends to dispense with God and leave humans with more liberal, human-centered practices.[141] Religion is a way to teach virtue, but it should do so indirectly. Almost the whole of the religion of humanity is designed to make exemplary figures more visible. In an era of public opinion, Mill certainly believes that not much more needs to be done to make civil religion effective than to make good people into visible objects of attention and praise.

What is religion, which has this power to popularize virtue? Mill agrees with Comte that "religion" consists of a creed "claiming authority over the whole of human life"; a set of beliefs "respecting human destiny and duty"; and "a sentiment connected with this creed . . . sufficiently powerful to give it" practical authority over the individual.[142] "The essence of religion is the strong and earnest direction of the emotions and desires towards an ideal object."[143] The object of this creed can also be concrete: the good of presently existing humanity, or even the memory of a good person. Mill, for example, says that Harriet Taylor's "memory is to me a religion, and her approbation the standard by which . . . I endeavour to regulate my life."[144]

Understood as a religion, Auguste Comte's humanism has what Mill was seeking vainly in Christianity: an object (human progress), a fairly concrete subject (the "Human Race"), and reasons for thinking of human improvement as both an ideal to approximate and a real state of affairs in the process of fruition. This humanism genuinely *is* a religion, as Mill writes, a "real religion" that fulfills the conditions of a religion "in as eminent a degree" as "the supernatural religions."[145]

For Mill, it follows that traditional, revealed religions are in fact *less* religious than religious humanism. Humanism is impartial, whereas the traditional, revealed religions rely on selfish inducements in order to foster belief and often appeal to particular groups rather than to humanity. Mill bluntly points out that "even the Christ of the Gospels holds out the direct promise of reward from heaven as a primary inducement to the noble and beautiful beneficence towards our fellow creatures." Mill characterizes this inducement to selfish action as evidence of the "radical inferiority of

the best supernatural religions, compared with the Religion of Humanity."[146] On the other hand, Comte's version of the religion interprets the "ideal object" that is "paramount over all selfish objects of desire" in overly demanding terms, as altruism (*altruisme*), a neologism coined by Comte, which requires deadening "personal passions" and denies the attraction of self-love. Mill, in contrast, merely contrasts egoism and altruism, and argues that the former should "give way to the well-understood interests of enlarged altruism."[147] The more or less Tocquevillian idea that our interests in humanity should be "well understood" does much of the work of moderating the Comtian religion of humanity, and it is worth exploring how interests in humanity may or may not be well understood.

Criticisms

Several interpretations of the religion of humanity's demands are possible. Comte's *vivre pour autrui*, or the will to "live for another," is the most demanding version. Mill's liberalism, I argue, posits an upper limit to the performance of social duties that society can command. As for how the reader should interpret the convergence of religions on one religion of humanity, as observed above, scholarly opinions diverge. In one interpretation, the "purpose of *On Liberty* was to protect individuality from the compressive effects of the Religion of Humanity."[148] Or, it is argued that the commitments of revelation (to personal salvation, a god of creation, and to a particular revealed truth) put it on a collision course with the universalistic, atheistic, impartial religion of humanity.[149] In a related reading, this time accusing Mill of moral chauvinism, Gertrude Himmelfarb argues that Mill's thought cancels individuality and instead urges "conformity to his [Mill's] personal ideal of value and service."[150]

Neither Mill's personal atheism nor his strong sense of personal duty are necessarily evidence that he theorized the convergence of religious pluralism on humanistic monism. Pure convergence is anathema to Mill because, as he affirms again and again, our "wants and interests" are simply too multifarious to be cast into "precise general propositions."[151] As for the repressiveness of the religion of humanity, the introduction to this book argues that Mill embraces compression and repression as useful and liberal for the intellect.[152] Retraining and restraining the emotions is a crucial aim of religion, but Mill makes no attempt to do so beyond valorizing the "fixed point" that he defends across all his works on social and political thought, namely individual freedom and social and political equality.

Religions deal with the confusing and awesome threshold experiences of life: birth, marriage, dying, and death. A commonsense criticism of religious humanism is that it does not do enough to satisfy our needs in creating stories and rituals to make sense of births, deaths, and other crucial

aspects of life. It is true that Mill's religion of humanity contributes little or nothing to the celebration of births and marriages, although a future religion of humanity could do so. But if it did, it would have the problem of choosing clergy and adopting rituals, which Mill almost entirely avoids. He does not thematically discuss death and finitude, because they are unavoidable; however, given the importance of the fact of death to the revealed religious context in which Mill writes, it is worth reconsidering his suggestion that we focus on what we can accomplish with our lives rather than on the limits to our lives. Is this too affirmative a teaching to be attractive?

Mill is hard headed, and perhaps unrealistic, in respect to opinions about death. "All *unnecessary* dwelling upon the evils of life is at best a useless expenditure of nervous force," Mill writes, "and when I say unnecessary I mean all that is not necessary either in the sense of being unavoidable, or in that of being needed for the performance of our duties and for preventing our sense of the reality of those evils from becoming speculative and dim."[153] Here, from a Utilitarian perspective, Mill joins a very long debate about how persons should conceive of death. From a respectable alternative perspective, intellectual freedom requires a meditation on death, because only the person who has been freed from vain fears will live a free life.[154] Mill, in contrast, spends almost no time on the purgation of vain fears. He clearly thinks that individual freedom consists of amelioration or at least struggle in this world, and the *Three Essays* cancel rather than describe and explain the uselessness of dwelling on death. Mill's guidance is manly advice but perhaps not the doctrine that one would find in a foxhole.

When Mill does deal with death in his letters and in the "Diary of 1854," he cannot help but dwell on it with bitterness. As observed above, he wrote the "Diary of 1854" when both he and Harriet were quite ill, and in the diary he describes how fortunate he feels to have the "whole summer" to die in.[155] Mill ends the diary on an elegiac note, anticipating that the "remedies for all our diseases will be discovered long after we are dead; and the world will be made a fit place to live in, after the death of most of those by whose exertions it will have been made so." For Mill, it is important "that those who live in those days will look back with sympathy to their known and unknown benefactors."[156] The passage is melancholic, especially if the most that public-spirited reformers can expect is a generic nod from the future generation.

Memory, in the religion of humanity, is a key safeguard of progress, and also of the personal salvation (in the memory of the living) of those who have contributed to progress. The idea of public memory raises perhaps the most important question about religious humanism: Who is included within the pantheon of do-gooders? How is the memory of the public-spirited to be celebrated? These questions must make or break useful humanistic religion. The answers tell us something about the way that societies

maintain continuity and order in their moral visions, and (realistically) how a quiet public forgetting also keeps the pantheon relevant and timely in a progressive sense.

Comte's answer is to formalize public memory by creating a positivist calendar celebrating the birthdays of great scholars and intellectuals with the explicit intention of providing images of greatness to emulate. As for who is inducted into the pantheon of religious humanism, Mill writes that we should "regard the Grand Etre, Humanity, or Mankind, as composed, in the past, solely of those who, in every age and variety of position, have played their part worthily in life. It is *only as thus restricted* that the aggregate of our species becomes an object deserving of our veneration."[157]

The humanistic faith has two affirmative features: (1) it is responsive to benevolent and sympathetic heroes; and (2) it is meritocratic and responsible, rewarding people whose "egoism is bound" by service to humanity, rather than those who are merely popular or successful. A possible demerit of the religion is its potentially exclusivity: humanity dismisses unsuccessful examples of poor human conduct and considers the "whole" to comprise those who have "played their part worthily in life." Of course, from the very outset this approach borders on absurdity: the humanistic religion of the deserving excludes precisely those selfish types that refuse to bow to humanity's utility, thus creating an incentive to be recognized for selfless acts that is very similar to the selfish desire for personal immortality that Mill disparages.

In any event, Mill recognizes that Christianity and his humanism are similar. Judaism, as Mill remarks in passing, is external and prescriptive, requiring "acts which are only locally or temporarily useful." "Christianity," Mill writes, "influences the conduct by shaping the character itself."[158] Despite the criticisms of Calvin's demoralizing theism of dependence, then, Christian universalism can become compatible with moral progressivism. The religious humanism of Mill's *Three Essays* is, like this version of Christianity, character developing. According to Mill, the Christian therapy of desires is compatible with the religion of humanity, which only differs from Christianity in its much more affirmative emphasis on political duties. In fact, Mill says that the religion of humanity mirrors Christian teachings.[159]

One wishes that Mill was clearer about the demands of his religious humanism, such as they are. For instance, only positive encouragements to serve humanity appear to be a part of the religion of humanity.[160] Religious humanism is persuasive and ennobling, insofar as Mill insists that the religion of humanity promises no factual "rewards." However, he clearly states that the "imperfections which adhered through life, even to those of the dead who deserve honourable remembrance, should be no further borne in mind than is necessary not to falsify our conception of facts."[161] Mill seems to align himself with Comte in accepting this cerebrally hygienic proposal. One obvious worry is that the push to develop a morally uplifting

historical memory will whitewash the past. The result could be an improperly inflated conception of human talents and capacities, or one that forgets those who had talent and good intentions, but who perhaps lacked the moral luck needed to achieve a great name. If memory worked this way, it would be an epistemic injustice.

Membership

The Millian religion of humanity has no compact spiritual authority. There is no royal society of religious believers in humanity. There is no one to coerce the "human swine" that do not live up to Mill's standards of excellence.[162] Mill does not seem to have the ambition to be a Benthamic dead legislator, taxidermied and rolled out at College Council meetings.[163] Mill theorizes no punishers or rewarders beyond those who obtain authority over others through persuasion. There is no compulsion to join or marks of membership for initiates and, it is crucial, no "authorized will" to settle internal differences of opinion as to who should be honored and why.[164] There are no Comtian prescribed styles of observance; no positivistic calendar of saints and saint's days; no prayers; and no catechism.

Mill interprets the Hebrew prophets as a good model of the way that spiritual and political power should interact. They provided an "inestimably precious unorganized institution" that spoke truth to power. Mill says that this order, "if it may be so termed," is one that acts *on* political authority, and not *as* a political authority which organizes and constructs consent among citizens.[165] He writes that the "Prophets were a power in the nation, often more than a match for kings and priests. . . . Religion consequently was not there, what it has been in so many other places—a consecration of all that was once established, a barrier against further improvement."[166]

With these limitations on religion firmly in mind, it is possible to suggest how Mill's belief in the religion of humanity squares with his liberty principle and with his concern for social utility. For Mill, truly public-spirited, enlightened citizens do not need spiritual exhortation: they simply recognize and *do* the right thing for the right reasons. From this vantage, the true addressee of the religion of humanity is found not among the most elevated types, who see their social responsibilities and acts upon them, but instead within the ranks of the educable, democratic citizens to whom the language of nobility and the idea of being inducted into the ranks of great social reformers is appealing. Mill's religion of humanity provides a structure of incentives for the second-best character who needs some support and encouragement. Religious humanism induces such individuals to act according to their station, without punishments or demoralizing terrors; without "whips and scourges, either of the literal or the metaphorical sort."[167]

It may seem like hopeless question-begging to talk in general terms about a pantheon of intellectuals. What are the conditions of membership, beyond a general commitment to utility? Will there be general agreement as to the character of the reformer? For example, the generally Francophilic Auguste Comte pays lip service to Louis Napoleon's virtues and the possibilities afforded by his military dictatorship; Mill calls Louis Napoleon a "stupid, ignorant adventurer."[168] Some guidance is provided by the styles of public veneration in the American democracy, which, like Mill's humanistic democracy, is largely open to cosmopolitan examples of excellence from other societies, in addition to its domestic social and political heroes. American public monuments do not impair love for one's personal dead, but no one claims that the one is on the same level as the other—that you should venerate my personal dead, and vice versa.

Examples of devotion to the memory of useful politicians, writers, and thinkers are all around us. We do a disservice to the contribution of someone such as Richard Carlile, who was imprisoned on multiple occasions for multiple years for his polemics in favor of free speech, if we forget his contributions because we are always looking forward to the fruits of progress, and no longer back at those who established or helped to maintain freedom. The American political religion celebrates politicians and opinion leaders such as Benjamin Franklin and the founders, Abraham Lincoln, Elizabeth Cady Stanton, Frederick Douglass, and Martin Luther King, Jr. In the same spirit, many Americans embrace and celebrate a foreign humanitarian, Mahatma Gandhi, and in the future they may remember the important contributions of Bhimrao Ranji Ambedkar. It is crucial that these figures do not hold a prescribed set of doctrines or practices. They all contribute to Americans' public lives, often amid profound disagreement, and one would be hard pressed to reduce their contributions to a consistent set of intellectual principles. In some cases, equality is emphasized; in others, liberty and security (which borders on creating a national political religion, which Mill rejects), as in the case of successful generals, although even here the war that is celebrated is usually a just war.

This very select group's membership is not fixed in stone, because society's conception of the good changes over time. This, one supposes, is the progressive answer to the charge that the religion of humanity unjustly excludes worthy persons and that history unfairly leaves behind many of those who lived in unjustly forgotten past epochs. Scholars, historians, and advocates constantly work to recover figures from the past and reacquaint public memory with them. Mill's own examples of exemplary public servants cover a range of individuals from ancient history to the more recent present. He praises Demosthenes and Pericles, for example, for having advanced their civilization in the face of imperial encroachment. Other

thinkers significantly advanced English or French liberty; their contributions are relevant locally and to the fostering of modern liberty.

The teaching of *On Liberty*, which explicitly builds on the largely forgotten efforts of others, can form an example of public veneration informing public memory. In that text, Mill memorializes the liberal individualistic works of William Maccall (largely forgotten), Wilhelm von Humboldt (mostly forgotten), and Robert Owen (remembered as a practical man and as a symbol of a movement). Most notable, of course, Mill memorializes Harriet Taylor's name alongside his own, which shows both the power of praise and the puzzle of veneration. Many critics do not comprehend why Harriet Taylor Mill deserves Mill's veneration, much less their own. They are likely to think of her as they do of Auguste Comte's Clotilde de Vaux, namely as a creation of the worshiper.

Mill is remembered but Maccall is forgotten, and Harriet Taylor would otherwise (without Mill) be forgotten as well. Is this just? Certainly not. Could the subjective immortality of the religion of humanity do more to reward public-spirited individuals in a strictly just manner? Although the answer is affirmative, the public should be free to reward or ignore people such as Maccall as they wish. A liberal society permits intellectual experimentation—the construction of cathedrals that cannot stand, or great intellectual projects that become graves and even dungeons for their would-be inhabitants. A truly liberal religion of humanity would remember these erring contributors for the same reason that it remembers constructive ones. However, in Mill's liberal religion, the not-so-hidden secret of his public memory is that it silently releases those figures who are less needed and attaches to others. Insofar as someone such as Mill is latitudinarian about public opinion, the process of public veneration will never be rational, but it can be both liberal and useful.

Applications to Tolerated Religions

Mill's position on the compatibility of religious humanism and religious diversity should be challenged or at least rethought in another important respect. If the aim of *On Liberty* is to release the reader from the despotism of custom, surely some religious customs and practices conflict with liberty. To address this question, it is helpful to examine the point of contact between Mill and religious practices contemporary to his world. For example, does Mill tolerate Hindu religious practices where they collide with the principle of liberty? What of Mormonism, which embraces customs associated with patriarchy and despotism?

Mill must expect that carving out a rhetorical space for what he calls the "Theism of the imagination and feelings" will, in the absence of any

pastoral power or organized church, vastly *increase* the range and perhaps the intensity of religious expression.[169] Since Mill does not exert clerical control over religious association, new visions of religion may blur his Utilitarian line between reasonable and unreasonable practices. For example, local authorities could misuse the language of veneration or the symbols of religious humanism in an exclusionary or demeaning fashion, thus appropriating the name of civil religion for ends that are not intellectually and morally cultivating. Worse still, Comte's authoritarian version of religious humanism might prove more popular and enduring than Mill's liberal conception of religion, leading to a conformist public sphere and to new social and political hierarchies. Conversely, Mill's imaginative pluralism could *help* to organize and moderate the inevitable proliferation of new iconographies and strange revelations in a liberal society.

Mill's normative theory of religious humanism provides a standard by which to evaluate religions with wholly new revelations (e.g., Joseph Smith's Mormonism), religious revivals with newly enhanced weight on religious expression (e.g., the Oxford Movement, nineteenth-century Methodism, twentieth-century evangelical churches, twenty-first-century Islam), and new religions without revelations (Comte's religion of humanity, secular humanism, the new scientistic atheism). In theory, Mill should be able to pick out a religion that acts as a "schoolmaster to the state" and provide critical input on socially harmful religions, even or especially in difficult cases where a religion may not violate the liberty principle but may undermine educative liberty by creating mental dependence.

Although it is not always the so-called hard cases that are the most illustrative, two test cases for Mill's approach are provided by difficult encounters between the radical "other" and liberal society in Mill's day: the rapid rise of Mormonism in nineteenth-century America, and the clash between Christianity and Hinduism in British India. In neither case is Mill an advocate of suppression, even though neither Joseph Smith's revelation nor Hinduism fits his image of a humanistic religion or even a weakly theistic religion. Both religions are instead used to support practices (polygamy, in the case of Mormonism; widow-burning, thuggery, infanticide, hook-swinging, and caste, in the case of Hinduism) justified in whole or in part on strongly theistic grounds.

In Mill's time, Mormonism grew exponentially from its founding membership of six in 1830 to (by Mormon estimates) one hundred thousand to one hundred fifty thousand believers at the time of Smith's death in 1844.[170] This type of strong, rapidly spreading theism concerned Mill. He writes that Mormonism is a "new religion, laying claim to revelation and miraculous powers, forming within a few years a whole nation of proselytes, with adherents scattered all over the earth, in an age of boundless publicity, and in the face of a hostile world." Surprising to Mill, the author

of the religion is "in no way imposing or even respectable by his moral qualities, but, before he became a prophet, a known cheat and liar."[171] The successful spread of Christianity "in an age of credulity and with neither newspapers nor public discussion" is quite understandable.[172] But the rise of Mormonism cannot be ascribed to a tolerant liberal culture that permissively allowed harmless new beliefs to seize the imagination. Mormon revelation created a clear and often wrenching tension between Christian civil society and Mormon believers in every place where Mormons observed their new faith: Fayette, New York; Independence, Missouri; Nauvoo, Illinois; and Salt Lake City, Utah. It was in Carthage, Illinois, near Nauvoo, that Joseph Smith was first jailed and then killed by vigilantes who rejected Mormon beliefs and practices.[173]

Christian communities thought they had a variety of real, if not necessarily liberal or even moral reasons to distrust Mormons. Southern settlers worried that Mormons would rouse up black slaves and invite free blacks into the slave states. Christians were also frightened by the prospect of "religious eccentrics dominating local government."[174] The writers of an 1833 Missouri manifesto condemn Mormons in paraphrases pulled from the Declaration of Independence, styling Mormons as oppressors after the British fashion.[175] Revealed social institutions such as plural marriage only exacerbated external tensions between Mormons and Christian sects, even as they provoked internal tensions within the Mormon community. Thus, Smith's discovery (or creation) of the religious duty to marry multiple wives brought about the secession of a dissenting group (the Reorganized Church of Jesus Christ of Latter-Day Saints, or RLDS) from the group that traveled west to Utah (Church of Jesus Christ of Latter-Day Saints, or LDS).[176]

If, as this book has argued, Mill prizes the social utility of religion precisely because it permits the teaching of reasonable social duties, one would expect Mill to be deeply troubled by Mormonism. But Mill's view of Mormonism is not entirely unfavorable. Mill credits the Mormons with civilizing and improving Nauvoo, Illinois, and their Missouri settlement, arguing that they were the "first to render habitable" the places where they settled.[177] Perhaps anticipating those who argue that plural marriage should be permitted, if not supported, under the laws of a liberal polity, Mill surprisingly suggests that the Mormons legally conceded too much ("far more than could justly be demanded") to their non-Mormon critics.[178] However, authorities should not feel compelled to tolerate autonomous communities with an alien conception of social institutions, whether they are Mormons or utopian socialists, if these groups' practices are actually illiberal. Mormons were (at that time) theocrats. Plural marriage can oppress women, and the grooming of young women for marriage to elders, combined with the social demotion of the young men competing for the affections of young women promised to church elders, may provide the

opposite of the cultivating circumstances in which Mill expects social transformation to occur.

Mill's final position on Mormonism is ambiguous. He confusingly says that Mormon marriage is a "direct infraction" of the liberty principle, but it is not clear what he means by this. He uses the language of infraction infrequently, and when he does use it, he means the abrogation of strict rules, laws, and principles. If something is a direct infraction, it should end the conversation: Mormonism ought not to be tolerated. Mill, though, may mean that all marriages under the customary or legal hierarchy of coverture are illiberal and that the problems with traditional marriages are made more acute by the practice of plural marriages.[179] In this reading, multiple marriages simply amount to multiple offenses against the harm principle, and nothing in the principles of Mormonism is inconsistent with liberty. Alternatively, and more plausibly, Mill may mean that polygamy itself is illiberal. There is a long tradition of styling polygamy as just the type of retrograde, Eastern institution that illiberally enslaves some members of society to others. The long line of political theorists and jurists who take this view include David Hume, William Blackstone, Francis Lieber, Joseph Story, and James Schouler.[180] However, Mill does not clearly or consistently explain how polygamy violates liberty in either the education of children or the treatment of adult women. In any event, the assertion of illiberalism would disagree with his conclusion that liberals should tolerate Mormonism. Certainly, critics' moral disgust with plural marriage is not a good reason for suppressing this practice. As he states tartly if a bit ironically, given his stance on places such as India, "I am not aware that any community has a right to force another to be civilized."[181]

It is most likely that Mill has read about Mormon views on the role of women in Mormon marriages and generalized from these views to Mormon practices, and from practices to principles. In a 1870 sermon, Brigham Young argues that if he is "controlled by the Spirit of the Most High," he is a "king" and able to control his wives and children, who will be "perfectly submissive" to his dictates.[182] This view of women is detailed in the 1853 *Westminster Review* article on Mormonism that Mill may have read prior to writing the entry in the 1854 diary. The *Westminster Review* article states that Mormons are said to be more degrading with respect to women than any other sect identifying as Christian.[183] It is therefore likely that Mormon plural marriage, as a bad education in dependence and submission, puts women in a position where their rights are habitually violated, and that this is what Mill meant by the phrase "direct infraction."

Even if Mill thinks that Mormonism should be tolerated, he writes that a society can use any "fair means" to "oppose the progress of . . . doctrines among their own people." It stands to reason that a minority religion tending toward (although not actually causing) the subjection of women could

be the target of these "fair means."[184] Unfortunately, Mill does not explain the means by which opponents of polygamy can combat doctrines in this context. Silencing Mormons is forbidden, but active and even importuning moral suasion ought to be acceptable so long as it does not use the power of publicity to punish sexually offensive behavior under the cover of restricting actually immoral behavior.

Further light is shed on toleration and education by turning to areas where Mill thought that liberal societies had undertaken a social duty to drag backward societies forward by "leading strings" or by affirmative control and coercion. In these places, it might appear permissibly liberal to use a progressive religion as a tool of moral suasion, and to push aside or even suppress existing illiberal religions.[185] Below, I argue that Mill generally refuses to adopt intervention and suppression of minority religions even when he is confronted by very alien practices or even where they may create uneducative and illiberal social conditions. He refuses to adopt a generally interventionist approach to majority religion in (what he takes to be) uncivilized communities.

At the threshold of opening this question to debate, it is important to note that the justice of "gradually training the people [of a separate community] to walk alone" is hotly contested.[186] Mill himself remarks that his preference for Ireland and India is despotic government: "There is much to be said about Ireland. I myself have always been for a good stout Despotism—for governing Ireland like India."[187] Anyone with a modicum of critical distance could see that a foreign despot without connection to or knowledge of a people is less likely to rule well than even a domestic despot.[188] This question was raised in the previous chapter, where I argued that Mill endorses temporary despotic rule over structurally inegalitarian communities. With reference to religion, however, Mill does not endorse the use of the Christian religion, in spite of its useful morality and egalitarianism, to suppress illiberal religion; in particular, he does not seek to suppress what Hegel calls the "wild particularity" of the Hindu pantheon as a step toward a unified and reasonable civic culture.

There are exceptions to Mill's latitudinarianism. In an early unpublished dispatch on native education, Mill clearly anticipates that educating the native population will result in a "material attenuation" in the religious observances of Calcutta's Hindus, which he appears to approve.[189] Nevertheless, he signals his official *public* position in a key, well-known footnote to *On Liberty* that criticizes the "imbecile display" of British Undersecretary of State, for the Home Department William Nathaniel Massey. Mill, quoting Massey in a November 12, 1857, speech, writes: "'Toleration of their faith' (the faith of a hundred millions of British subjects), 'the superstition, which they called religion, by the British Government, had had the effect of retarding the ascendancy of the British name, and preventing the salutary growth of Christianity.'"[190] As

a defender of social utility, Mill could have defended Christianity as a Masseyesque vehicle of social utility; instead, he mocks Massey's Christian triumphalism and advocates tolerating indigenous religious practices "except such as are abhorrent to humanity."[191] In this particular respect, Mill follows the East India Company's administrative practice, which was committed to honoring religious free exercise in British India since the 1793 Cornwallis Code. But quite apart from company practice, *On Liberty* stands on its own as a polished statement of tolerant liberalism, in precisely the public setting where Mill could have signaled his rejection of the Hindu caste system, the Indian subjection of women, the barbaric practices of thuggery, and so forth.[192]

Mill is clear that toleration does not extend to inhumane practices that pose a "law and order problem."[193] This is in keeping with the rule that proscribes harming others.[194] The Thagi cult, for instance, which robbed and murdered travelers on Indian highways, was "held together by a religious tie, and a common worship of the Hindoo goddess of destruction," and it was appropriately targeted and put down by Indian police.[195] In British India, even the status crime of membership in groups devoted to such practices was prohibited (correctly, according to Mill). The "voluntary" practice of suttee (*sati*, by which the British often referred to widow burning) was criminalized in 1829.[196] In all these instances, the use of state power to suppress harmful practices was legitimate and defensible, although not without complication.

The 1838 Proposed Penal Code, an "eminently successful" attempt to codify offenses for India on which Mill comments, offered more specific rules for applying British legal categories to offenses such as widow burning. For instance, someone who "kindles the pile" for a widow who has "consented to be burned with the corpse of her husband" has committed voluntary culpable homicide by consent and is subject to imprisonment for two to fourteen years.[197] Mill also comments on legislation that ends state interference in religion. For instance, an 1850 law promulgated by the governor-general of India in council, the Caste Disabilities Removal Act, shields Christian converts from the "temporal ill consequences from their change of faith" (loss of property or civil rights). This act also reaffirms basic religious liberty, asserting "that in all matters relating to their temples, their worship, their festivals, their religious practices, and their ceremonial observances, our native subjects be left entirely to themselves."[198] This, for Mill, is the appropriate noninterventionist road to take: the law should permit religious conversion so long as it is voluntary and permit the exercise of existing religious practices even if they seem retrograde. Mill thus restricts impermissible harm to the type of direct physical harm prohibited by criminal law. He tolerates practices that are nuisances and even much worse than nuisances, in spite of their potentially illiberal educative consequences. This is a surprising choice to make but it is defensible.

In cases where traditional customs clash with new, progressive morality, Mill proposes toleration of both the new and the old, whether the new is more reasonable than the old, or vice versa. This is a striking and signal example where Mill's theory of development, which embraces a principle of progress as well as a principle of liberty, prefers the latter to the former. My suggestion is that Mill's practical stance on religious belief is consistent with the liberty of *On Liberty* ("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"). Here, as always, though, the "slippery" region where principles are applied supplies the crucial context. For example, the East India Company did not protect Hindu, Muslim, and Sikh liberty in British India as a matter of liberal principle but as a self-protective measure, so that its native soldiers would not rebel. Nevertheless, given the opportunity to speak affirmatively for a Christian or a secular morality for India, Mill shows remarkable, liberal restraint in the path he charts from the present state of affairs to a reformed social state in India.

Those who accept Mill's argument that progress must be made compatible with individuality and liberty will find that any given society has a broad range of social practices that are organized by existing customs. Some of these customs *can* be legally prohibited, but they will be supported by other customs that should not and perhaps *cannot* be legislated out of existence. No matter how intense our feelings about retrograde customs (or new revelations that appear to revive retrograde practices), the solution is not an exact one—universal suppression of undesirable customs—but an uncertain one that involves persuading the "other" through "fair means." This approach will surely not satisfy some progressives, but even a despotism has to operate with restraint and by moral suasion—and despotism is not what is desired.

Montesquieu aphoristically captures the basic point when he criticizes the scope of Peter the Great's reforms: "Thus, when a prince wants to make great changes in his nation, he must reform by laws what is established by laws and change by manners what is established by manners, and it is a very bad policy to change by laws what should be changed by manners."[199] Mill would likely agree with Montesquieu's sober conclusion, and that "the means for preventing crimes are penalties; the means for changing manners are examples." Mill's religious humanism, after all, is a religion of examples.

A Democratic Religion

Auguste Comte inspired Mill to seek a connected, radical series of social reforms. In one particularly helpful summary that shows where Comte and

Mill agreed, Mill's friend John Morley describes Comte's project as follows: "Society can only be regenerated by the greater subordination of politics to morals, by the moralisation of capital, by the renovation of the family, by a higher conception of marriage, and so on. These ends can only be reached by a heartier development of the sympathetic instincts. The sympathetic instincts can only be developed by the Religion of Humanity."[200]

Mill agrees with Comte on the usefulness of religion humanism for social order, but not on its illiberal organization through priests, rituals, observances, and hierarchies. In this sense, Mill's religious writings are of a piece with *Utilitarianism* and *On Liberty*.

Where Mill helpfully expands on Comte is in his practical engagement with extreme doctrines of theological voluntarism, which Mill rejects as illiberal and dependence inducing, and his toleration of theistic beliefs that are compatible with reason and educative liberty. If Mill himself is an atheist in his personal beliefs, his normative theory of religion does not require the stifling of theism or the scientistic rejection of theistic customs, patterns, and habits of thought.

Mill challenges his Christian readers by asserting that the "idea of annihilation" is "not really or naturally terrible" and that "a religion may exist without belief in a God."[201] This idea will be repellent to many of his readers—to nine tenths of Englishmen, as Mill remarks in his criticism of Comte. The other tenth will likely be repelled by anything calling itself a religion, meaning that Mill is squeezed between a theistic majority and an atheistic minority, neither of which accept his premises.[202]

Mill is also criticized for rebarbarizing the public sphere by conceiving of religion as if it offered a poetry that inspired belief in unreal images of excellence. In the reading offered above, Mill's reliance on the power of the imagination is chiefly intended as an alternative to the type of command and subordination embraced by Utilitarians such as James Fitzjames Stephen. For Mill, command and subordination are ineffective, corrupting ways of teaching and learning social duty. Against proponents of any sort of religious establishment, Mill is a supporter of nonintervention even in extreme cases, for instance, where indigenous Indian religious practices seem opposed to progress, or where Mormon polygamy appears to infract the principle of liberty. Mill's India writings supplement the *Three Essays on Religion* and *On Liberty* by counseling against attempts to impose uniformity on retrograde religious cultures and sects by forcing "English ideas down the throats of the natives." He does not deny the Lockean logic of letting churches manage their own membership and representation, even if these entities keep alive less progressive doctrines in places ripe for reform.[203]

Mill came of age working for the East India Company, which operated on a principle of religious toleration of practices that seemed to English eyes to be the height of barbarism: widows' self-immolation, the sacrifice

of children and elders at Saugur, and the cultish practice of thuggery, to name a few. In this context, where Mill was asked to project power from the India House in London to a country five thousand miles away, he learned the need to use power moderately. The almost necessary failure to tell the whole truth about social life calls forth organized criticism in the form of moralizing, sermonizing, and so forth. Churches, in Mill's eyes, are not merely to be tolerated but celebrated insofar as they play an important role in disciplining individuals and educating governmental actors regarding the limits of political rationality. It is likely that Mill's religion of humanity will continue to play a critical, informing role in educating governments—and in disciplining churches—in the humanity that binds countries such as India and England.

The power of churches is so great that the hard cases of legislative and societal dogmatism are often not the ones at the extremes of democratic society—militias and cults, violent eschatological extremists, and end-of-days naysayers. The crucial cases are those at the center that threaten to enforce widespread conformity and thoughtlessness. The majoritarian prejudices that gave rise to the Test Acts, Catholic disabilities, and the suppression of freethinking are the dangers that Mill emphasizes in *On Liberty* and related texts.[204] However, even a majoritarian tyranny should not (because it cannot) be dissolved by legal fiat. With this in mind, we should regard the *Three Essays* primarily as works of critical theory trying to unsettle mental complacency. It may be that Mill overlooks the dangers of minority sects and extremism in pursuit of his main theme, but it is important to recall that he keeps his eye on the main goal: majority (if not total) freedom.

I have argued that the best way of conceiving of educative power is as an internal balancing between vocally and passionately defended Utilitarianism and whatever existing customs and commitments one has. Some of those commitments are unreasonable and ought not to be reproduced, but Mill is surprisingly circumspect in legislating against the despotism of custom. The religion of humanity is itself not illiberal, *not* because its goal is not potentially despotic but because the way that Mill practices and teaches it through images, by exhortation, and by example is not illiberal. *How* it is taught matters just as much as what it teaches.

Conclusion and Applications

This book has made reference to Mill's major works on logic, political economy, gender, political representation, scientific progress, and religion in order to show the consistent care with which he examines the conditions and practice of educated liberty and mental independence. By this point, I hope the reader will have been convinced that Mill's theory of liberalism depends on education. Without education, the mind is merely left to unanswerable questions, such as the exact justice of a taxation policy, or which life to choose, or whether to believe that a godlike voice is in fact the voice of God. Mill's theory of education and his consistency in elaborating that theory as applied ethology and dialectic answers these otherwise impossible questions of application.

Crucial in this sort of theorizing is the character of the people who will carry out (or benefit from) liberal policies. Mill's philosophy of life is democratic, inclusive, meritocratic, individualist, and moderate. The aristocracies of sex, color, and race have no further justification in a liberal democracy. Scientists are crucial figures in the advancement of learning, but their expertise or the pastoral power of the clergy do not cancel the place of participatory politics and small-scale association.

These observations alone might not warrant yet another study of Mill's thought, although their proper interpretation is a deep and important question. The recent revival of wealth republicanism, the growing literature on public science, and the established literature on deliberative democracy attest to the urgency of these latter issues of democratic inclusion, and Mill, I have tried to show, is very much worth rereading as a commentator on democratization.

What ultimately justifies continued and renewed attention to Mill's liberalism is his way of interrelating and connecting the foregoing issues of gender, work, scientific expertise, political representation, and religion as if the criteria by which to judge them are education and mental independence. Mill's majority democracy eschews the allure of control in favor of creating the conditions required to enjoy mental independence. Although it is tempting to say that thinking power alone matters,

Mill clearly cares about material conditions—birth, family, marriage, economic activity—and recognizes limits on the power of education to transform human beings. Restraining and retraining, not complete transformation—that is education.

The five distinct practical domains that I explored above each offer aspects of informal civic education in liberty and equality: marriage and intimacy, economic labor and ownership, intellectual activity and skilled expertise, political representation, and public religion. A fuller study of the external circumstances shaping would-be citizens' principles also would have examined the military and perhaps existing schools and universities, of which latter Mill was highly critical. As for the former, the military age has "gone by," as Mill says when discussing democracy in America.[1] Although Mill sometimes remarks that society can imitate the order and rank of the military, he does not to my knowledge argue that participation in the military is a necessary element of educative liberty.[2] In other words, proper civic education can occur without military training. This does not mean that Mill is a pacific writer; for example, he describes the Crimean War, whereby European powers opposed the aggressions of Russia, as a "great thing."[3] But, as I have noted in the introduction, Mill also thinks that military might has been replaced by industrial power, which is itself being replaced by what will eventually become a knowledge economy.

In Mill's writings on formal public education, which I treated with brevity above, formal schooling is important in its own right but also subordinate to the broader and indirect civic education described throughout this book. To reprise Mill's argument concerning formal education, if there is a public educational option, it should be merely one of many. Mill is deeply critical of the schools that currently fail to educate the laboring classes, and of the two universities—Oxford and Cambridge—that have failed Britain. Even in his more conservative writings from the 1830s, he describes Oxford and Cambridge as complacent institutions that do not seriously teach the crucial old wisdom (classics and logic), or modern disciplines such as physics and modern languages.[4] In his "Inaugural Address" at St. Andrews, he tries to explain how universities can do better.

Mill recognizes that the public are not competent judges of the educations that they purchase as consumers. Mill therefore argues for publicly endowed universities with standardized testing on a value-neutral curriculum. Endowment is preferred but not required by Mill's theory of formal education.[5] Elementary- and secondary-school students who fail their general examinations would call down a fine on their parents.

This will be an education in facts, not in controversial values. Thus, Mill writes that "the knowledge required for passing an examination . . . should, even in the higher classes of examinations, be confined to facts and positive science exclusively."[6] To the extent possible, "examinations on

religion, politics, or other disputed topics, should not turn on the truth or falsehood of opinions, but on the matter of fact that such and such an opinion is held, on such grounds, by such authors."[7] Mill's theory of formal education and his attempt to dodge controversy and promote universality by limiting education to facts that are buttressed by impartial standardized testing, are less than persuasive.[8] Mill's approach ignores the delicacy of his own arguments for managing values and value disagreements, as we saw in chapter 3. It also appears to conflict with his advocacy, also in *On Liberty*, of dialectics. If dialectic is so powerful a solvent for conformism, surely children can be taught morals and precepts safely, so long as the precepts they are taught are also challenged. Instead, Mill is much more cautious in his account of formal education than perhaps he should be.

These concluding remarks on education bring this book to a close. However, in order to press home the argument that liberal practices improve the practice of moderate democratic politics, I have two further observations to offer. One concerns the type of method that Mill's writing recommend to the present day, and the other concerns the limits of state action, or the size of government, also as it concerns readers in the present.

Mill's Method

In order to give substance to the "slippery region" in which we practice human freedom, I have put sustained emphasis on Mill's activity as that of someone who works partly in the domain of principles and partly in the domain of practical affairs. Political theorists, Mill writes, should "bring light with us, but also . . . receive other light from whencesoever it comes."[9] In interpreting Mill, this book tries to give application to Mill's ultimate principle (human happiness) and to crucial secondary principles, which include liberty and diversity, merit and equality, fraternity and wisdom. Mill also examines other principles: there is no set list, but he includes fairness and other principles discussed in the introduction of this book, sometimes borrowing principles from other authors, and sometimes either elevating or downgrading principles depending on the context.

Without reference to existing laws, existing social forms, or patterns of "real connexions" in human behavior, these principles are mere abstractions that could require or permit, with some clever casuistry, almost any range of applications. Abstract principles are creatures of the classroom. Thus, I have argued that philosophical moderation consists of theorizing "in the uncertain and slippery intermediate region" between mere means and ultimate ends, without skipping directly to first principles and without merely working at the level of public policy.[10] To philosophize moderately is, as I observed in the introduction, to "look into the world itself for the

philosophy of it." Philosophical moderation does not mean simply gathering empirical evidence in support of existing theories but becoming more aware of the limitations of one's system and one's theory. This is a crucial and more difficult task than gathering empirical evidence. Another way of learning how to inquire about inquiry is to experience the tension of having two conflicting educations, as Mill did, or, to take a more everyday case, to experience the tension between the principles of one's education and the disconfirming experience provided by the world.

The fruitfulness of tensions and contradictions explains why Mill is not afraid of one-eyed teachers. It explains why the most liberal thinkers, including ancient dialecticians such as Socrates, were the products of intellectual monasteries, such as the pre-Periclean ancient *polis*, or the medieval state, where educations were severely repressive and compressive. Mill's delight in restraint and retraining explains the wide gap between the present-day permissiveness of authenticity (being yourself, whatever you happen to be), which Mill would deride, and educated liberty.[11]

Something of the cautious English spirit motivates the Millian approach. As Mill observes, "There is in the English mind, both in speculation and in practice, a highly salutary shrinking from all extremes. But as this shrinking is rather an instinct of caution than a result of insight, it is too ready to satisfy itself with any medium, merely because it is a medium."[12] This thought is given beautiful elaboration in *The Subjection of Women*, where Mill analyzes English discipline. With evident regret at their choice of the means of suppressing the causes of individuality, Mill writes: "England is the country in which social discipline has most succeeded, not so much in conquering, as in suppressing, whatever is liable to conflict with it. The English, more than any other people, not only act but feel according to rule. . . . The greater part of life is carried on, not by following inclination under the control of rule, but by having no inclination but that of following a rule."[13]

Mill also elaborates the same point in comparative context when analyzing the fiction of the English constitutional monarchy. He contrasts the English use of fictions to the French insistence that there is simply no discrepancy between principles and practice. When we shift contexts to America, with its Tocquevillian majoritarianism and its contempt for forms and abstract knowledge, we see a possible future for England and France, one that is salutary in its energy but also potentially illiberal in its democratic drift. Thus, the English fiction that the state is a monarchy when in fact it is a limited, parliamentary republic, should be compared with Americans' fiction that they are a free, individualistic people, when in fact there are herdlike aspects of their association. In the former case, it is worth sustaining the fiction, if freedom is the result. In the latter, it is crucial to puncture the fiction, or complacency and passivity will be the result.

The rejection of abstraction and the desire to philosophize at the mid-level, between abstract principles and mere public policy, means that we misunderstand Mill if we interpret him as providing general principles that simply need to be applied for liberty to be achieved. This interpretation, which Mill invites in *On Liberty*, forgets other parts of his interpretation of liberty. Only on a more complete reading can we correct some typical "errors of application," including a smaller subset of Mill's own errors. Here are examples of ways in which abstract principles can be improperly applied:

- The mechanical application of the principle of individual liberty results in the *intellectus sibi permissus*, justifying every passion or interest that a person has.
- The application of a conditional principle of liberty justifies despotism over India, informed by the abstract (and misapplied) logic of Mill's stadial philosophy of history.
- The pure application of a principle of equality leads either to equalization of economic outcomes or to mere equalization of opportunity, regardless of outcomes.
- The application of a principle of competence leads to a rule of experts, undermining participation and agency.
- The application of a principle of fraternity leads to the cancelling of revealed religions, resulting in an abstract, metaphysical humanism that is overly demanding or simply dismissed as impractical in the face of everyday political and moral judgments.
- The application of the utility principle undermines the dignity and agency of individuals "at liberty."

Of these errors, the present book accuses Mill only of misapplying the limits of liberty to justify despotic rule over countries such as India (in theory and practice) and Ireland (in theory only; Ireland is too thoroughly democratized to be ruled despotically in practice). Other books argue that Mill frees the mind from method, or that he chooses expertocracy over pluralistic participation, or that his fraternity principle destroys religion, or that he *correctly* accepts the need to equalize outcomes. I have addressed these criticisms above in the appropriate places.

Some Mill readers are understandably troubled by Mill's moderation. For example, Mill does not offer a categorical rejection of slavery or a libertarian defense of absolute self-ownership, which must be vexing to some readers. However, Mill's moral rejection of chattel slavery and marital slavery, and his practical liberalism about individual beliefs and speech, are as genuine and forceful as categorical statements. Mill simply does not give them what he would call the metaphysical authority of categorical

statements. They have only the justification of experience and methodical observation. The most that Mill will say is that there is almost no foreseeable state of affairs in which an institution such as slavery is a viable policy.

Having said this, Mill is likely in error on slavery in two ways. First, by contrasting ancient and modern slavery, and justifying the former because it lacks the racialism and the educational prohibitions of the latter, Mill misrepresents ancient slavery. Second, because Mill cites a few atypical examples of educated slaves, such as Epictetus, he is able to conclude that slavery did not have to be retrogressive either for individuals or communities. Like his justification of despotism in India, these statements are in error as to the facts and fallaciously generalize from a few examples. A theory that is so dependent on marshalling evidence from experience and observation, as is Mill's, is only as good as its evidence; these are real errors of observation but not fatal to the theory.

Other readers of Mill will remember and regret his immoderate focus on perfection of character. Thus, in the "Inaugural Address" at St. Andrews, Mill ringingly asks students to become artists "intolerant of the smallest faults in ourselves or in anything we do."[14] This sounds very much as if Mill protects a sphere of individual liberty only because he expects and even demands individuals to make perfectionist inroads on it. In his writings on Comte, Mill similarly appears to transform liberal society into something else. His apparent perfectionism raises difficult questions about his liberalism. Authors have defended Mill by describing Mill's method as one of systematic antagonism, à la Guizot; of Platonic dialectic and Aristotelian moderation; of the logician's art of life; and as an anticipation of the later liberal "overlapping consensus." This book has presented Mill as a questioner in the spirit of Plato; a social scientist in the frame of Aristotle, Bacon, Bentham, and Comte; and a moderate in the spirit of Aristotle.

Mill is atypical among radicals for his conscious embrace of the spirit of moderation, which is achieved by recognizing that any great commitment—even, for example, liberty or education—must be seen in the light of "principles more extensive than itself."[15] Despite his serious criticisms of Aristotle, this spirit was what Mill loved best about Aristotle's works. For Mill, the best way of keeping the most extensive principles in view is dialectic, a method that helps to reveal the insufficiency of one's principles.[16] In this respect, Mill thinks that Plato and Aristotle agree with the greatest empiricists of the English tradition and with the best French social and political thinkers of his day, in expanding the circle of knowledge by pushing its boundaries through discussion and debate. One can put it this way: for Mill, the great thinkers are consistent in their methods, because they seek enlargement and accept many-sidedness, and because they reject the "universal illusion" of consensus, based on motivated reasoning, that marks unphilosophical thinking.

Millian moderation is sometimes lacking in contemporary political theory, where professional caution is plentiful and specialization is ironically common. There is much to be said in defense of cautious prudence, but the beneficial individual and group consequences of specialization reinforce the temperament that theorists already have. To oversimplify, normative analytical theorists have too much of what Pascal calls the geometric spirit, and continental theorists have too much of Pascal's spirit of finesse. Specialization simply confirms both of these academic prejudices, and the need to counterbalance the partisans of the other school keeps each of them populated. At the level of practical politics, the same half-self-conscious partisanship keeps alive the distinction between progressive and conservative thinkers.

My aim in writing this book about the theory of liberal practice was certainly not the Frankenstein-esque goal of reanimating nineteenth-century policy debates over coverture laws, plural voting, cooperatives, or the toleration of new religions. If the reader puts down this book in order to petition his or her legislature for the introduction of plural voting, the point of the book has likely been lost. If, instead, it becomes easier to see how to approach problems in the "slippery intermediate region" where politics happens—to see problems where others see consensus, and to see that grounds for consensus on secondary principles exist even amid sharp and irreconcilable disagreement over first principles—then the labor of this project is happily recompensed.

The Size of Government

By way of a second concluding observation, I would like to address the question of the aim and scope of the powers of a moderate liberal democratic government. This has become one of the dominant questions dividing interpreters of the democratic principle. In spite of some very relevant passages in *On Liberty* and *Principles of Political Economy*, Mill could be said to evade this question. Does this make Mill less useful? Not in the interpretation offered above. Classical liberals reject the view that the state can and should create the conditions for the freedom of citizens. Proponents of an active state consider the liberty of classical theorists a narrow, pinched substitute for the equal freedom that liberty never achieves in practice. Mill's liberalism is clearly not laissez-faire liberal individualism. He pays close attention to social, political, and material relations between persons and claims (as libertarians do not) that more and less moral lives cannot be led without guidance, or what above he called "severe compression and repression," even if he thinks that the state is not the appropriate agent of constraint.

Readers can refer back to the introduction and to chapters 2 and 3 for my discussion of these questions. Here, let it suffice to remind readers that the transitional character of capitalism, and the broad social and political power over children, mean that Mill permits more state action than is typically thought to be liberal. The confusion lies in whether this state action is interventionist or paternalist. For Mill, the key problem is not interventionism but paternalism, given that substituting the judgment of one person for another inhibits education.[17] But even where intervention does not decrease mental power, interventionism fails by relying on those who do not know enough, or who do not sufficiently care enough, to intercede in areas where citizens very much care, and where they have concrete, informed, "shoe-pinching" knowledge. In these cases, the general presumption is also against intervention.[18] It is correct to identify examples of interventionism that are not paternalistic and to argue that Mill accepts some nonpaternalistic intervention that relies on local knowledge and accountable governmental action.

Although it is not easy to find one quotation that sums up what liberty means to Mill, the following passage from his *Principles of Political Economy* has the virtue of combining the "protective" interest of Benthamic Utilitarianism, the liberty interest in self-direction emphasized in *On Liberty*, and the progressive push to enlarge human dignity and self-control in *Utilitarianism*, *The Subjection of Women*, and the "Utility of Religion." Thus, if not exactly a definition of Millian liberty, this passage is at least an adequate description of its principal ingredients. After satisfying the physiological needs,

> The perfection both of social arrangements and of practical morality 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: and the education which taught or the social institutions which required them to exchange the control of their own actions for any amount of comfort or affluence, or to renounce liberty for the sake of equality, would deprive them of one of the most elevated characteristics of human nature.[19]

Here we find a synopsis of Mill's view that the principles of liberty and equality are *opposed*, and that they must be reconciled and balanced; that liberty and the desire for material security are *contrasted*; and that competing educations must always be *compared*. We also see Mill's insistence that the advancement of a prior and potentially more important goal, such as civilization, cannot come at the expense of mental independence, but that it is also fruitless to promise mental cultivation and individuality in circumstances of penury and insecurity.

To draw together my methodological and political conclusions, what Mill demands from citizens, with their many new hats (worker, owner,

bureaucrat, expert, spouse, coreligionist), is not certainty in first principles, but *moderation* in applying principles such as utility, liberty, and progress.[20] Bentham achieved this sense of moderation in some passages, although Mill insists in his criticisms of Bentham that he did not succeed. In the very last lines of *On Liberty*, Mill makes his case for the modern state depend on the "worth of the individuals composing it," measured by their "mental expansion and elevation." He argues against a benevolent state that "dwarfs its men, in order that they may be more docile instruments in its hands even for beneficial purposes."[21] Mill clearly does not intend to define clear barriers to state intervention but instead makes a statement about the "barrier of moral conviction" used to erect defenses against majority tyranny. Above, I have argued that this barrier is the belief in the importance of mental independence and the thinking power of the public.

"An Absurdity . . . Worth Studying"

Passing from what legislators should and should not do, what is the theorist (and citizen) to do if they want to live with the spirit of Mill in the present day? I offer two suggestions.

First, citizens can explore and come to agreement on secondary principles. If a progressive meets a conservative on the open "sea of mind," or a Kantian encounters a Utilitarian, if both can bracket their disagreement on first principles they can agree about secondary principles. Once we leave aside our penchant for moral metaphysics, Mill sees that people "are more easily brought to agree in their intermediate principles . . . than in their first principles."[22] An example is reform of the criminal justice system. Reformers are often paralyzed by deep differences between retributivism and deterrence. A first suggestion is to seek agreement with one's opponents on sober secondary or tertiary principles such as leniency, proportionality, and procedural fairness. Dogmatism is the danger; a granular focus on applying secondary principles is the solution.

Second, Mill's is an approach to philosophizing that reflects on *ways* of living a thoughtful life. He sometimes prods us in this direction: "There is no doctrine really worth labouring at, either to construct or to inculcate, except the Philosophy of Life. A Philosophy of Life, in harmony with the noblest of feelings and cleared of superstition, is the great want of these times."[23] This is the missing, dialectical "art of life" that Mill embodies in his corpus.[24] Thus, a second suggestion is to think about the adequacy of one's secondary principles as if one's own happiness is at stake. Party, job, and sect may reward narrowness in secondary principles, and we can remain stuck with a negative answer to the question of Mill's mental crisis: "Suppose that all your objects in life were realized: that all the changes in

institutions and opinions which you are looking forward to, could be completely effected at this very instant: would this be a great joy and happiness to you?" Mill's emphasis on happiness remains a good test of a life worth leading and an example of applied Socratic self-questioning.

In this book, I have assumed that it is a virtue of Mill's many-sidedness that his critics find diametrically opposed errors in his writings. Mill himself finds intellectual virtue in being misunderstood. As he remarks about the Saint-Simonians, you must be doing something right "when you come to be represented by A as anarchists; by B as absolutists; by C as levellers; by D as hierarchs; by E as infidels; by F as mystical religionists; by G as sentimentalists; by H as metaphysicians & political economists; & so forth." The least one can say is that any theory so widely misrepresented by so many different persons is "an absurdity . . . worth studying."[25]

If not evidence of wisdom, I take the scholarly disagreement over the interpretation of Mill as a promising sign that Mill's liberty is worth studying. Some of his critics are certain that he tyrannizes over society with an abstract morality and a bloodless devotion to humanism. Others think that he is too individualistic, too liberal, too unmanly, or too devoted to personal eccentricity. Some find him to be a theist; others, an atheist. For some, he is a classical liberal; for others, a progressive economist. He is the founder of first-wave feminism, yet he fails to make a radical case for feminism. In the case of Millian liberalism, as I think in all suitably complex political theories, both sides of the story are right. We can find seeds of the extremes in Mill's liberalism, and the liberal question is therefore: In which direction should we, in the present moment, bring his thought?

Abbreviations

For each of Mill's works, and for the *Collected Works* edition, I use an abbreviation after the first instance of the title in the endnotes.

In this book, I assume that Mill wrote substantial and often even major works on a variety of topics for which he is often not properly credited.

If we distinguish booklike works from non-booklike works by length, then "Auguste Comte and Positivism" should take its place as one of Mill's books alongside the *Autobiography*, *Early Draft* (of the *Autobiography*), *Considerations on Representative Government*, *Examination of Sir William Hamilton's Philosophy*, *On Liberty*, *Principles of Political Economy*, *The Subjection of Women*, and *A System of Logic*. These works are all eighty-plus pages, rendering less material the fact that "Auguste Comte and Positivism," in particular, is formally presented as a review essay. *Utilitarianism* is a liminal case—a famous essay (Mill calls it a "little volume" and a "little work") that is not distinguished by its length from other, less famous essays (e.g., "Coleridge").[1] Mill's newspaper articles are, in general, of a lower tier, insofar as they primarily refer to the issues of the day; but my contention, such as it is, is that the reviews are closer in their scope to the original, book-length works (*On Liberty*, *Utilitarianism*, *The Subjection of Women*, *Three Essays on Religion*) and textbooks (*Principles of Political Economy* and *System of Logic*) than is sometimes thought.

I have followed the *Collected Works* in giving the publication date of Mill's shorter works in parentheses. I have added the original publication dates of Mill's other works. These latter dates are for the convenience of the reader who is not familiar with Mill's works and should be used with caution, because they do not take into account the many editions and reprintings of several of Mill's most important writings.

A	*Autobiography* (1873), 1:1–290
ACP	"Auguste Comte and Positivism" (1865), 10:261–368
B	"Bentham" (1838), 10:75–115
BHMS	"Blakey's History of Moral Science" (1833), 10:19–29
C	"Coleridge" (1840), 10:117–63

CE	"Centralisation" (1862), 19:579–613
CM	*A Companion to Mill*, ed. Christopher Macleod and Dale E. Miller (Chichester, UK: Wiley, 2017)
CRG	*Considerations on Representative Government* (1861), 19:371–577
CS	*Chapters on Socialism* (1879), 5:703–53
D	"Diary of 1854," 27:639–68
DIA [I]	"De Tocqueville on Democracy in America" [I] (1835), 18:47–90
DIA [II]	"De Tocqueville on Democracy in America" [II] (1840), 18:153–204
ED	"Early Draft" [of the *Autobiography*], 1:4–246
EX	*Examination of Sir William Hamilton's Philosophy* (first ed., 1865), 9 (*in toto*)
G	"Guizot's Essays and Lectures on History" (1845), 20:257–94
GP	"Grote's Plato" (1866), 11:375–440
I	"Inaugural Address Delivered to the University of St. Andrews" (1867), 21:215–57
N	"Nature" (1874), 10:373–402
NPE	"Newman's Political Economy" (1851), 5:439–57
OG	"On Genius (1832)," 1:327–39
OL	*On Liberty* (1859), 18:213–310
OM	"On Marriage" (1832–33?), 21:35–49
PPE	*Principles of Political Economy* (first ed., 1848), 2, 3 (both *in toto*)
RBP	"Remarks on Bentham's Philosophy" (1833), 10:3–18*RR* "Rationale of Representation" (1835), 18:15–46
RWR	"Recent Writers on Reform" (1859), 341–70
SD	"Sedgwick's Discourse (1835)," 10:31–74
SL	*A System of Logic Ratiocinative and Inductive: Being a Connected View of the Principles of Evidence and the Methods of Scientific Investigation* (first ed., 1843), 7, 8 (both *in toto*)
SW	*The Subjection of Women* (1869), 21:259–340
T	"Theism" (1874), 10:429–89
TPR	"Thoughts on Parliamentary Reform" (1859), 19:311–39
U	*Utilitarianism* (1861), 10:203–59
UR	"Utility of Religion" (1874), 10:403–28

Notes

Introduction

1. Mill, "Civilization," in *The Collected Works of John Stuart Mill*, ed. John Robson, 33 vols. (Toronto: University of Toronto Press; London: Routledge and Kegan Paul, 1963–91), 18:141 (*Collected Works* hereafter cited by volume and page number); Mill, "Utility of Religion," 10:403–28, at 408 (hereafter cited as *UR*).
2. Mill, *On Liberty*, 18:213–310, at 261 (hereafter cited as *OL*); Wilhelm von Humboldt, *The Limits of State Action*, ed. J. W. Burrow (Indianapolis: Liberty Fund, 1993).
3. For a parallel in Condorcetian civic education, see Fritz Osterwalder, "France—Schools in Defense of Modern Democracy: Tradition and Change in French Educational Republicanism from Condorcet to Quinet and Ferry," in *Schools and the Making of Citizens in the Long Nineteenth Century: Comparative Visions*, ed. Daniel Tröhler, Thomas S. Popkewitz, and David F. Labaree (New York and London: Routledge, 2011), 193–215, at 195–99.
4. Mill, *A System of Logic Ratiocinative and Inductive: Being a Connected View of the Principles of Evidence and the Methods of Scientific Investigation*, 8:922 (hereafter cited as *SL*); Mill, "Coleridge," 10: 117–63, at 10:133–34 (hereafter cited in text as *C*).
5. For Mill's conservative turn during the 1830s, see Richard Reeves, *John Stuart Mill: Victorian Firebrand* (London: Atlantic Books, 2007). For his romantic turn, see Nicolas Capaldi, *John Stuart Mill: A Biography* (Cambridge: Cambridge University Press, 2004).
6. Joseph Hamburger, *John Stuart Mill on Liberty and Control* (Princeton, NJ: Princeton University Press, 1999), 129, 226.
7. Maurice Cowling, *Mill and Liberalism* (Cambridge: Cambridge University Press, 1963).
8. Gertrude Himmelfarb, *On Liberty and Liberalism: The Case of John Stuart Mill* (New York: Knopf, 1974), 330.
9. Robert Devigne, *Reforming Liberalism* (New Haven: Yale University Press, 2006), 161, 164, 223–24; 186–90.
10. James Fitzjames Stephen, *Liberty, Equality, Fraternity*, ed. Stuart D. Warner (Indianapolis: Liberty Fund, 1993). See Warner's introduction for commentary.

11. Friedrich Hayek, *Hayek on Mill: The Mill–Taylor Friendship and Other Writings*, ed. Sandra J. Peart (Chicago: University of Chicago Press, 2015).
12. John Dewey, "The History of Liberalism," in *Liberalism and Social Action* (New York: G. P. Putnam, 1935).
13. Gregory Claeys, *Mill and Paternalism* (Cambridge: Cambridge University Press, 2013); Joseph Persky, *The Political Economy of Progress: John Stuart Mill and Modern Radicalism* (New York: Oxford University Press, 2016).
14. For the debate, see John Gray, "John Stuart Mill: Traditional and Revisionist Interpretations," *Literature of Liberty*, 2, no. 2 (1979): 7–37.
15. Reeves, *John Stuart Mill: Victorian Firebrand*; Nadia Urbinati, *Mill on Democracy: From the Athenian Polis to Representative Government* (Chicago: University of Chicago Press, 2002); Stefan Collini, *Public Moralists: Political Thought and Intellectual Life in Britain, 1850–1930* (Oxford: Clarendon Press, 1993), 4–5.
16. Mill, *C*, 10:138–39.
17. Mill, *Considerations on Representative Government*, 19:373 (hereafter cited as *CRG*).
18. Mill, *C*, 10:132–33.
19. Among many voices, important works on Mill on logic include Frederick Rosen, *Mill* (Oxford: Oxford University Press, 2013); and Terence Ball, "Psychology, Association, and Ethology," in *A Companion to Mill*, ed. Christopher Macleod and Dale E. Miller (Chichester, UK: Wiley, 2017), 145–59 (hereafter cited as *CM*). I was particularly aided by these authors' interpretations.
20. Mill, *Utilitarianism*, 10:215 (hereafter cited as *U*). For this interpretation, see Persky, *The Political Economy of Progress*.
21. Mill, *The Subjection of Women*, 21: 259–340 (hereafter cited as *SW*).
22. *OL*, 18:302.
23. Mill, "Inaugural Address Delivered to the University of St. Andrews [February 1, 1867]," 21: 217–57 (hereafter cited as *I*).
24. *CRG*, 19:404. For the value of mental independence in a different context, see Chris Barker, "Demagoguery and Mental Independence in James Fenimore Cooper's Political Writings," *American Political Thought* 4, no. 4 (2015): 588–611. For active character, see Rosen, *Mill*. For individuality, see Wendy Donner, "Mill on Individuality," *CM*, 425–39. For wisdom, see Devigne, *Reforming Liberalism*. For "inner freedom," see John Skorupski, "Mill, German Idealism, and the Analytic/Continental Divide," *CM*, 535–50. I have profited from the work of many other authors, and I have done my best to provide citations below, but the scholarly literature is so extensive that I almost certainly have not succeeded as well as I would have liked.
25. See Rosen, *Mill*, 131–34. Thus, Mill observes that "the love of power and the love of liberty are in eternal antagonism. Where there is least liberty, the passion for power is the most ardent and unscrupulous." See *SW*, 21:338. For commentary, see Rosen, *Mill*, 246–47.

26. Related phrases include "thinking power(s)," "mental power(s)," "intellectual power(s)," the "power of generalization," the "power of reason," and "powers of imagination, abstraction, and discrimination." See Mill, "Early Draft," 1:22; 58, 70, 84, 76, 104, 160 (hereafter cited as *ED*); "On Genius," (hereafter cited as *OG*), 1:331, 336.
27. Mill, "De Tocqueville on Democracy in America" [II], 18:165 (hereafter cited as *DIA* [I] and [II]).
28. For an important discussion of Mill and power, see Bruce Baum, *Rereading Power and Freedom in J. S. Mill* (Toronto: University of Toronto Press, 2000).
29. *U*, 10:237.
30. Mill, *OL*, 18:251–52; "Grote's Plato," 11:406 (hereafter cited as *GP*). Mill defines the "dialectic art" as the "investigation, in conversation between two persons, of the definition of some term in general use, connected with emotional sentiments and practical impulses and restraints."
31. Mill, "Bentham," 10:110 (hereafter cited in text as *B*).
32. Elijah Millgram, "Mill's Epiphanies," *CM*, 12–29, at 23, quoting, in the second phrase, *B* 10:93.
33. Mill, "Auguste Comte and Positivism," 10:337 (hereafter cited as *ACP*).
34. Mill, "Guizot's Lectures and Essays on History," 20:269 (hereafter cited as *G*). For Guizot, see Georgios Varouxakis, "Guizot's Historical Works and J. S. Mill's Reception of Tocqueville," *History of Political Thought* 20, no. 2 (1999): 292–312.
35. See Harvey Mansfield, *Tocqueville: A Very Short Introduction* (Oxford: Oxford University Press, 2010), 3. The Mill–Tocqueville correspondence began on June 11, 1835, after Mill had begun reading *Democracy in America*.
36. *A*, 1:168. For an interpretation of this passage emphasizing its context in Philosophical Radicalism, see Alexander Brady, "Textual Introduction," 18: lxxiv.
37. *OL*, 18:220–21.
38. Karl Marx, "For a Ruthless Criticism of Everything Existing," in *The Marx-Engels Reader*, 2nd ed., ed. Robert C. Tucker (New York: Norton, 1978), 12–15, at 13.
39. Mill, "Writings of Alfred de Vigny," 1:463–501, at 466; Vincent Guillin, "The French Influence," *CM*, 126–41, at 133–36. See Marx, "Theses on Feuerbach," in *The Marx-Engels Reader*, 143–45, at 145.
40. Mill, *Autobiography*, 1:251 (hereafter cited as *A*). Mill also uses the term *apostle* to describe the one who enters "unintellectual society" only to improve it (1:235).
41. *U*, 10:212.
42. Mill, "Blakey's History of Moral Science," 10:29 (hereafter cited as *BHMS*). Mill's Latin is a paraphrase of Francis Bacon, who writes, "But the middle are the true and solid and living axioms" (*At media sunt axiomata illa vera et solida et viva*). In the same paragraph, Bacon explains

that "the understanding must not therefore be supplied with wings, but rather hung with weights, to keep it from leaping and flying." Limiting the appeal to principles is crucial to Bacon and to Mill. See Francis Bacon, "Novum Organum," in *The Works of Francis Bacon*, ed. James Spedding, Robert Leslie Ellis, and Douglas Denon Heath (London: Longman and Co., 1858), 1:70–365, at 205. See also James Martineau's useful summary of Mill's method: "At the upper limit shunning the original postulates of all knowledge, and at the lower its concrete results, he has addressed himself to its intermediary processes, and determined the method for working out derivative, but still general truths." James Martineau, "John Stuart Mill," *National Review*, 9, no. 18 (1859): 474–508, at 478–79. For discussion, see Alan P. F. Sell, *Mill on God: The Pervasiveness and Elusiveness of Mill's Religious Thought* (Eugene, OR: Wipf & Stock, 2012), 19–20.

43. *OL*, 18:262.
44. See Graham Finlay, "Mill on Education and Schooling," *CM*, 504–17.
45. *A*, 1:25.
46. Mill, *Principles of Political Economy*, 2:763 hereafter cited as *PPE*).
47. For this argument, see Claeys, *Mill and Paternalism*. In my view, Mill's paternalism extends only to intervention that either directly acts on children in their nonage, or that imposes duties on adults connected to securing the conditions of liberty for underage children, including a component of intergenerational justice.
48. *ED*, 1:34, 176; *SL*, 8:840–42.
49. See *OL*, 18:224–25 and context.
50. *OL*, 18:225–26.
51. *A*, 1:147.
52. *B*, 10:89.
53. *ED*, 1:140, 146; *OG*, 1:336; *A*, 1:141, 143.
54. Mill's background in empirical psychology can be traced to his exposure to Locke's *Enquiry Concerning Human Understanding*; Claude Adrien Helvétius's *De l'esprit*, which Mill "greatly admired"; David Hartley's *Observations on Man*, the "master-production in the philosophy of mind": and James Mill's *Analysis of the Mind*, "which carried Hartley's mode of explaining the mental phenomena to so much greater length and depth." See Mill, *ED*, 1:70 for "greatly admired" and *A*, 1:71 for the other quotations. I was aided by Joseph Persky's discussion of Mill's antecedents in *The Political Economy of Progress*, 3–25.
55. Mill, "Chapters on Socialism," 5:746 (hereafter cited in text as *CS*).
56. See Osterwalder, "France—Schools in Defense of Modern Democracy."
57. *A*, 1:260.
58. *SL*, 8:793.
59. Mill, "Notes on the Newspapers," 6:149–280, at 228, referring to Locke's *Essay Concerning Human Understanding*.
60. See Mill, "Whewell on Moral Philosophy," 10:165–201, at 174.

61. Mill, "Centralisation," 19:579–613, at 610.
62. See Quentin Skinner, *Liberty before Liberalism* (Cambridge: Cambridge University Press, 1998), x, 81–84, 115–16 for the "rival view of liberty embedded in classical liberalism."
63. *SW*, 21:321.
64. *PPE*, 2:215, where Mill describes the lesson that can be learned from Fourierists.
65. *OL*, 18:262.
66. Bacon, *Of the Dignity and Advancement of Learning*, in *The Works of Francis Bacon*, 4:273–498, at 431–34.
67. *OG*, 1:337. See Ball, "Psychology, Association, and Ethology," 155 for *A*, 1:35.
68. I argue this point in a working paper, "Mill's Theory of Public Engagement," presented at the conference Freedom of Speech, 1550–1850, Ohio University, April 7–8, 2017.
69. *A*, 1:197.
70. Mill, "The Peerage Question in France," 23:341–45, at 341–42.
71. Mill, "To Parke Godwin [Jan. 1, 1869]," 17:1535. For Comte's similar view of the effect of the positive system on women and the working classes, see Auguste Comte, "Système de Politique Positive (1851–1854)," in *Auguste Comte and Positivism: The Essential Writings*, ed. Gertrud Lenzer (New Brunswick and London: Transaction Publications, 1998), 307–492, at 319.
72. *PPE*, 2:791.
73. Mill, "To Gustave d'Eichthal [Oct. 8, 1829]," 12:34–38, at 36–37.
74. *OL*, 18:282.

Chapter One

1. *SW*, 21:271.
2. See Chris Barker, "JS Mill on Nineteenth Century Marriage and the Common Law," *Law, Culture and the Humanities* (2015): 1–21. doi.org/10.1177/1743872115569223
3. See Harriet Taylor and J. S. Mill, "Papers on Women's Rights," 21:378–92, at 391.
4. Mill, "Newman's Political Economy," 5:439–57, at 456n (hereafter cited as *NPE*).
5. See, for example, Susan Moller Okin, "Justice and Gender: An Unfinished Debate," *Fordham Law Review* 72, no. 5 (2004): 1537–67.
6. For example, Robert Owen insists that marriage, in its current state, is the "grossest prostitution," but he claims only to reject priestly interference, limits on divorce, and other problems with "artificial" marriage as it is currently constituted. See Robert Owen, *Manifesto of Robert Owen, the Discoverer, Founder, and Promulgator, of the Rational System of Society, and of*

the Rational Religion, Sixth Edition, to which are Added a Preface and also an Appendix (London: The Social Institution, 1840), 51–58.

7. *OL*, 18:301.
8. *SW*, 21:273.
9. Mill, "To Thomas Joseph Haslam [Feb. 19, 1868]," 16:1363–64, at 1363.
10. *SW*, 21:291. See, for a similar point, John Rawls, "The Idea of Public Reason Revisited," *University of Chicago Law Review* 64, no. 3 (1997): 765–807, at 792–93: "Since a democracy aims for full equality for all its citizens, and so of women, it must include arrangements to achieve it. . . . How best to do this in particular historical conditions is not for political philosophy to decide."
11. *SW*, 21:295.
12. These issues are explored in Maria H. Morales, ed., *Mill's Subjection of Women: Critical Essays* (Lanham, MD: Rowman & Littlefield, 2005). For the specific question of Mill's rhetorical intent in speaking as he does to a more conservative audience, see Elizabeth Smith, "John Stuart Mill's 'The Subjection of Women': A Re-Examination, *Polity*, 34, no. 2 (2001): 181–203.
13. See Mill, "The Reform Debate [July 8, 1848]," 25:1101–4, at 1102–3, on the need for reformers to compromise but not to "cut down their principles."
14. 24 and 25 Victoria c. 100 (1861) on protecting the person of women; 20 and 21 Victoria c. 85 (1857) on divorce.
15. See *SW*, 21:285: "The question of divorce, in the sense involving liberty of remarriage, is one into which it is foreign to my purpose to enter."
16. See Mill, "To John Nichol [Aug. 18, 1869]," 17:1632–34, at 1634.
17. In England, women achieved only partial enfranchisement in 1918, equal access to divorce in 1923, and equal franchise in 1928.
18. For Mill, the analogy drawn between paternal and political power is also a false analogy. See *SL*, 8:795–96.
19. John Locke, *Two Treatises of Government*, student ed., ed. Peter Laslett (Cambridge: Cambridge University Press, 1988), 174, 184–93, 309–11, 323.
20. David Hume, "Of Refinement in the Arts," in *Political Essays*, ed. Knud Haakonssen (Cambridge and New York: Cambridge University Press, 1994), 107; Hume, *A Treatise of Human Nature*, ed. L.A. Selby-Bigge (Oxford: Clarendon, 1896), 495.
21. For the absence of women in Smithian liberalism, see Michèle Pujol, *Feminism and Anti-Feminism in Early Economic Thought* (Aldershot, UK: Edward Elgar Publishing, 2003).
22. *B*, 10:98. This is arguably an undeserved criticism in light of Bentham's pioneering arguments for the decriminalization of homosexual conduct.
23. *A*, 1:106. See also Miriam Williford, "Bentham on the Rights of Women," *Journal of the History of Ideas* 36, 1 (1975): 167–76.

24. See James Mill, "Government," in *Political Writings*, ed. Terence Ball (Cambridge: Cambridge University Press, 1992), 1–42, at 27; Capaldi, *John Stuart Mill: A Biography*, 63–65.
25. *ED*, 1:106. See also Terence Ball, "Utilitarianism, Feminism, and the Franchise," in *Reappraising Political Theory: Revisionist Studies in the History of Political Thought* (Oxford: Clarendon Press, 2002), 178–211, at 180. For a contemporary response to James Mill, see George Cornewall Lewis, *Remarks on the Use and Abuse of Some Political Terms*, new ed. (Oxford: James Thornton, 1877), 90–96.
26. *DIA* [I], 18:55; Harriet Taylor and J. S. Mill, "Papers on Women's Rights," 21:390.
27. Samuel Bailey, *The Rationale of Political Representation* (London: R. Hunter, 1835), 236–42.
28. *SW*, 21:294–95.
29. For continental marital laws and nineteenth-century reforms, see Lloyd Bonfield, "European Family Life," in *The History of the European Family: Family Life in the Long Nineteenth Century*, ed. David I. Kertzer and Marzio Barbagli (New Haven: Yale University Press, 2002), 109–54.
30. *State v. Black*, 60 N.C. 262, 263 (1864). This case is one of a stream of North Carolina cases often cited in classes on law and society to capture the place of women in nineteenth-century society.
31. *OL*, 18:301. See Stephen, *Liberty, Equality, Fraternity*, 198n; *SW*, 21:271, 294; Baum, *Rereading Power and Freedom*, 23–24.
32. *U*, 10:259; cf. *DIA* [I], 18:55.
33. See the Mills on the end of legal disabilities (21:261), occupational liberty and the "power of earning" (21:270–71, 298), divorce (21:42, 46–47, 48–49, 285, 354–55), and female suffrage (21:301).
34. Mill, "Statement on Marriage," 21:97–99, at 99.
35. William Blackstone, *Commentaries on the Laws of England: A Facsimile of the First Edition of 1765–59* (Chicago: University of Chicago Press, 1979), 1:430.
36. See John Fraser Macqueen, *The Rights and Liabilities of Husband and Wife, at Law and in Equity, as Affected by Modern Statutes and Decisions* (London: Bradbury and Evans, 1848), 1:28.
37. See Lee Holcombe, *Wives and Property: Reform of the Married Women's Property Law in Nineteenth-Century England* (Toronto: University of Toronto Press, 1982).
38. T. H. Lister, "Rights and Conditions of Women," *Edinburgh Review*, 73 (1841): 189–209, at 207.
39. *SW*, 21:297.
40. Blackstone, *Commentaries*, 1:433.
41. *SW*, 21:410.
42. James Schouler, *A Treatise on the Law of Domestic Relations*, 6th ed. (Boston, MA: Little, Brown, and Company, 1870), 74; Hendrik Hartog, *Man*

and Wife in America: A History (Cambridge, MA: Harvard University Press, 2002), 38.

43. Macqueen, *The Rights and Liabilities of Husband and Wife*, 200.
44. See Macqueen, *The Rights and Liabilities of Husband and Wife*, 198.
45. [Caroline Norton], *A Review of the Divorce Bill of 1856, with propositions for an amendment of the laws affecting married persons* (London: J. W. Parker, 1857), 16. For the arguments about equity, see Macqueen, *The Rights and Liabilities of Husband and Wife*, 195–96.
46. [Norton], *A Review of the Divorce Bill of 1856*, 17.
47. Macqueen, *The Rights and Liabilities of Husband and Wife*, 202–3.
48. See House of Lords Parliamentary Debate, 20 May 1856, 142:401–27.
49. [Norton], *A Review of the Divorce Bill of 1856*, 11. Divorce costs ranged from £1,000 to £5,000. See Danaya C. Wright, "Untying the Knot: An Analysis of the English Divorce and Matrimonial Causes Court Records, 1858–1866," *University of Richmond Law Review*, 38 (2004): 903–101, at 911.
50. [Norton], *A Review of the Divorce Bill of 1856*, 11–12. Prior to the 1857 act, four parliamentary divorces were granted to women (of eight requested), and 320 were granted to men of the 371 requested. See Wright, "Untying the Knot," 906, 921.
51. Friedrich Charles von Savigny, *Of the Vocation of Our Age for Legislation and Jurisprudence*, trans. Abraham Hayward (London: Littlewood and Co., 1831) (emphases added).
52. *SW*, 21:261, 264.
53. E.g., Catherine MacKinnon, "Feminism, Marxism, Method, and the State: An Agenda for Theory," *Signs: Journal of Women in Culture and Society* 7, no. 3 (1982): 515–44, at 529.
54. Locke, *Two Treatises of Government*, 319.
55. Immanuel Kant, "The Metaphysics of Morals," in *Practical Philosophy*, ed. and trans. Mary Gregor (Cambridge: Cambridge University Press, 1996), 353–604, at 426–29. In Kant's defense, his analysis of marriage in this section rejects contractarian sexual relations by combining contract and natural fact under law.
56. Wilhelm Friedrich Hegel, *Philosophy of Right*, trans. H. B. Nisbet (Cambridge: Cambridge University Press, 1991), addition to para. 161.
57. For mastery, see *SW*, 21:290.
58. Humboldt, *The Limits of State Action*, 26.
59. Humboldt, *The Limits of State Action*, 26.
60. *OL*, 18:300–301.
61. William Dougal Christie, *John Stuart Mill and Mr. Abraham Hayward: A Reply about Mill to a Letter to the Rev. Stoffard Brooke, Privately Circulated and Actually Published* (London: Henry S. King & Co., 1873). For a brief analysis of the Christie-Hayward exchange, see David Stack, "The Death of John Stuart Mill," *Historical Journal*, 54, no. 1 (2011):167–90, at 174.
62. Mill, "On Marriage," 21:47, (hereafter cited as *OM*), emphasis added. This could just as easily be meant to reassure Harriet in her decision not to leave her husband than to indicate Mill's view.

63. *OM*, 21:47. In his *System of Logic*, Mill observes that only a despot has unlimited power of experimenting on character formation, and that even a despot would not exercise it. The power of individual experimentation is a feature of liberal self-government, but this is not to say that the personal costs are not high. See *SL*, 8:865.
64. These are very helpfully collected by the editor of Harriet Taylor's works. See Taylor, *The Complete Works of Harriet Taylor*, ed. Jo Ellen Jacobs (Bloomington: Indiana University Press, 1998), 75–134. The articles were published from 1846 through 1851, culminating in the 1853 passage of a bill supported by the Mills that penalized domestic violence Jacobs collects them as chapter 4, "Violence and Domestic Violence."
65. Taylor, *Complete Works*, 124.
66. Taylor, *Complete Works*, 85–88, at 87, 111.
67. Taylor, *Complete Works*, 91.
68. Blackstone is "liberally" concerned with the excessively harsh capital punishment of minor property crimes, for instance, punishing with death the crime of chopping down a cherry tree or breaking the dam of a landowner's fish pond. See *Commentaries*, 4:4–5.
69. Blackstone, *Commentaries*, 4:104–5.
70. Ironically, married women's property laws were sometimes used to find a property right in a wife's "consortium" with her husband, thus deploying aspects of coverture to aid married women. See Kimberly Reilly, "Wronged in Her Dearest Rights: Plaintiff Wives and the Transformation of Marital Consortium, 1870–1920," *Law and History Review*, 31, no. 1 (2013): 61–99.
71. Taylor, *Complete Works*, 102.
72. Mill, "To Isabella Beecher Hooker [Sept. 13, 1869]," 17:1640.
73. *A*, 1:67.
74. *SW*, 21:265–66.
75. *SW*, 21:264–65.
76. *SW*, 21:325.
77. *SL*, 8:840. See also *A*, 1:177: "I saw that though our character is formed by circumstances, our own desires can do much to shape those circumstances; and that what is really inspiriting and ennobling in the doctrine of freewill, is the conviction that we have real power over the formation of our own character; that our will, by influencing some of our circumstances, can modify our future habits or capabilities of willing."
78. "Nature," 10:379 (hereafter cited as *N*), emphasis added.
79. Jo Ellen Jacobs (*The Complete Works of Harriet Taylor Mill*, 30–32) speculates that Harriet Taylor may have contracted syphilis from her husband. This may explain their choice of alternative living arrangements, her strong advocacy of divorce, her husband's indulgence of the Mill-Taylor relationship, and the apparent lack of carnality in the relation between J. S. and Harriet. If Mill had any inkling of this, though, he would not have commended John Taylor as an "upright, brave, and honest" man in the *Autobiography*. Mill's treatment of prostitution is mixed, but he was

absolutely unequivocal about the spread of venereal disease to innocent wives: it was a cause for divorce and "one of the gravest [crimes] a man could possibly commit." See Mill, "Contagious Diseases Acts," 21:355; and Clare McGlynn, "John Stuart Mill on Prostitution: Radical Sentiments, Liberal Proscriptions," *Nineteenth-Century Gender Studies*, 8, no. 2 (2012), http://www.ncgsjournal.com/issue82/mcglynn.htm.

80. See *SW*, 21:304–6. Mill criticizes men for confusing the nature of their wives with the nature of all women, but these statements leave him open to the same complaint.
81. *SW*, 21:312 and *SL*, 8:788.
82. Mill, "To Charles Eliot Norton [June 23, 1869]," 17:1618–19, at 1618.
83. For the adult female spouse's authority as a "deputy husband," see Mary Hartman, *The Household and the Making of History: A Subversive View of the Western Past* (Cambridge: Cambridge University Press, 2004), 33, 130 (quoting Laurel Thatcher Ulrich).
84. A recent interpretation of Tocqueville asks why women should be content to be mere householders and concludes that "democratic public life is not and cannot be just enough or fulfilling enough to bring meaningful 'liberation' to either sex." According to this view, no one should be "out and about." But for Mill (and for Tocqueville), participation is the answer to much of life's narrowness and crudity. See Delba Winthrop, "Tocqueville's American Woman and 'The True Conception of Democratic Progress,'" *Political Theory*, 14, no. 2 (1986): 239–61, at 245, 248.
85. For a summary, see Kate Fisher, "Marriage and Companionate Ideals since 1750" in *The Routledge History of Sex and the Body, 1500 to the Present*, ed. Sarah Toulalan and Kate Fisher (New York: Routledge, 2013), 328–48, at 337.
86. E.g., Wendy Donner and Richard Fumerton, *Mill* (Malden, MA: Blackwell, 2009), 106–24; Baum, *Rereading Power and Freedom*, 172–98.
87. In a recent World Values Survey, 48 percent of Americans surveyed agreed that "Having a job is the best way for a woman to be an independent person." This percentage is somewhat low, given that only 3.7 percent of American respondents think that when a mother works for pay, the children suffer. See World Values Survey (2010–2014), April 18, 2015, http://dagobah.com.br/wp-content/uploads/2017/01/M6-World-Values-Survey-2010-2014-WVS.pdf, 90, 94.
88. David Leonhardt, "He's Happier, She's Less So," *New York Times*, September 26, 2007, http://www.nytimes.com/2007/09/26/business/26leonhardt.html. See also Claire Cain Miller, "Men Do More at Home, But Not as Much as They Think," *New York Times*, November 12, 2015, https://www.nytimes.com/2015/11/12/upshot/men-do-more-at-home-but-not-as-much-as-they-think-they-do.html.
89. My summary is abstracted from Martha Chamallas, *Introduction to Feminist Legal Theory* (New York: Aspen Publishers, 2003).
90. Deborah L. Rhode, *Speaking of Sex: The Denial of Gender Inequality* (Cambridge, MA: Harvard University Press, 1999).

91. Martha Chamallas, "Women and Part-Time Work: The Case for Pay Equity and Equal Access," *64 North Carolina Law Review* 709 (1986): 709–75, http://scholarship.law.unc.edu/nclr/vol64/iss4/1; Chamallas, *Introduction to Feminist Legal Theory*, 4–14, 173–218.
92. Michèle Pujol, *Feminism and Anti-Feminism in Early Economic Thought* (Aldershot, UK: Edward Elgar, 2003), 30.
93. Baum, *Rereading Power and Freedom*, 179.
94. *SW*, 21: 273–74, 298 (emphases added).
95. Dale E. Miller, *J. S. Mill: Moral, Social, and Political Thought* (Cambridge: Polity Press, 2010).
96. "It does not follow that a woman should *actually* support herself because she should be *capable* of doing so: in the natural course of events she will *not*." See Mill, *OM*, 21:43).
97. Natalie Sigot and Christophe Beaurain, "John Stuart Mill and the Employment of Married Women: Reconciling Utility and Justice," *Journal of the History of Economic Thought*, 31, no. 3 (2009): 281–304, at 292; *PPE*, 2:399–400.
98. *OM*, 21:42 (emphasis added).
99. *SW*, 21:298.
100. Donner and Fumerton, *Mill*, 120.
101. See Hollie Mann and Jeff Spinner-Halev, "John Stuart Mill's Feminism: On Progress, the State, and the Path to Justice," *Polity* 42, no. 2 (2010): 244–70, at 258.
102. The following three points are abstracted from Sigot and Beaurain, "John Stuart Mill and the Employment of Married Women," 281–304.
103. Mill is not arguing that when jobs are scarce, men have more of a right to employment than women. Although this proposition garners a surprising amount of support worldwide, only 5.7 percent of Americans surveyed assent to it in a recent survey. See World Values Survey (2010–2014), 85.
104. See Mill, "To Henry George [Oct. 23, 1869]," 17:1653–55.
105. William J. Ashley, "Introduction," in *PPE*, 2: xxvii–xxviii; Mill, "The Savings of the Middle and Working Classes," 5:405–29, at 410.
106. *SW*, 21:297–98.
107. *PPE*, 3:950–53, at 953.
108. *PPE*, 3:765. In her essay "Enfranchisement of Women (1851)" (21:393–415, at 404), Harriet Taylor is even more emphatic about expanding women's choices in the economy.
109. *PPE*, 2:362–69. For commentary, see Thomas Leonard, "The Very Idea of Applying Economics: The Modern Minimum-Wage Controversy and Its Antecedents," in Roger Backhouse and Jeff Biddle, eds., *Toward a History of Applied Economics, History of Political Economy*, 32, supplement 1 (2000): 117–44, at 122–23.
110. Nancy Hirschmann, "Mill, Political Economy, and Women's Work," *American Political Science Review* 102, no. 2 (2008): 199–213. See also Judith Shulevitz, "It's Payback Time for Women," *New York*, January 8, 2016,

https://www.nytimes.com/2016/01/10/opinion/sunday/payback-time-for-women.html.

111. For related speculation concerning Mill's possible approval of regulations requiring men to support their wives economically, even after divorce, see Mann and Spinner-Halev, "John Stuart Mill's Feminism," 261; Hirschmann, "Mill, Political Economy, and Women's Work," 211.
112. *PPE*, 2:39–40.
113. Patrick Cuninghame, "Italian Feminism, Workerism and Autonomy in the 1970s: The Struggle against Unpaid Reproductive Labour and Violence," *Amnis: Revue de Civilisation Contemporaine Europes/Amériques* 8 (2008), 1–10.
114. Discussed in Cuninghame, "Italian Feminism," 4.
115. Susan Moller Okin, "Humanist Liberation," in *Liberalism and the Moral Life*, ed. Nancy Rosenblum (Cambridge, MA: Harvard University Press, 1989), 39–53.
116. Susan Moller Okin, "'Forty Acres and a Mule' for Women: Rawls and Feminism," *Politics, Philosophy and Economics* 4 (2005): 233–48. As counterevidence, it is worth noting that Mill admits that he is willing to impress "both on the laws & on the usages of mankind as far as possible the contrary tendency" to the present state of inequality. This statement stands as an exceptional (and perhaps angry) passage in a sharply worded letter addressed to Arthur Helps. The accompanying draft of the letter is in Harriet Taylor's hand. See Mill, "To Arthur Helps," 17:2000–2002, at 2001.
117. *SW*, 21:330.
118. Mill and Taylor, "Papers on Women's Rights," 21:382–84.
119. Harriet Taylor, "Enfranchisement of Women (1851)," 21:393–415, at 400.
120. *SW*, 21:273.
121. *U*, 10:257.
122. *OM*, 21:39 (emphasis added).
123. *SW*, 21:287. "On Marriage" also makes the claim that "there is no natural inequality between the sexes; except perhaps in bodily strength; even *that* admits of doubt" (21:42).
124. *SW*, 21:346.
125. Mill, "Statement on Marriage," 21:99.
126. *SW*, 21:289.
127. Mill, "The Admission of Women to the Electoral Franchise [May 20, 1867]," 28:151–62, at 155.
128. Mill, "Women's Suffrage [3] [January 12, 1871]," 29:402–9, at 405.
129. *SW*, 21:324–25.
130. *SW*, 21:292.
131. *SW*, 21:336.
132. *SW*, 21:336.
133. In this chapter, I am neutral about same-sex marriage and the recognitional demands made by same-sex couples. See Baum, *Rereading Power*

and Freedom, 184–85. It is plausible to think that Mill's crucial question is whether homosexual couples make good parents. It is also plausible that Mill would recognize the dignitary rights of same-sex couples because intimacy is such an important constituent of social utility.

134. Dirk Baltzly and Nick Eliopolous, "The Classical Ideals of Friendship," in *Friendship: A History* (London and New York: Routledge, 2009), 12–85.
135. *SW*, 21:269.
136. The view of Urbinati, *Mill on Democracy*, 11, 185–88.
137. Aristotle, *Nicomachean Ethics*, ed. and trans. H. Rackham (Cambridge, MA: Harvard University Press, 1934), 1252a12–15.
138. Aristotle, *Nicomachean Ethics*, 1153b13.
139. Aristotle, *Nicomachean Ethics*, 1160a33–1161a2. For critics such as Wolfgang Kürer, the 1852 edition of the *PPE* marks a decisive shift in Mill's understanding of cooperation to one that prefers masterless socialism over competitive liberty. See Kürer, "J. S. Mill and Utopian Socialism," *Economic Record*, 68, no. 3 (1992): 222–32.
140. *SW*, 21:295.
141. Aristotle, *Nicomachean Ethics*, 1161a8, a22–25. For this argument, see Dana Stauffer, "Aristotle's Account of the Subjection of Women," *Journal of Politics*, 70, no. 4 (2008): 929–41.
142. *A*, 1:59. For discussion, see Dale E. Miller, "Mill on the Family," *CM*, 472–87.
143. See *SW*, 21:308–9.
144. *SW*, 21:309–10.
145. *A*, 1:139.
146. One commentator describes James Mill as having aimed at the creation of a "Utilitarian robot" in the education of John Stuart. See William H. Burston, ed., *James Mill on Education* (Cambridge: Cambridge University Press, 1969), 39.
147. *ED*, 1:613. This passage is taken from the thirty pages of rejected draft leaves of the *ED*. See Jack Stillinger, "Introduction," 1: xix.
148. Jeremy Bentham, "Panopticon Letters," in *The Panopticon Writings*, ed. Miran Bozovic (London: Verso, 1995), 29–95, at 89.
149. *OG*, 1:327–40. It is crucial to note that John Stuart's own education was not a "cram," because his father, James Mill, always taught John to find out things by thinking, rather than by becoming a "knowledge-box." John Stuart makes this explicit in the *Autobiography*, where he defends this aspect of his father's pedagogy. But the excised pages of the *Autobiography* quoted above tell a different story: John Stuart blames problems with his education on his father's cold deficiency of feeling. See *A* 1:35, "Appendix G [Rejected Leaves of the Early Draft of the Autobiography]" 1: 608–24, and *OG*, 1:335–36.
150. Mill, "Appendix G," 1:608–10.
151. See Mill, "To John Sterling [April 15, 1829]," 12:28–30, at 30.

152. *SW*, 21:334. Aquinas makes the interesting attribution of the Latin to Cicero. The original is in Sallust (*Catiline's War*, XX, 4). See Daniel Schwartz, *Aquinas on Friendship* (Oxford: Clarendon Press, 2007), 44n10.
153. *OL*, 18:216. See also the generous remarks in the *ED* and *A*, 1:194–95.
154. Mill, "To Frederick J. Furnivall [April 4, 1859]," 15:615. See also John Mercel Robson "Textual Introduction," 18: lxxxiii–iv.
155. Mill, "Rejected Leaves of the Early Draft of the *Autobiography*," 1:608–24, at 613.
156. Mill, "Appendix G," 1:620–21. In the Yale fragment of the *Autobiography*, Mill writes that the chapter in the *Principles* on the probable futurity of the laboring classes "is entirely due to her: in the first draft of the book that chapter did not exist." See Mill, "Yale Fragment," 1:250–58, at 254. For dating the Fragment, which was likely written in or after 1861 and before 1869, see Stillinger, "Introduction," 1: xx.
157. *A*, 1:259.
158. *A*, 1:251.
159. Mill, "To Thomas Carlyle [July 5, 1833]," 12:161–64, at 163; "Thoughts on Poetry and its Varieties (1833)," 1:341–65, at 361; "To John Sterling [Oct. 20–22, 1831]," 12:79; "The Early Draft of the Logic," 8:955–1110, at 965.
160. I owe this interpretation to Frederick Rosen, "The Philosophy of Error and Liberty of Thought: J. S. Mill on Logical Fallacies," *Informal Logic*, 26, no. 2 (2006): 121–47, at 127.
161. *A*, 1:143.
162. Mill, "To Harriet Taylor [1850?]," 14:42–43, at 43.
163. *SW*, 21:334.
164. *SW*, 21:334.
165. *OM*, 21:40; *SW*, 21:268, 279.
166. *OL*, 18:301; Claeys, *Mill and Paternalism*, 186–91.
167. *OL*, 18:301, 304.
168. *PPE*, 2:380–81.
169. Humboldt, *The Limits of State Action*, 48.
170. *OG*, 1:336.
171. *SL*, 8:952.

Chapter Two

1. Mill, "To Karl D. Heinrich Rau [March 20, 1852]," 14:86–87.
2. Mill, "The Claims of Labour (1845)," 4:363–89, at 382; Lord Robbins, "Introduction," 4:xxv–xxxi, xl; *PPE*, 2:xxviii; Baum, *Rereading Power and Freedom*, 200.
3. *OL*, 18:263.
4. *A*, 1:239.

5. *U*, 10:257–58; *PPE*, 2:xxix (from the Preface to the Third Edition).
6. *PPE*, 2:xxii–xxiii.
7. Mill, "To Gustave d'Eichthal [Oct. 8, 1829]," 12:36.
8. Ashley, "Introduction," 2:xxi.
9. *PPE*, 3:750; Persky, *The Political Economy of Progress*, 85–87, 131.
10. This tension is also developed outside his economic writings: e.g., Mill, "Civilization," 18:117–47, at 119.
11. *PPE*, 3:747, 754.
12. See Gregory Claeys, "Justice, Independence, and Industrial Democracy: The Development of John Stuart Mill's Views on Socialism," *Journal of Politics*, 49, no. 1 (1987): 122–47, at 123–24; Claeys, *Mill and Paternalism*, 123–72; Persky, *The Political Economy of Progress*, 148–51.
13. See Pedro Schwartz, *The New Political Economy of J. S. Mill* (Worthing, UK: Littlehampton Book Services, 1972), 165–74; Claeys, "Justice, Independence, and Industrial Democracy," 131.
14. It comes from the first edition of Mill's *PPE*. For Mill's discussion with Harriet about the intensity of his criticism of communism, which he softened in the second edition, see Mill, "To Harriet Taylor [Feb. 19, 1849]," 14:8–10, at 8 and note 3, and *PPE*, 3:978.
15. *PPE*, 3:979.
16. *PPE*, 3:708.
17. Joseph Persky, "The Ethology of Homo Economicus," *Journal of Economic Perspectives*, 9, no. 2 (1995): 221–31, at 222. See also Charles Hinnant, "The Invention of *Homo Oeconomicus*: A Reading of John Stuart Mill's 'On the Definition of Political Economy,'" *Prose Studies: History, Theory, Criticism*, 21, no. 3 (1998): 51–68.
18. See *PPE*, 3:768.
19. Mill develops the contrast in a review from 1848 (Mill, "Bain's On the Application of Science to Human Health and Wellbeing," 25:1118—20, at 1119–20) and several other places in his corpus.
20. *NPE*, 5:450, 456–57.
21. *PPE*, 2:751.
22. *DIA* [I], 18:52.
23. *I*, 21:251. As noted above, the aesthetic sense brings morals and prudence together.
24. See Mill, "Thoughts on Parliamentary Reform," 19:338 (hereafter cited as *TPR*); and Maurice Cranston, "John Stuart Mill and Liberty," *Wilson Quarterly*, 11, no. 5 (1987): 82–91, at 90.
25. *PPE*, 3:768–69.
26. Mill, "To Harriet Taylor [March 21, 1849]," 14:18–20, at 19.
27. *PPE*, 2:xxix; *NPE*, 5:456n. Here, the problem is permanence. In a parallel move, Mill rejects the idea of permanence in endowments, holding that after "no more than two or three generations," the founders' control over the institution should make way for progressive changes to the original intent of the institution. Mill, "Endowments," 5:613–29, at 621; H. S.

Jones, "John Stuart Mill: Law, Morality, and Liberty," *Modern Intellectual History*, (2016): 1–13.

28. Mill explores new forms of association in "The Probable Futurity of the Working Class" (*PPE*, 2:758–96) and the sections on partnership (2:897–909). See also *CS*, 5:703–53.
29. *PPE*, 2:286.
30. See *PPE*, 3:903.
31. See *PPE*, 2:406.
32. See Jason Brennan and John Tomasi, "Classical Liberalism," in *Oxford Handbook of Political Philosophy*, ed. David Estlund (Oxford: Oxford University Press, 2011), 115–32; and John Tomasi, *Free Market Fairness* (Princeton, NJ: Princeton University Press, 2013), 29–31.
33. See Joseph Hamburger, *John Stuart Mill on Liberty and Control* (Princeton, NJ: Princeton University Press, 1999); and Hamburger, *Intellectuals in Politics: John Stuart Mill and Philosophical Radicals* (New Haven: Yale University Press, 1965).
34. Persky, *The Political Economy of Progress*, 38–40. *PPE*, 2:113–15.
35. Mill, "To Charles Eliot Norton [June 26, 1870]," 17:1739–40, at 1740. See also *U*, 10:241–42, where Mill protects legal property rights, as well as moral rights that are not protected by law, but does not explain whether legal rights to personal property are also typically moral rights.
36. Constant explains this strategy in "The Spirit of Conquest and Usurpation," in *Constant: Political Writings*, ed. and trans. Biancamaria Fontana (Cambridge: Cambridge University Press, 1988), 43–167, at 119n1.
37. See Dewey, "The History of Liberalism," in *Liberalism and Social Action*.
38. Persky, *The Political Economy of Progress*, 74–76, 148.
39. Mill, "To Edward Lytton Bulwer [Nov. 23, 1836]," 12:311–13, at 312.
40. *PPE*, 3:937, and *U*, 10:251. See also Samuel Hollander, *The Economics of John Stuart Mill* (Toronto: University of Toronto Press, 1985), 2:683.
41. Mill thinks that ancient slavery was appropriate to introduce in a transitional era, but not to maintain beyond that era. Mill, "Grote's History of Greece [II]," 11:307–37, at 315. For Mill's criticism of ancient and modern slavery, see *PPE*, 2:245–51; *SW*, 21:269; and "The Negro Question (1850)," 21:85–95, at 88. For Mill, the key feature of ancient slavery is that it did not prohibit intellectual culture. See Mill, "Grote's History of Greece [II]," 11:314, 324. His apology for classical slavery surely exaggerates the case: only in *some* (and probably few) cases was domestic servitude compatible with intellectual culture. Nevertheless, clearly Mill's concern with the benefits and demerits of ancient and modern slavery is intellectual and moral, and not primarily economic efficiency. For Bentham's similar incomplete condemnation of slavery, see Bentham, "Principles of the Civil Code," *Theory of Legislation*, trans. (from the French of Étienne Dumont) R. Hildreth (London: Trübner & Co., 1864), 203.
42. See Jacob Viner, "Adam Smith and Laissez Faire," in *Adam Smith, 1776–1926: Lectures to Commemorate the Sesquicentennial of the Publication of "The*

Wealth of Nations," ed. John M. Clark et al. (Chicago: University of Chicago Press, 1928), 116–55.

43. *PPE*, 3:936.
44. *ACP*, 10:303.
45. *PPE*, 3:803.
46. *PPE*, 3:802–3.
47. *PPE*, 3:804. This is a commonsense observation. For explanation, see the discussion of "tornado politics" in ch. 3.
48. *PPE*, 3:758.
49. *PPE*, 3:759.
50. *PPE*, 3:763.
51. *PPE*, 3:761.
52. Mill, "The Income and Property Tax (1861)," 5:549–98, at 562; and "The Income and Property Tax (1852)," 5:463–98, at 495 (emphasis added); Hollander, *The Economics of John Stuart Mill*, 2:677ff.
53. "The Income and Property Tax (1852)," 5:495.
54. Mill, "Centralisation," 19:609 (emphasis added).
55. Mill, "The Income and Property Tax (1861)," 5:563.
56. *PPE*, 3:937. In the 1840 essay "Coleridge," Mill suggests that the state should be a "mutual insurance company, for helping (under the necessary regulations for preventing abuse) that large proportion of its members who cannot help themselves." See Mill, "Coleridge," 10:156. For Edmund Fawcett, *Liberalism: The Life of an Idea* (Princeton, NJ: Princeton University Press, 2014), 96, Mill's case for nonintervention has five parts, three of which refer to negative consequences of intervention and two positive reasons for nonintervention: atrophy (of citizens' efforts); risk of abuse (by government); overload (of governmental capacities); better grasp (of problems by those affected by them); and initiative.
57. *PPE*, 3:937–38.
58. *OL*, 18:293.
59. *OL*, 18:288.
60. *OL*, 18:276.
61. *OL*, 18:295.
62. *OL*, 18:298.
63. Persky, *The Political Economy of Progress*, 151.
64. *OL*, 18:306.
65. *PPE*, 3:939.
66. *OL*, 18:288.
67. *OL*, 18:298.
68. Hollander, *The Economics of John Stuart Mill*, 695 (emphasis added).
69. Mill, "The Contagious Diseases Acts (1871)," 21:349–71; Jeremy Waldron, "Mill on Liberty and on the Contagious Diseases Acts," in *J. S. Mill's Political Thought: A Bicentennial Reassessment*, ed. Nadia Urbinati and Alex Zakaras (Cambridge: Cambridge University Press, 2007), 1–42.
70. Claeys, *Mill and Paternalism*, 194–95.

71. Kevin Vallier, "Production, Distribution, and J. S. Mill," *Utilitas* 22, no. 2 (2010): 103–25.
72. *C*, 10:156–58, at 158.
73. Steven Medema, *The Hesitant Hand* (Princeton, NJ: Princeton University Press, 2012), 35, 40.
74. *CS*, 5:716. Mill quotes Louis Blanc, who offers the best brief description of socialism. See also Hollander, *The Economics of John Stuart Mill*, 2:776, 791.
75. *NPE*, 5:443. See Hollander, *The Economics of John Stuart Mill*, 2:640.
76. For instance, Mill speaks of a "qualified property in things not produced by labour" in *NPE*, 5:450.
77. *A*, 1:239.
78. For Mill as a progenitor of luck egalitarianism, see Persky, *The Political Economy of Progress*, 199–216.
79. *PPE*, 2:209. Persky, *The Political Economy of Progress*, 192 uses this passage to defend perfect equality.
80. *PPE*, 3:795.
81. *PPE*, 2:26, 397–99; 3:792–94. Rosen, *Mill*, 144–50 is particularly insightful on active character. Mill, for his part writes, "The majority of Englishmen and Americans have no life but in their work; that alone stands between them and ennui." See *PPE*, 2:105 for this passage from the 4th ed.
82. Deirdre McCloskey, *The Bourgeois Virtues: Ethics for an Age of Commerce* (Chicago: University of Chicago Press, 2007).
83. *PPE*, 3:706–9.
84. *PPE*, 3:707–8. According to Mill, "A person of good natural endowments, in a rude state of society, can do a great number of things tolerably well, has a greater Power of adapting means to ends . . . than ninety-nine in a hundred of those who have known only what is called the civilized form of life."
85. Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*, ed. Edwin Cannan (London: Methuen & Co., 1904), 1:3–12. Francis Bowen, who taught political economy at Harvard College, wrote a positive review in the *North American Review* that includes the correct but anodyne observation that Mill follows in the footsteps of Adam Smith by writing on broader issues of social philosophy. See Bowen, "Mill's Political Economy: Population and Property," *North American Review*, 67, no. 141 (1848): 370–420, at 371. Mill acknowledges that he seeks to replace Smith, and, like Smith, to use his own authority to opine about social matters. See Mill, "To Henry S. Chapman [March 9, 1847]," 13:708–10, at 708–9.
86. *PPE*, 3:979, from the 2nd ed., quoted above, and *PPE*, 2:187.
87. *PPE*, 3:783.
88. Finlay, "Mill on Education and Schooling," *CM*, 509–11.
89. *PPE*, 3:791, 886. Important antecedents include Adam Smith, who thematized "self-command" at the conclusion of part 4 of the *Theory of Moral Sentiments*, where it is the required adjunct to perfect knowledge of the

rules of prudence, justice, and benevolence; and James Mill, who prized the virtues of "great intelligence, perfect self-command, and over-ruling benevolence." See Adam Smith, *The Theory of Moral Sentiments*, ed. Knud Haakonssen (Cambridge: Cambridge University Press, 2002), 279; and James Mill, "Education," in *Political Writings*, 137–94, at 193.

90. *CRG*, 19:545.
91. Tomasi, *Free Market Freedom*, 29; Donner and Fumerton, *Mill*, 96. For the "femme fatale" of political economy, see Hollander, *The Economics of John Stuart Mill*, 2:742. This quotation is found in a letter to Harriet Taylor (Mill, "To Harriet Taylor [March 21, 1849]," 14:19). For the relationship between Mill and Harriet Taylor, see Friedrich Hayek, *Hayek on Mill*. See John Gray, *Hayek on Liberty*, 3rd ed. (New York: Routledge, 1998), 92–100 for Hayek's criticisms of Mill.
92. *A*, 1:239; 199. For discussion, see *A*, 1:237 and Hollander, *The Economics of John Stuart Mill*, 2:772–74.
93. *PPE*, 2: xxix.
94. Mill, "To Karl D. Heinrich Rau," 14:86–87.
95. In the 1820s, in volumes 1 through 4 of *Le Producteur*, the disciples of Saint-Simon first systematically use *individualism* as a pejorative term for the "pernicious and "negative" ideas supporting the evils of the modern critical epoch. See Steven Lukes, *Individualism* (Oxford: Blackwell, 1973), 22, 24–25, 33, 41. For the English, Owenite context of the term *individualism*, see Gregory Claeys, "'Individualism,' 'Socialism,' and 'Social Science': Further Notes on a Process of Conceptual Formation, 1800–1850," *Journal of the History of Ideas*, 47, no. 1 (1986): 81–93.
96. "The French Revolution of February 1848," *The Westminster Review*, 46 (1848), 72–104, at 96. This definition recalls Emmanuel Joseph Sieyès's characterization—an "art of living together." See Pierre Rosanvallon, *The Demands of Liberty: Civil Society in France Since the Revolution*, trans. Arthur Goldhammer (Cambridge, MA: Harvard University Press, 2011), 294n37.
97. [William Edward Hickson] "The French Republic," *The Westminster Review*, 50, no. 1 (October 1848), 188–236, at 200.
98. Mill, "Vindication of the French Revolution of February 1848," 20:317–63, at 352. Below, I show that Mill does not emphasize even state support of cooperation via taxation in practice.
99. "Principles of Political Economy," *London and Westminster Review*, 47 (1848), 155–68, at 157–58. This review refers only to the first edition of the *Principles*, which does not contain Mill's reflections on working-class cooperation.
100. Lionel Robbins, *The Theory of Economic Policy in Classical Political Economy* (London: Macmillan, 1952), 147–60.
101. Walter Bagehot, "*Principles of Political Economy, with some of their applications to Social Philosophy*. By J. S. Mill," *Prospective Review*, 4, no. 16 (1848): 460–502.
102. *A*," 1:239; "To Edward Herford [Feb. 1, 1850]," 14:43–45, at 45.

103. Ashley, Introduction, 2: xxix–xxx. See Mill, "To Henry Samuel Chapman [May 28, 1849]," 14:30–34, at 33, for a letter on contemporary French politics. Mill is excited by French reforms but very critical of both the conservatives' concept of order and the socialists' actual policies regarding competition and cooperation.
104. *PPE*, 2:203–4; *CS*, 5:710–11.
105. *PPE*, 2:203, 211–12; Rosen, *Mill*, 182–87; Hollander, *The Economics of John Stuart Mill*, 2:807.
106. For the twentieth-century debate between distribution based on moral merit (Mill, for example), value to society (Hayek), and the rejection of any patterned distributions (Nozick), see Friedrich Hayek, "The Constitution of Liberty," and Robert Nozick, "Anarchy, State, and Utopia," in *Justice: A Reader*, ed. Michael Sandel (Oxford: Oxford University Press, 2007), 60–73, at 64; and 73–82, at 78–79, respectively.
107. *PPE*, 2:211–12.
108. Persky, *The Political Economy of Progress*, 70, 199–215.
109. Mill, "Centralisation," 19:591 (emphasis added).
110. Mill, "Vindication of the French Revolution of February 1848," 20:317–63, at 351; *PPE*, 2:211–12.
111. Mill, "To John Sterling [Oct. 20–22, 1831]," 12:74–88, at 84.
112. Mill, "Reorganization of the Reform Party (1839)," 6:465–95, at 476–77 (emphasis added).
113. Compare Claeys, *Mill and Paternalism*, 218: The "fundamental renunciation of a market-driven ideal of distribution . . . occurred during and after the Revolution of 1848, and Harriet Taylor was crucial to Mill's acceptance of it."
114. *OL*, 18:293.
115. For Mill's evolving criticism of the right of property, see John Medearis, "Labor, Democracy, Utility, and Mill's Critique of Private Property," *American Journal of Political Science*, 49, no. 1 (2005): 135–49.
116. Mill, "To John Stapleton [Oct. 25, 1871]," 17:1847–48; Claeys, *Mill and Paternalism*, 159–61.
117. *CRG*, 19:405.
118. *CS*, 5:739, 748.
119. *CS*, 5:746.
120. *PPE*, 2:209–10.
121. See *CS*, 5:716–27.
122. *NPE*, 5:446.
123. *CS*, 5:724, quoting part 2, ch. 3 of Owen's *Book of the New World*.
124. *A*, 1:175.
125. *ED*, 1:174.
126. *PPE*, 2:169–70, 212.
127. *PPE*, 3:982; Hollander, *The Economics of John Stuart Mill*, 2:801. Mill's insight into the problem of curtailing occupational liberty, controlling wages, and setting prices belongs to the same family of criticisms as those

that Hayek made in the 1930s in expounding the "knowledge problem." See, as representative of Hayek's views, his essay "The Use of Knowledge in Society," *American Economic Review*, 35, no. 4 (1945): 519–30.

128. *PPE*, 3:213. The discussion of Fourierism is new to the second edition of *Principles*. See Claeys, "Justice, Independence, and Industrial Democracy," 131.
129. *CS*, 5:747–48; Hollander, *The Economics of John Stuart Mill*, 2:807. Russ Muirhead, *Just Work* (Cambridge: Harvard University Press, 2004), 114–33, argues that Millian authenticity requires society to allow individuals to pick careers independent of their fitness for a task. Mill, though, refuses to protect those who choose professions for which they are unfit from the bad outcomes of their choices.
130. *CS*, 5:742–44. The industrial worker is comparatively active, or at least busy, according to Mill: *PPE*, 2:126–28.
131. Miller, *J. S. Mill*, 155. For her part, Harriet Taylor argues that the division of society into capitalists and workers is merely temporary. See Taylor, "Enfranchisement of Women (1851)," 21:404.
132. Hollander, *The Economics of John Stuart Mill*, 2:821. Hollander's conclusion (2:821) can be reconstructed by tracking his argument for the compatibility of a free-market system and increased cooperation (2:779, 795, 804, and 818).
133. *SW*, 21:290–91.
134. *CS*, 5:746.
135. For this suggestion, see Donner and Fumerton, *Mill*, 101.
136. C. R. Fay, review of *The English Business Company after the Bubble Act, 1720–1800*, by A. B. DuBois; and *The Development of the Business Corporation in England, 1800–1867*, by B. C. Hunt, *Economic Journal*, 58, no. 230 (1948): 271–75, at 274.
137. Britain was a relative latecomer to limited liability legislation. Thirteen other European countries and twenty American states had limited liability laws prior to Britain's.
138. Quoted in Marie-Laure Djelic, "When Limited Liability Was (Still) an Issue: Mobilization and Politics of Signification in 19th-Century England," *Organization Studies*, 34 (May 2013): 573–93.
139. Edmund Potter, *Practical Opinions against Partnerships with Limited Liability* (London: John Chapman, 1855).
140. Mill, "The Law of Partnership," 5:461–62, at 461.
141. See "The Limited Liability Act of 1855," *Westminster Review*, 65, 127 (1856), 34–51. This article cites an earlier article, also in the *Westminster Review*. See "Partnership with Limited Liability," *Westminster Review* 60 (1853), 355–97. These articles are somewhat skeptical of the benefits of general limited liability, and critical about the specific legislation, which imposes costs on those seeking to incorporate. For a positive view, see

"Limited Liability Partnerships," *Legal Observer and Solicitor's Journal*, 49 (December 1854): 117–21.

142. "The Limited Liability Act of 1855," 38.
143. "The Limited Liability Act of 1855," 36.
144. The French model had three options: (1) an ordinary trading firm (partnership *en nom collectif*); (2) a *societé en commandite*, distinguishing between acting (*gérant*) and dormant members; and (3) a state-regulated joint-stock company (*societé anonyme*). Full liability existed in all case, for all members, except for *commanditaires* providing capital in (2). The *commanditaires* were the "and company" (the limited partners).
145. "The Limited Liability Act of 1855," 41.
146. Incorporation with limited liability required a corporate structure of three directors and an auditor; there had to be at least twenty-five members in the corporate body, together holding at least three quarters of the company's shares. Shares had to have a minimum value of ten pounds. In 1856, the Joint Stock Companies Act modified these protections, changing the minimum number of investors to seven.
147. *PPE*, 3:775.
148. See Paul Johnson, *Making the Market: Victorian Origins of Corporate Capitalism* (Cambridge: Cambridge University Press, 2010), 111–24, for the history of the British corporation through Smithian and Millian lenses. Donna Loftus, "Capital and Community: Limited Liability and Attempts to Democratize the Market in Mid-Nineteenth-Century England," *Victorian Studies* 45, no. 1 (2002): 93–120 offers an excellent overview of legislation from the 1720 Bubble Act to its 1825 repeal. For a detailed analysis of the legal changes, see James Taylor, *Creating Capitalism: Joint-Stock Enterprise in British Politics and Culture* (London: Historical Society and Boydell Press, 2006), 145–75.
149. Smith, *Wealth of Nations*, 2:232.
150. Smith, *Wealth of Nations*, 2:233.
151. *PPE*, 3:792.
152. Mill, "To J. R. Ware [Sept. 13, 1868]," 16:1439–40.
153. See *PPE*, 3:783–84 for the indivisibility of capital and managerial pay.
154. Karl Marx, "Economic and Philosophic Manuscripts of 1844," in *The Marx-Engels Reader*, 66–125, at 71–74.
155. *PPE*, 3:792. For a related interpretation holding that Mill foresees "a smooth moral gradient from capitalism to what he saw as a more just, cooperative, order," see Gerald Gaus, "The Evolution, Evaluation, and Reform of Social Morality: A Hayekian Analysis," in *F. A. Hayek and the Modern Economy: Economic Organization and Activity*, ed. Sandra Peart and David Levy (New York: Palgrave Macmillan, 2013), 59–88, at 78–79.
156. Karl Marx, "On the Jewish Question," in *The Marx-Engels Reader*, 26–52, at 33–34; Marx, "Economic and Philosophic Manuscripts of 1844."
157. *PPE*, 3:793.
158. *PPE*, 3:793.

159. *CS*, 5:749.
160. *CS*, 5:748–49.
161. *PPE*, 3:769.
162. *PPE*, 3:793.
163. Sarah Conly, *Against Autonomy: Justifying Coercive Paternalism* (Cambridge: Cambridge University Press, 2013), 9, 16–46. For a more Millian defense of autonomy-producing paternalism, see Claeys, *Mill on Paternalism*, 84–85.
164. *SL*, 8:735–830.
165. K. J. M. Smith, *James Fitzjames Stephen: Portrait of a Victorian Rationalist* (Cambridge: Cambridge University Press, 1988), 207, 210–11, commenting on John Morley, *On Compromise* (London: MacMillan and Co., 1898), 282–84.
166. *PPE*, 2:187.
167. Smith, *Wealth of Nations*, 2:269.
168. Smith, *Wealth of Nations*, 2:267, 272; Mill, *OL*, 18:301–2.
169. *OL*, 18:302.
170. Jon Elster, "From Here to There; or, If Cooperative Ownership Is So Desirable, Why Are There So Few Cooperatives?" *Social Philosophy and Policy* 6, no. 2 (1989): 93–111.
171. Mill, "The Savings of the Middle and Working Classes," 5:427.
172. See the "Commitments" section of Mondragón Corporation's website, accessed May 1, 2018, https://www.mondragon-corporation.com/en/corporate-responsibility/commitments/.
173. See Sharryn Kasmir, *The Myth of Mondragón: Cooperatives, Politics, and Working-Class Life in a Basque Town* (Albany: SUNY Press, 1996), 160–63. As Kasmir concludes, "Belonging seems to be a stratified feeling in the cooperatives" (163).
174. Persky, *The Political Economy of Progress*, 196.
175. Alan Ryan, "Property, Liberty, and *On Liberty*," *Royal Institute of Philosophy Lectures*, 15 (1983): 217–31, at 230.
176. Richard Wolff, *Democracy at Work: A Cure for Capitalism* (Chicago: Haymarket Books, 2012).
177. Wolff, *Democracy at Work*, 14–15.
178. *PPE*, 2:136.
179. Mill, "To T. E. Cliffe Leslie [May 4, 1863]," 15:857; "To Henry Fawcett [May 17, 1863]," 15:859–60, at 859. See Hollander, *The Economics of John Stuart Mill*, 2:818.
180. For the economic sociology of freedom, see Baum, *Rereading Power and Freedom*, 276–67.
181. Mill, "To Macvey Napier [Nov. 9, 1844]," 13:643–44.
182. Mill, "The Claims of Labour (1845)," 4:385–86.
183. For the idea of an "alternative middle way" between socialism and capitalism, see Claeys, "Justice, Independence, and Industrial Democracy," 127.

Claeys's newest version of his argument describes Mill's socialism as a hybrid of classical liberalism and socialism. See Claeys, *Mill on Paternalism*, 168.

184. See Benjamin Jones, *Cooperative Production* (Oxford: Clarendon Press, 1894), 438.
185. Mill, "To [Henry Pitman] [March 18, [1865]]," 16:1016; "To Henry Fawcett [March 22, 1865]," 16:1019.
186. Mill, "To Thomas Jones [March 22, 1865]," 16:1020.
187. The government should not fix prices, nor should it pass laws that restrict combination (e.g., trade unions that seek to manipulate workers' wages). See *PPE*, 3:929–34; *OL*, 18:293.
188. Mill, "To John Holmes [Jan. 19, 1858]," 15:545–46.
189. *PPE*, 3:786–90, 794.
190. *PPE*, 3:793–94.
191. *PPE*, 3:898.
192. "The Limited Liability Act of 1855," 25.
193. *PPE*, 3:792.
194. Medema, *The Hesitant Hand*.
195. Mill, "To Henry Fawcett [May 17, 1863]," 15:859.
196. Elster, "From Here to There," 93–111.
197. Brady, "Introduction," 18: xxiv, quoting Mill, "To John Austin [April 13, 1847]," 13:711–15, at 713. See also *DIA* [I], 18:84–85.
198. *PPE*, 2:210.
199. *PPE*, 3:756–57.

Chapter Three

1. Quoted in George Lichtheim, *The Origins of Socialism* (London: Weidenfeld and Nicolson, 1969), 231n3.
2. H. S. Jones, "Theories of State and Society: The Science of Politics," in *The Encyclopedia of Nineteenth-Century Thought*, ed. Gregory Claeys (London and New York: Routledge, 2005), 479–83, at 479.
3. Iris Mueller, *John Stuart Mill and French Thought* (Urbana: University of Illinois Press, 1956).
4. For other questions about science (social explanation in the nineteenth century, the "social questions" question, and the educative work of the Social Science Association in the 1850s), see Lawrence Goldman, *Science, Reform, and Politics in Victorian Britain: The Social Science Association 1857–1886* (Cambridge: Cambridge University Press, 2004), ch. 1, 1–26; and Eileen Yeo, *The Contest for Social Science: Relations and Representations of Gender and Class* (London: Rivers Oram Press, 1996).
5. Bentham, "Anarchic Fallacies; being an examination of the Declaration of Rights issued during the French Revolution," in *Works of Jeremy Bentham*, ed. John Bowring (Edinburgh: William Tait, 1838), 2:489–534.

6. Bentham, "Codification Proposal," in *Works of Jeremy Bentham*, 4:535–94, at 554.
7. Bentham, "Papers Relative to Codification and Public Instruction," in *Works of Jeremy Bentham*, 4:453–530.
8. Vickie B. Sullivan, *Montesquieu and the Despotic Ideas of Europe: An Interpretation of "The Spirit of the Laws"* (Chicago: University of Chicago Press, 2017).
9. Stephen, *Liberty, Equality, Fraternity*, 49.
10. Stephen, *Liberty, Equality, Fraternity*, 73, 83, 106.
11. *A*, 1:219.
12. *SL*, 8:861–62, 942.
13. *I*, 21:215–57, at 227–30.
14. In the classical languages, "the structure of every sentence is a lesson in logic." *I*, 21:228, *A*, 1:21, 23.
15. *I*, 21:229.
16. *I*, 21:229.
17. *G*, 20:270.
18. *G*, 20:269.
19. See Mill, "To Gustave d'Eichthal [Oct. 8, 1829]," 12:34 and editorial note.
20. *ACP*, 10:315.
21. Mill, "To Gustave d'Eichthal [Oct. 8, 1829]," 12:35–36.
22. Mill, "To Gustave d'Eichthal [Oct. 8, 1829]," 12:36.
23. For Comte, see Andrew Wernick, *Auguste Comte and the Religion of Humanity: The Post-Theistic Program of French Social Theory* (Cambridge: Cambridge University Press, 2001), 4.
24. John Morley, "Auguste Comte," in *Critical Miscellanies* (London: Macmillan and Co., 1904), 3:337–84, at 366.
25. *B*, 10:93–94.
26. Mill, "To Gustave d'Eichthal [Oct. 8, 1829]," 12:36; *SL*, 8:786.
27. *SL*, 8:776.
28. Auguste Comte, "*Cours de Philosophie Positive* (1830–1842)," in *Auguste Comte and Positivism: The Essential Writings*, ed. Gertrud Lenzer (New Brunswick and London: Transaction Publications, 1998), 71–306, at 76–77.
29. Comte, "*Cours de Philosophie Positive* (1830–1842)," 85.
30. Comte, "*Cours de Philosophie Positive* (1830–1842)," 91–92.
31. Comte, "*Cours de Philosophie Positive* (1830–1842)," 93.
32. Thomas Hobbes, *On the Citizen*, ed. Richard Tuck and Michael Silverthorne (Cambridge: Cambridge University Press, 1998), 4–5; Victoria Silver, "Hobbes on Rhetoric," in *The Cambridge Companion to Hobbes*, ed. Tom Sorell (Cambridge: Cambridge University Press, 1996), 329–45, at 332–33; Comte, "*Cours de Philosophie Positive* (1830–1842)," 93–94.
33. *ACP*, 10:306–9; *SL*, 8:879ff; cf. 887; 887–88. See Hollander, *The Economics of John Stuart Mill*, 117, on deduction.

34. *ACP*, 10:308.
35. See the review "Sedgwick's Discourse (1835)," 10:38–39 (hereafter cited as *SD*).
36. *ACP*, 10:296.
37. *ACP*, 10:309.
38. *ACP*, 10:305–6. As noted in the introduction to volume 2 of the *Collected Works*, Comte writes in letters to Mill from 1844 that he approves of economic analysis within the "purely preliminary purpose and provisional office that are assigned to it by a general historical view" and as a useful "present-day metaphysics." See William James Ashley, "Introduction," 2:v–xxvi, at xxiii.
39. *SL*, 8:930. For similar criticisms of arbitrariness from a Hegelian perspective, see Augusto Vera, "Hegel and Comte," in *The Athenaeum: A Journal of Politics, Literature, Science, and the Arts*, January 7, 1854, 18–19; and for a libertarian and psychologistic examination, Herbert Spencer, "The Classification of the Sciences, to which are added reasons for dissenting from the philosophy of M. Comte" (London: Williams and Norgate, 1864), 1–48, at 40–41.
40. Rosen, *Mill*, 86.
41. Mill does not cite Comte but rather a historian of ancient literature, Karl Otfried Müller, as a source of his argument. See Mill, "Grote's History of Greece [I]," 11:271–305, at 288–89. But in an 1846 letter to Alexander Bain, Mill admits that Comte provided the frame for his discussion of ancient religion. See Mill, "To Alexander Bain [Sept. 1846]," 13:704 and Sparshott, "Introduction," 11:xxxi–ii.
42. See William Whewell, "On the Connexion of the Physical Sciences. By Mrs. Somerville," in *Quarterly Review*, 51, no. 101 (1834): 54–68; and Steven Shapin, "The Man of Science," in *The Cambridge History of Science*, vol. 3, *Early Modern Science*, ed. Katharine Park and Lorraine Daston (Cambridge: Cambridge University Press, 2006), 179–91.
43. Georg Iggers, "Further Remarks about Early Uses of the Term 'Social Science,'" *Journal of the History of Ideas*, 20, no. 3 (1959): 433–36, at 434. For a more recent overview, see Gregory Claeys, "'Individualism,' 'Socialism,' and 'Social Science': Further Notes on a Process of Conceptual Formation, 1800–1850," *Journal of the History of Ideas*, 47, no. 1 (1986): 81–93.
44. Iggers, "Further Remarks about Early Uses," 435; Claeys, "'Individualism,' 'Socialism,' and 'Social Science,'" 89; *SL*, 8:877–78.
45. Hayek, *The Counter-Revolution of Science: Studies on the Abuse of Reason* (London: Free Press of Glencoe, 1952), 16.
46. Karl Popper, *The Poverty of Historicism* (New York: Routledge, 1957), 3.
47. Jeremy Shearmur, *The Political Thought of Karl Popper* (London: Routledge, 1996), 41. Karl Popper's *Poverty of Historicism* was drafted in stages in the 1930s. Popper's argument was first published in article form in Hayek's journal, *Economica*, and then in book form in 1957. See Karl Popper, *The Poverty of Historicism* (Boston: Beacon Press, 1957), 58. Malachi Hacohen,

Karl Popper—The Formative Years, 1902–1945: Politics and Philosophy in Interwar Vienna (Cambridge: Cambridge University Press, 2002) argues that Popper's position against historicism is a synthetic one, mostly directed toward Marxism, not primarily toward Comte. Mill is a continual proxy target (357), but the focus of Popper's criticism shifts (368n124).

48. Friedrich Hayek, *The Counter-Revolution of Science*, 140 (emphasis added).
49. Compare Thompson, from whose discussion I have benefited. Dennis F. Thompson, *John Stuart Mill and Representative Government* (Princeton, NJ: Princeton University Press, 1976), 151–57, 190–92. Joseph Persky, in contrast, interprets Mill as a "restricted materialist." Persky, *The Political Economy of Progress*, xix, 155–68.
50. *ACP*, 10:317.
51. *ACP*, 10:316.
52. *ACP*, 10:316.
53. As in Hayek, *The Counter-Revolution of Science*, 123.
54. *ACP*, 10:300–301.
55. *ACP*, 10:298–99.
56. Mill, "The Contest in America (1862)," 21:125–42, at 137.
57. Mill, "To James Mill [Aug. 20, 1830]," 12:55–59, at 56. Kant expresses a comparable feeling about the 1789 revolution. Immanuel Kant, "The Contest of Faculties," in *Kant: Political Writings*, ed. H. S. Reiss, trans. H. B. Nisbet (Cambridge: Cambridge University Press, 1991), 176–90, at 182.
58. Georgios Varouxakis, "French Radicalism through the Eyes of John Stuart Mill," *History of European Ideas* 30 (2004): 433–61, at 439–45; Geraint Williams, "J. S. Mill and Political Violence," *Utilitas* 1 (1989): 102–11; Mill, "Armand Carrel," 20:191. Mill's most general statement on political cycles is found in the preface to *Considerations*, where he makes a Comte-inspired defense of order in progress (*CRG*, 19:385). Sometimes, Mill expresses frustration with political change in England and says that only violent revolution will shake up the "torpid mind of the nation." See Mill, "To John Austin [April 13, 1847]," 713–14.
59. *ACP*, 10:301–3.
60. Quoted in *ACP*, 10:301–2. Mill adds the following citation in a note: "*Système de politique positive*. Paris: Saint-Simon, 1824, p. 14." See Auguste Comte, "Plan of the Scientific Operations Necessary for Reorganizing Society," in *Early Political Writings*, ed. and trans. H. S. Jones (Cambridge: Cambridge University Press, 1998), 47–144, at 56.
61. For the background of normal science and the emergence of extraordinary science, see Thomas Kuhn, *The Structure of Scientific Revolutions*, 3rd ed. (Chicago: University of Chicago Press, 1996).
62. *ACP*, 10:313.
63. *ACP*, 10:302.
64. An exception was Thomas à Kempis's *Imitation of Christ*. See Mary Pickering, *Auguste Comte: An Intellectual Biography* (Cambridge: Cambridge University Press, 2009), 3:373.

65. Nassau Senior, *Outline of the Science of Political Economy* [1836], quoted in Lars Udehn, *Methodological Individualism: Background, History and Meaning* (London: Routledge, 2001), 14; Mill, "On the Definition of Political Economy," discussed in Udehn, *Methodological Individualism*, 18.
66. Mill struggles with raising this accusation against Bentham in *B*, 10:96.
67. *ACP*, 10:294–96.
68. *ACP*, 10:295–96.
69. *ACP*, 10:303.
70. *ACP*, 10:304.
71. "Contemporary Literature," *London & Westminster Review*, 81 (1864), 218–38, at 232.
72. [John Tulloch], "The Positive Philosophy of M. Auguste Comte," *Edinburgh Review*, 127 (1868): 155–82, at 157.
73. *ACP*, 10:322; *SL*, 8: 819, 936–42.
74. Mill, "To Gustave d'Eichthal [Oct. 8, 1829]," 12:35–36.
75. See Comte, "Cours de Philosophie Positive (1830–1842)," 263–67, 267–70, 270–78. In its inception, the positive system will extend to France, Germany, England, Italy, and Spain; later, to the entire white race; and ultimately, to the whole of mankind (304).
76. *ACP*, 10:310.
77. *ACP*, 10:310.
78. Comte fell in love with Clotilde de Vaux in October 1844. She died of tuberculosis in April 1846. See Susan Moller Okin, "John Stuart Mill's Feminism: *The Subjection of Women* and the Improvement of Mankind," in *Mill's "The Subjection of Women": Critical Essays*, ed. Maria H. Morales (Lanham, MD: Rowman & Littlefield, 2005), 24–51, at 38–39.
79. *ACP*, 10:311; Elizabeth Smith, "John Stuart Mill's '*Subjection of Women*,'" *Polity*, 34, no. 2 (2001): 181–203.
80. *ACP*, 10:312.
81. *SL*, 8:917–924, with education discussed at 8:921; *C*, 10:132–35, with education described at 10:132. See also the principles described at 10:134–35.
82. *ACP*, 10:309–15.
83. *ACP*, 10:309–15. Recent commentators generally underuse Mill's reviews of Comte. For one very important exception, see Rosen, *Mill*, 97–130.
84. John Henry Bridges, *The Unity of Comte's Life and Doctrine: A Reply to Strictures on Comte's Later Writings, Addressed to J. S. Mill, Esq., M.P.* (London: Trübner and Company, 1866), 12; Stephen, *Liberty, Equality, Fraternity*, 59.
85. *ACP*, 10:315–27.
86. *ACP*, 10:315.
87. See Joseph Hamburger, *John Stuart Mill on Liberty and Control* (Princeton, NJ: Princeton University Press, 1999), 129, 226.
88. *ACP*, 10:317.
89. *CRG*, 19:381.

90. *CRG*, 19:382: "It was not by any change in the distribution of material interests, but by the spread of moral convictions, that negro slavery has been put an end to in the British Empire and elsewhere. The serfs in Russia owe their emancipation, if not to a sentiment of duty, at least to the growth of a more enlightened opinion respecting the true interest of the State."
91. *ACP*, 10:316.
92. *ACP*, 10:316.
93. For Mill as a restricted historical materialist, see Persky, *The Political Economy of Progress*, xix, 156, 159.
94. *ACP*, 10:317. Mill says in the *Logic* that it is "indisputable" that the instincts may be "modified to any extent, or entirely conquered, in human beings." He might want to take back this statement in light of present-day evolutionary biology, but it is more likely that he would use our greater evidence to support his claim. Even the strongest instincts can be modified or conquered, but the price to be paid for their restraint is enormous. See *SL*, 8:856–60, at 859.
95. *ACP*, 10:318.
96. *ACP*, 10:317–18.
97. Auguste Comte, "Summary Appraisal of the General Character of Modern History," in *Early Political Writings*, ed. and trans. H. S. Jones (Cambridge: Cambridge University Press, 1998), 5–46, at 9. This essay was published under Saint-Simon's name in 1820, as per Jones's note.
98. *ACP*, 10:319–21.
99. *ACP*, 10:321–22.
100. *ACP*, 10:325.
101. *SL*, 8:941. See James Fitzjames Stephen, "The Study of History [1861]," *History and Theory*, 1, no. 2 (1961): 186–201.
102. See Stephen, "The Study of History," 195. According to Raymond Aron, the historian is properly relativistic "as soon as the historian ceases to claim a detachment which is impossible, recognizes what his point of view is and consequently puts himself into a position to be able to recognize the points of view of others." Raymond Aron, "Relativism in History," in *The Philosophy of History in Our Time: An Anthology*, ed. Hans Meyerhoff (Garden City, NY: Doubleday Anchor, 1959), 153–61, at 158, 160.
103. *ACP*, 10:323.
104. *ACP*, 10:323–24.
105. *ACP*, 10:324–25.
106. *ACP*, 10:325.
107. *ACP*, 10:325–26.
108. *ACP*, 10:326.
109. *ACP*, 10:327.
110. *ACP*, 10:312–13. For a sustained discussion of the "clerisy" debate, see Ben Knights, *The Idea of the Clerisy in the Nineteenth Century* (Cambridge: Cambridge University Press, 2010), 144–77. For a brief, recent discussion, see Bruce Kinzer, "British Critics of Utilitarianism," *CM*, 99–102.

111. See Udehn, *Methodological Individualism*, 28 for Comte's *Course in Positive Philosophy*, bk. 6, ch. 5.
112. Udehn, *Methodological Individualism*, 29.
113. *ACP*, 10:313.
114. Auguste Comte, *The Positive Philosophy of Auguste Comte*, trans. Harriet Martineau (London: Trübner and Co., 1875), 2:394.
115. To explain Comte's illiberalism, critics point to his "traumatised ex-Catholic sensibility" or his rejection of the *coup d'état* of 1851 as the proximate cause of his increasing preference of order over liberty. See Andrew Wernick, *Auguste Comte and the Religion of Humanity*, 7; Auguste Blanqui, "Notes on Positivism," trans. Andy Blunden and Mitchell Abidor, Marxists.org, 2003, http://www.marxists.org/reference/archive/blanqui/1869/positivism.htm.
116. *ACP*, 10:314.
117. *ACP*, 10:313–14.
118. Mill, "To Alfred Hyman Louis [March 22, 1869]," 17:1580–82, at 1582; *C*, 10:314.
119. Mill, "To Gustav d'Eichthal [Nov. 7, 1829]," 12:38–43, at 40.
120. John Stuart Mill, *The Correspondence of John Stuart Mill and Auguste Comte*, trans. and ed. Oscar Haac (New Brunswick, NJ: Transaction Publications, 1995), 61–62. For the context (persecution in England, Comte's attacks on overspecialized scientists), see the three preceding letters in the Haac edition of the correspondence.
121. Mill, "To Alfred Hyman Louis [March 22, 1869]," 17:1581.
122. Mill, "To Gustav d'Eichthal [Nov. 7, 1829]," 12:40–41.
123. *CS*, 5:720.
124. Mill, "To John Pringle Nichol [Jan. 16, 1833]," 12:136–37 (emphases added).
125. Similarly, in theorizing a republic of science, Michael Polanyi argues that an overlapping consensus is developed "*between* scientists, not above them" in order to weed out the scientific "cranks and dabblers." See Polanyi, "The Republic of Science: Its Political and Economic Theory," *Minerva* 1 (1962): 54–74. In *The Logic of Liberty*, Polanyi restates his point that the "logic of public liberty is to co-ordinate independent individual actions spontaneously in the service of certain tasks," including the accumulation of knowledge. See Polanyi, *The Logic of Liberty* (Abingdon, UK: Routledge, 1998), 198. For commentary and criticism, see Stephanie Ruzsits Jha, *Reconsidering Michael Polanyi's Philosophy* (Pittsburgh: University of Pittsburgh Press, 2001), 26–36.
126. *ACP*, 10:314. The same thought is found in *A*, 1:221 and *OL*, 18:227.
127. *ACP*, 10:314.
128. Comte, "General Character," 42.
129. Comte, "Plan," 24–25.
130. Comte, "Plan," 25–26.
131. Comte, "Plan," 26–27.

132. Comte, "Plan," 27–28.
133. E.g., Dana Villa, *Public Freedom* (Princeton, NJ: Princeton University Press, 2008), 108–42.
134. See Humboldt, *The Limits of State Action*, 17, for a precursor to Mill's argument; Mill, "Centralisation," 19:581–613. Mill's *OL* (18:309–10) ends with a vision of the Poor Law Commission as a metaphor for good government, allowing the diffusion of power and responsibility to the local level while maintaining a "central organ of administration and instruction for all localities." In his second review of Tocqueville, Mill calls the balance between local government and the Poor Law Commissions "almost theoretically perfect." In his notes on the Poor Laws, Tocqueville represents them as centralizing power to a greater degree than Mill affirms. See also Llewellyn Woodward, *Oxford History of England*: *The Age of Reform 1815–1870* (Oxford: Oxford University Press, 1938), 432, which also notes the centralizing tendency of the Poor Law administration.
135. Ernst Cassirer, *The Problem of Knowledge: Philosophy, Science, and History since Hegel*, trans. William H. Woglom and Charles W. Hendel (New Haven: Yale University Press, 1950), 8.
136. Whewell, "On the Connexion of the Physical Sciences. By Mrs. Somerville," 59–60.
137. As Mill writes, "Even science, it is affirmed [by the transcendentalist critics of empiricism], loses the character of science in this view of it, and becomes empiricism; a mere enumeration and arrangement of facts, not explaining nor accounting for them." *C*, 10:127. For criticisms of this type, see Friedrich Nietzsche, *The Gay Science*, trans. W. Kaufmann (New York: Random House, 1974), aphorisms 12, 123, 357; *The Will to Power*, trans. W. Kaufmann (New York: Random House, 1967), aphorism 53; *Beyond Good and Evil*: *Prelude to a Philosophy of the Future*, trans. W. Kaufmann (New York: Vintage, 1989), aphorism 204. Marx addresses this criticism in "The German Ideology: Part I," in *The Marx-Engels Reader*, 146–200, at 155. For Coleridge's criticism of the fact-hunting empiricist, see Christopher Parker, "Samuel Taylor Coleridge and the Revolt against Empiricism and Materialism," *The English Idea of History from Coleridge to Collingwood* (Aldershot, UK: Ashgate, 2000), 26, 28.
138. Edmund Husserl, *The Crisis of European Sciences and Transcendental Phenomenology*, trans. David Carr (Evanston, IL: Northwestern University Press, 1970), 7.
139. *SL*, 8:944.
140. *SL*, 8:949.
141. See Tom Sorell, *Scientism: Philosophy and the Infatuation with Science* (New York: Routledge, 1994).
142. For general commentary, see Alan Gross, "The Roles of Rhetoric in the Public Understanding of Science," *Public Understanding of Science*, 3 (1994): 3å–23.
143. See *OL*, 18:250.

144. Alexander Bain, *John Stuart Mill: A Criticism with Personal Recollections* (New York: Augustus M. Kelley, 1969), 105.
145. Nicholas A. Christakis, "Let's Shake Up the Social Sciences," *New York Times*, July 19, 2013, http://www.nytimes.com/2013/07/21/opinion/sunday/lets-shake-up-the-social-sciences.html?_r=0
146. *SL*, 8:950. Emphasis added.
147. Don Price, *The Scientific Estate* (Cambridge, MA: Belknap Press, 1965), 174–75.
148. *ACP*, 10:265–66.
149. *UR*, 10:418.
150. The quotations preceding and following are taken from a passage in the 1851 (third) edition of the *System of Logic* that was excised from the fourth edition of 1856. See *SL*, 8:950–51. For the text, see John Robson, "Textual Introduction," 7:xlix–cvii, at cii. Our passage is discussed on p. lxxxiv.
151. Roger Pielke, for example, describes a context in which agreement about ends is easy as "tornado" politics. The point is not to respect religious liberty or privacy when a tornado is bearing down on a school, but to get the students and staff to a safe place. Once we step outside the context of tornado politics, we reenter a world of abortion politics, where there is deep disagreement over basic rights to life, to religious free exercise and nonestablishment, to privacy, and to dignity. See Roger Pielke, *The Honest Broker: Making Sense of Science in Policy and Politics* (Cambridge: Cambridge University Press, 2007), 13–18, 136.
152. *SL*, 8:950–51.
153. See also Mill, "Bain's On the Applications of Science to Human Health and Well-Being," 25:1118–20.
154. Aaron D. Cobb, "Mill's Philosophy of Science," *CM*, 234–49, at 242.
155. *PPE*, 3:210.
156. Steven Shapin, "The Image of the Man of Science," in *Cambridge History of Science*, vol. 4, *Eighteenth-Century Science*, ed. Roy Porter, 159–83.
157. See Martineau, "John Stuart Mill," 478–79.
158. *SL*, 8:942.
159. Mill, "To Gustave d'Eichthal [Nov. 7, 1829]," 12:43.

Chapter Four

1. *G*, 20:270.
2. *CRG*, 19:422.
3. *TPR*, 19:322.
4. See Peter Niesen, "Roots of Mill's Radicalism," *CM*, 79–94, at 84, 88, 89.
5. Jeremy Bentham, *A Fragment on Government*, ed. J. H. Burns and H. L. A. Hart (Cambridge: Cambridge University Press, 1988), 121.

6. Explaining the U.S. Constitution's design in the preface to the second edition of his 1776 *Fragment*, Bentham comments that the "interest-junction-prescribing principle" supplements the "End-indicating principle" (also known as the Greatest Happiness Principle) and the "Obstacle-indicating principle" (self-love) to perfect the mechanical system of checks and balances, limiting irresponsible power through frequent elections and by the mutual surveillance of officeholders. The preface to the 1823 second edition containing this argument was first published in 1838 and is reprinted in the Burns and Hart edition cited in the preceding note. See Bentham, *A Fragment on Government*, xix, 120. Cf. David Baumgardt, *Bentham and the Ethics of Today* (Princeton, NJ: Princeton University Press, 1952), 416ff.
7. Mill, "Obituary of Bentham (1832)," 10:495–98, at 498.
8. Mill, "Remarks on Bentham's Philosophy," 10:6 (hereafter cited as *RBP*).
9. *RBP*, 10:8 (emphases added).
10. Bentham, *The Panopticon Writings*, 5.
11. *B*, 10:95–96.
12. For the position that Mill was transformed by romantic and continental influences, see Capaldi, *John Stuart Mill: A Biography*. For Mill's dissatisfaction with Bentham as a methodologist and writer, see Elijah Millgram, "Mill's Epiphanies," *CM*, 12–29.
13. For a balanced overview, see Jack Stillinger, "John Mill's Education: Fact, Fiction, and Myth," in *A Cultivated Mind: Essays on J. S. Mill Presented to John M. Robson*, ed. Michael Laine (Toronto: University of Toronto Press, 1991), 19–43.
14. Terence H. Qualter, "John Stuart Mill, Disciple of de Tocqueville," *Western Political Quarterly* 13, no. 4 (1960): 880–89, at 887. See also Georgios Varouxakis, "Mill on Democracy Revisited," *CM*, 454–71, at 454–56.
15. For the debate over James Mill's essay, see Jack Lively and John Rees, eds., *Utilitarian Logic and Politics: James Mill's "Essay on Government," Macaulay's Critique and the Ensuing Debate* (Oxford: Oxford University Press, 1984).
16. T. B. Macaulay, "Mill on Government (March 1829)," in James Mill, *Political Writings*, 300.
17. *SL*, 8:742, 773–84 ("Fallacies of Observation," book 5, chap. 4).
18. See "Reply to Macaulay from *A Fragment on Mackintosh* (1835)," in James Mill, *Political Writings*, 304, 314. I rely on Ball's reconstruction of the exchange.
19. *A*, 1:165.
20. *A*, 1:165; *DIA* [I], 18:49.
21. For the argument that Mill develops a three-part theory of representation in this work—consisting of an educated populace, a proper mechanism of election, and trained leaders—see Kinzer, "British Critics of Utilitarianism," *CM*, 95–111, at 108. In late February, Mill says that he has not yet read Tocqueville, but he has begun reading the first volume in mid-April.

See letters to Joseph Blanco White of Feb. 26, 1835 (12:248–49, at 249) and April 15, 1835 (12:258–59, at 259).

22. Frederick Rosen, in contrast, follows J. H. Burns's view that Mill "never adopted the viewpoint of a democrat." See Rosen, *Mill*, 70.
23. *A*, 1:288.
24. *CRG*, 19:403.
25. Mill, "French News [47] [Feb. 12, 1832]," 23:407–11, at 408. Paraphrasing Burke, see Mill, "Pledges [2] [July 15, 1832]," 23:496–504, at 502.
26. *A*, 1:262.
27. See *CRG*, 19:442–43; Hanna Fenichel Pitkin, *The Concept of Representation* (Berkeley: University of California Press, 1972), 202–6.
28. *CRG*, 19:399. In this respect, his political thought is comparable to that of the Federalists. See Alexander Hamilton, "The Federalist No. 68," in *Federalist Papers*, ed. Clinton Rossiter and Charles Kesler (New York: Signet, 2003), 410–13, at 413: "the true test of a good government is its aptitude and tendency to produce a good administration."
29. *CRG*, 19:400.
30. *CRG*, 19:478.
31. *ACP*, 10:304.
32. *A*, 1:177. Again, Persky's restricted materialist thesis must be placed in dialogue with these statements by Mill. Persky, *The Political Economy of Progress*, xix, 155–68.
33. *CRG*, 19:445.
34. Thompson, *John Stuart Mill and Representative Government*, 9.
35. Miller, *J. S. Mill*, 172. Miller himself refers to those who carry out the business of government (effective) versus those who seek to elevate it (educative).
36. David Brink, *Mill's Progressive Principles* (Oxford: Clarendon, 2013), 127–28.
37. *CRG*, 19:387.
38. *CRG*, 19:385–86. See Miller, *J. S. Mill*, ch. 9. Miller is correct in saying that when Mill discusses "protection," he means not only the protection of status quo interests but also the protection of the "power of individual thought." See also *DIA* [I], 18:85.
39. *CRG*, 19:388.
40. *CRG*, 19:389.
41. Mill, "Representation of the People [5] [May 31, 1866]," 28:83–86, at 85–86; *A*, 1:277 and note.
42. *DIA* [II], 18:199.
43. *CRG*, 19:468.
44. Mill, "Diary of 1854," 27:641–42 (hereafter cited as *D*).
45. Mill, "Writings of Alfred de Vigny," 1:467.
46. *CRG*, 19:374ff. Carlyle distinguishes between "mechanical" and "dynamic" in his essay "Characteristics." See Thomas Carlyle, "Characteristics," in

A Carlyle Reader (Acton, MA: Copley Publishing, 2000), 36–70, and *RBP*, 10:17. For a competing interpretation, see Rosen, *Mill*, 87–88.

47. William Kluback, *Wilhelm Dilthey's Philosophy of History* (New York: Columbia University Press, 1956), 20, quoting Leopold von Ranke.
48. *CRG*, 19:376.
49. *CRG*, 19:379.
50. *CRG*, 19:376.
51. *OL*, 18:272.
52. *RBP*, 10:16–17.
53. For government by reflection and choice, see Alexander Hamilton, "The Federalist No. 1" in *Federalist Papers*, 27.
54. On gradualism in socialism and the need for experimental validation, see *CS*, 5:737.
55. Mill, "To Alexis de Tocqueville [Jan. 7, 1837]," 12:316–17, at 317.
56. Mill does not claim to be the originator of this "doctrine of individuality." As he remarks in the *Autobiography*, important precursors include Johann Wolfgang von Goethe, Johann Gottlieb Fichte, Wilhelm von Humboldt, William Maccall, and Josiah Warren. See *A*, 1:260.
57. What "more or better can be said" of individuality, or of anything, "than that it brings human beings themselves nearer to the best thing they can be? or what worse can be said of any obstruction to good, than that it prevents this?" See *OL*, 18:267.
58. For Mill, there is no philosophy of right and thus no pressure to adumbrate a context-independent political theory. See *NPE*, 5:443.
59. The defense of minority representation forms a part of Mill's discussion of the democratic principle in part 1 of the *Considerations*, but since his thoughts culminate in a concrete, albeit very controversial policy designed to filter formal public opinion and participation, it is grouped with Mill's analyses in part 2 of the *Considerations*.
60. *DIA* [I], 18:71–72.
61. Other important elements of Mill's *Considerations* that are outside the scope of this chapter include national self-determination, confederation, and imperialism. For commentary, see Georgios Varouxakis, *Mill on Nationality* (London: Routledge, 2002) and *Liberty Abroad: J. S. Mill on International Relations* (Cambridge: Cambridge University Press, 2013); Lynn Zastoupil, *John Stuart Mill and India* (Stanford: Stanford University Press, 1994); and Martin I. Moir, Douglas M. Peers, and Lynn Zastoupil, eds., *J. S. Mill's Encounter with India* (Toronto: University of Toronto Press, 1999).
62. I discuss Mill's theory of voting in a separate paper prepared for "Voting: A History," a conference held on April 13–14, 2018, at Ohio University in Athens, Ohio.
63. For a folk theory of voting and its criticism, see Jason Brennan, *The Ethics of Voting* (Princeton, NJ: Princeton University Press, 2011).

64. *CRG*, 19:448. In focusing on the "mental power" of democracies, Tocqueville and Mill make an important contribution to democratic theory by advancing it beyond the concern with the power of factions. See James Madison, "The Federalist No. 10," in *Federalist Papers*, 71–78, at 72–73, analyzed below.
65. See Mill, "The British Constitution [II] [May 19, 1826]," 26:371–85, at 375–77 and Mill, "Rationale of Representation," 18:44–45 (hereafter cited as *RR*)
66. Madison, "The Federalist No. 10," in *Federalist Papers*, 75.
67. Correcting Austin, Mill describes *both* the British and American systems as limited governments whose moderation is driven by the balancing of powers. See *CRG*, 19:345–46.
68. *CRG*, 19, ch. 7 *in toto* ("Of True and False Democracy; Representation of All, and Representation of the Majority Only").
69. Mill observes that this plan has been applied in Denmark in his day. As F.D. Parsons observes, Carl Andrae had actually created a system of personal representation for Denmark's federal legislature in 1855, prior to Hare's development of his plan, but Hare apparently worked it out on his own. See F. D. Parsons, *Thomas Hare and Political Representation in Victorian Britain* (Basingstoke, UK: Palgrave Macmillan, 2009), 56.
70. *CRG*, 19:453–54.
71. *CRG*, 19:435.
72. Pitkin, *The Concept of Representation*, 4, 212–23.
73. Leo Strauss, *Liberalism Ancient and Modern* (Chicago: University of Chicago Press, 1995), 17.
74. Mill, "Recent Writers on Reform," 19:363–64 (hereafter cited at *RWR*). For the same point about the unjust preponderance of any class, including the majority, see *CRG*, 19:467.
75. Mill, "To Thomas Hare [Dec. 19, 1859]," 15:653–54; "To Edwin Chadwick [Dec. 20, 1859]," 15:654–55, at 655.
76. *CRG*, 19:458.
77. *CRG*, 19:457, 459. For Mill, the emphasis on personal excellence is a common theme of his early radicalism and his mature theory of representative democracy. See Mill, "Reorganization of the Reform Party," 6:476–77.
78. Nancy Rosenblum, *On the Side of the Angels: An Appreciation of Parties and Partisanship* (Princeton, NJ: Princeton University Press, 2008), 149.
79. For example, Edmund Burke, *Reflections on the Revolution in France*, ed. F. G. Selby (New York: Macmillan & Co., 1890), 211.
80. See R. W. Krouse, "Two Concepts of Democratic Representation," *Journal of Politics*, 44, no. 2 (1982): 509–37. C. B. Macpherson calls this turn the transition from Bentham's protective democracy to J. S. Mill's developmental democracy. See Macpherson, *The Life and Times of Liberal Democracy* (Oxford: Oxford University Press, 2012), 23–76.

81. *DIA* [II], 18:86; "State of Society in America (1836)," 18:91–115, at 99–100. Mill's view of the practice of democracy in America is not constant. He turns to America as the bearer of the democratic torch after the failure of the 1848 revolutions, especially as a champion of the North during the Civil War. See *A*, 1:266–68.
82. *DIA* [II], 18:163–66.
83. *CRG*, 19:390–92 (and chapter 2, pages 383–98).
84. *CRG*, 19:468–69.
85. *CRG*, 19:469.
86. *CRG*, 19:470–72.
87. *TPR*, 19:322n. It is unlikely that a conviction for theft signals that a basic right and duty of citizenship should be canceled. Moreover, if voting cultivates wisdom and the feeling of being a citizen in the public, then ex-felons are very good candidates for the vote.
88. See *A*, 1:261.
89. *CRG*, 19:473.
90. See Lyndon Baines Johnson, "Address to a Joint Session of Congress on Voting Legislation: 'We Shall Overcome,'" March 15, 1965. LBJ Presidential Library, accessed June 21, 2018, http://www.lbjlibrary.org/lyndon-baines-johnson/speeches-films/president-johnsons-special-message-to-the-congress-the-american-promise.
91. *CRG*, 19:473.
92. *CRG*, 19:474.
93. For an accessible overview, see William Henry Maehl, Jr., ed., *The Reform Bill of 1832* (New York: Holt, Rinehart and Winston, 1967). Another interpretation is that Mill was influenced by the last volleys of reform conservative writing in 1859 (see below).
94. For a republican reading, see Stewart Justman, *The Secret Text of Mill's* Liberty (Savage, MD: Rowman and Littlefield, 1991), 33.
95. *TPR*, 19:328.
96. So, for example, Mill admires James Lorimer's "able and ingenious though partially erroneous" book, *Political Progress not Necessarily Democratic*, but rejects Lorimer's suggestion that the criterion of plural balloting should be social status (*CRG*, 19:355–57). See *A*, 1:263; Lorimer, *Political Progress Not Necessarily Democratic; or, Relative Equality the True Foundation of Liberty* (London: Williams and Norgate, 1857); and *CRG*, 19:474.
97. *CRG*, 19:382. "If there ever was a political principle at once liberal and conservative, it is that of an educational qualification," Mill asserts in *TPR* (19:327).
98. *TPR*, 19:324–26; *RWR*, 19:353–55; and *CRG*, 19:474–76.
99. *CRG*, 19:508.
100. See Varouxakis, "Mill on Democracy Revisited," 466, and citations.
101. Mill, "To Henry George [Oct. 23, 1869]," 17:1653–35.

102. *CRG*, 19:478. The state of the art of this debate is now found in Dale Miller, "The Place of Plural Voting in Mill's Conception of Representative Government," *Review of Politics*, 77, no. 3 (2015): 399–423.
103. See *CRG*, 19:478.
104. See *RWR*, 19:246.
105. *CRG*, 19:478.
106. See John Rawls, *A Theory of Justice* (Cambridge, MA: Belknap Press of Harvard University Press, 1971), 104–5.
107. *TPR*, 19:327.
108. For competing views, see Isaiah Berlin (Mill's actual basic commitment is to "diversity, versatility, fullness of life—the unaccountable leap of individual genius, the spontaneity and uniqueness of a man, a group, a civilization") and Robert Devigne (Mill "failed to provide adequate sustenance of the mental and moral qualities that are necessary for liberalism's comprehensive moral development," and this failure is owed to an "expressive conception of excellence"). See Berlin, "John Stuart Mill and the Ends of Life," in *Four Essays On Liberty* (New York: Oxford University Press, 1969), 176–77, and Devigne, *Reforming Liberalism*, 161, 164, 186–90, 221, 223–24.
109. Hélène E. Landemore, "Why the Many Are Smarter than the Few and Why It Matters," *Journal of Public Deliberation*, 8, no. 1 (2012): 1–12; Scott Page, *The Difference: How the Power of Diversity Creates Better Groups, Firms, Schools, and Societies* (Princeton, NJ: Princeton University Press, 2008).
110. Landemore, "Why the Many Are Smarter than the Few and Why It Matters," 6.
111. *RR*, 18:25.
112. See *TPR*, 19:338; *A*, 1:274–75; and Capaldi, *John Stuart Mill*, 323.
113. One of Mill's two examples of good men that would be elected in a democracy arranged under Hare's plan is Themistocles, who was a prudent man with an unsavory public reputation. His policies were eminently useful, but he had to conceal his aims and authorship in order for the *demos* to accept them. See *CRG*, 19:458, and Chris Barker, "Democracy and Free Speech in Herodotus' Lydian Logos," *Journal of Greco-Roman Studies* (2014): 1–30 at 2, 24–25.
114. Bruce L. Kinzer, *J. S. Mill Revisited: Biological and Political Explorations* (New York and Basingstoke, UK: Palgrave Macmillan, 2007), 146–63.
115. Mill is also a critic of the political power of wealth, arguing that there is no direct connection between the possession of money and the legitimate exercise of power. See Mill, "To John Sterling, [Oct. 20–22, 1831]," 12:84. See also Mill, "The Game Laws (1826)," 6:99–120, at 107; *TPR*, 19:325, 328; *CRG*, 19:474.
116. Varouxakis, "Mill on Democracy Revisited," 455; Turner, "Mill and Modern Liberalism," 576–79.
117. *CRG*, 19:493; *A*, 1:261.
118. *CRG*, 19:488.

119. *CRG*, 19:489. Mill does not make clear how concrete this duty is, or whether people who do not do their duty can be excluded from the franchise in an ideal system of government.
120. *CRG*, 19:490.
121. *CRG*, 19:491. Examples could be pocketbook voting, or voting according to descriptive traits or as a reaction to personal charisma, and not to the substantive merits of the candidate.
122. *CRG*, 19:489.
123. *RWR*, 19:354–55.
124. *Kelley v. Johnson*, 425 U.S. 238 (1976); *Board of Directors, Rotary International v. Rotary Club of Duarte*, 481 U.S. 537 (1987).
125. The whole point of the Hare plan is to ensure advocates for minorities—but what are minorities, if not persons of color or religions of limited membership? *CRG*, 19:350.
126. *RWR*, 19:350.
127. *CRG*, 19:495–96, quoting from *TPR*.
128. This remarkable passage is worth quoting at length:

> Any rational creature, is committing a most gross dereliction of duty when he habitually neglects to make use of this power conscientiously and *at any cost of labour* to himself. He owes it as a return to the civilisation to which he owes . . . his life. . . . He owes it therefore by the *deepest debt* that man can owe to his fellow creatures. Nor is it less imperative that he should pay it because if the duty of voting is not fulfilled from virtuous and public motives the power of voting will be left to people who are induced to exercise it by the spur of selfish interest or ambition. Thus I can conceive *no duty not even the most primary duties of private and personal morality*, that it is more absolutely essential to the happiness of mankind that every virtuous and rational citizen should fulfill steadily and carefully (Mill, "To Mary Carpenter [Dec. 29, 1867]," 16:1639–41, at 1340, emphases added).

129. *SW*, 21:301.
130. *CRG*, 19:489–90.
131. *CRG*, 19:471.
132. *B*, 10:108.
133. Alexis de Tocqueville, *Democracy in America*, trans. Harvey C. Mansfield and Delba Winthrop (Chicago: University of Chicago Press, 2000), 236.
134. *DIA* [I], 18:74.
135. Mill, "Fonblanque's England under Seven Administrations (1837)," 6:349–80, at 361.
136. Mill, "Pledges [1] [July 1, 1832]," 23:487–94, at 492; "*RR*, 18:41.
137. *CRG*, 19:506.
138. *CRG*, 19:510. In an 1867 review, Mill provides a more general summary of this argument, stating that the true theory of the British Constitution

is that the House of Commons represents the entire people, rather than that individual members represent their constituencies.

139. *CRG*, 19:510.
140. Mill presumably would reject "flip-flopping" if that involved changing one's positions to suit popular opinion. But sacrificing consistency for principle, as the Kentucky-born Supreme Court Justice John Marshall Harlan famously did when persuading himself to support the Thirteenth and Fourteenth Amendments, would count as *admirable* political conduct.
141. Mill was writing prior to the passage of the Seventeenth Amendment, which was ratified in 1913 and provided for the direct election of senators. See Ralph Rossum, *Federalism, the Supreme Court, and the Seventeenth Amendment: The Irony of Constitutional Democracy* (Lanham, MD: Lexington Books, 2001).
142. James Madison, "The Federalist No. 62," in *Federalist Papers*, 374–79.
143. *CRG*, 19:482, 486–87.
144. *CRG*, 19:483.
145. Alexander Hamilton, "The Federalist No. 68," in *Federalist Papers*, 410.
146. Stephen M. Sheppard, "A Case for the Electoral College and for its Faithless Elector," *Wisconsin Law Review Online* (2015): 1–11, http://wisconsinlawreview.org/wp-content/uploads/2015/02/Sheppard-Final-copy.pdf.
147. See Robert W. Bennett, "The Problem of the Faithless Elector: Trouble Aplenty," *Northwestern University Law Review* 100, no. 1 (2006): 121–30.
148. *CRG*, 19:485.
149. "Any despotism is preferable to local despotism." See *CE*, 19:606.
150. Mill, "The Westminster Election of 1865 [2] [July 5, 1865]," 28:18–28, at 20; *CRG*, 19:469, 581–613.
151. *OL*, 18:309–10; Mill, "State of Society in America," 18:113–14.
152. "It is a fundamental principle in his [Tocqueville's] political philosophy, as it has long been in ours, that only by the habit of superintending their local interests can that diffusion of intelligence and mental activity, as applied to their joint concerns, take place among the mass of a people." See *DIA* [I], 18:60.
153. See Rossum, *Federalism, The Supreme Court, and the Seventeenth Amendment*, 187–90 for a table detailing the partisan gridlock in state legislatures.
154. Mill, "Essays on Government," 18:149–52, at 152.
155. *CRG*, 19:513. For unicameralism, see Chris Barker, "Unicameralism," in *The Sage Encyclopedia of Political Behavior*, ed. Fathali M. Moghaddam (Thousand Oaks, CA: SAGE Publications, 2017), 2:859–60.
156. He opposes a hereditary second chamber in 1831, but argues that the crucial thing is not adherence to principle but to promote what is effective at a given place and time.
157. James Madison, "The Federalist No. 63," in *Federalist Papers*, 381–87, at 380.
158. *CRG*, 19:516.

159. *CRG*, 19:517.
160. *CRG*, 19:521. See also Alexander Hamilton, "The Federalist No. 70," in *Federalist Papers*, 421–28, at 426–28.
161. *CRG*, 19:523–24. For the "managerial" Mill, see Villa, *Public Freedom*, 108–42.
162. *GP*, 11:436; Krouse, "Two Concepts of Democratic Representation," 525.
163. *GP*, 11:435. The expertocratic "Plato" is the author of some of the speeches in the *Laws* and the *Republic*. Mill broadly oversimplifies in this piece, despite rereading all of Plato in Greek to complete the review.
164. *CRG*, 19:523–24.
165. Alan Ryan, *J. S. Mill* (London: Routledge and Kegan Paul, 1974), 216.
166. *CRG*, 19:483.
167. *DIA* [I], 18:71.
168. *CRG*, 19:525.
169. See Walter Bagehot, *The English Constitution* (London: Kegan Paul, Trench, Trubner & Co., 1902), 4, 33, 89, 140.
170. For living constitutionalism, see Howard Lee McBain, *The Living Constitution* (New York: Macmillan, 1927). For a present-day account of constitutional practices that escape delineation in a written constitution, see Akhil Reed Amar, *America's Unwritten Constitution: The Precedents and Principles We Live By* (New York: Basic Books, 2012).
171. Book 1 of Carlyle's *Past and Present* is a sustained assault on the "mechanical" reforms of the British constitutional order and a plea for hero worship, which is the perfection of all worship and a substitute for reliance on an elected parliament or an aristocracy of the wise. "A whole world of heroes," Carlyle concludes. "Yes, that is our Reform." See Carlyle, "Past and Present," in *Past and Present. Chartism. Sartor Resartus* (New York: Harper and Brothers, 1848), 32–33.
172. See Bagehot, *The English Constitution*, 33: "The use of the Queen, in a dignified capacity, is incalculable. Without her in England, the present English Government would fail and pass away." See also Clinton Rossiter, "The Presidency—Focus of Leadership," *New York Times*, November 11, 1956. See also *CRG*, 19:423–24.
173. *CRG*, 19:430–31.
174. *CRG*, 19:423.
175. *CRG*, 19:423–30.
176. *CRG*, 19:432.
177. *CRG*, 19:433–34.
178. This has been true from the time of the journalist John Black (1783–1855), who was a disciple of James Mill. See Mill, "To Robert Harrison [Dec. 12, 1864]," 15:978–80, at 979 and "Introduction," *CW*, xxix.
179. See Harvey Mansfield, *Taming the Prince: The Ambivalence of Modern Executive Power* (New York: Free Press, 1989).
180. Dale Miller, *J. S. Mill*, 178; Brady, "Introduction," 18: xxiv.
181. *CRG*, 19:467. My thanks to Dale Miller for pointing out this reference.

Chapter Five

1. Alan Megill, "John Stuart Mill's Religion of Humanity and the Second Justification for the Writing of *On Liberty*," *Journal of Politics* 34, no. 2 (1972): 612–29, at 621, 627; Himmelfarb, *On Liberty and Liberalism*, 338.
2. Ronald Beiner, *Civil Religion: A Dialogue in the History of Political Philosophy* (New York: Cambridge University Press, 2011).
3. John Morley, "Mr. Mill's Three Essays on Religion," in *Nineteenth-Century Essays* (Chicago: University of Chicago Press, 1972), 164–223, at 168–69; Stephen, *Liberty, Equality, Fraternity*, 164–204. James Fitzjames Stephen observes that some of his criticisms do not apply to Mill (186).
4. See Lou Matz, "Mill's Philosophy of Religion," *CM*, 279–93; Eldon Eisenach, *The Two Worlds of Liberalism* (Chicago: University of Chicago Press, 1981), 217.
5. Claeys, *Mill and Paternalism*," 224.
6. Helen Taylor, "Introductory Notice," 10:371–72, at 371. For commentary, see F. E. L. Priestley, "Introductory Notice," *CW*, 10:vii–lxii, at lv–lvi; and John Robson, "Textual Introduction," 10:cxv–cxxxix, at cxxii–cxxix.
7. *UR*, 10:415. On the need for strategic speech, see Mill, "To Auguste Comte [Dec. 18, 1841]," 13:491–93, at 491–92.
8. *A*, 1:247.
9. Marx, "The German Ideology: Part I," 148–49, 154–55.
10. *U*, 10:232.
11. See, for this, James E. Crimmins, "Bentham on Religion: Atheism and the Secular Society," *Journal of the History of Ideas*, 47, no. 1 (1986): 95–110.
12. *B*, 10:81. See James Crimmins, *Secular Utilitarianism: Social Science and the Critique of Religion in the Thought of Jeremy Bentham* (Oxford: Oxford University Press, 1990).
13. *ACP*, 10:334–35.
14. Auguste Comte, *The Catechism of Positive Philosophy*, trans. Richard Congreve (London: John Chapman, 1858), 47.
15. *C*, 10:160.
16. *OL*, 18:245.
17. *A*, 1:221.
18. See Stefan Collini, "Introduction," 21:vii–lvi, at xi; Morley, "Mr. Mill's Three Essays on Religion," 168, 223.
19. As Alexander Bain aptly remarks, "The general tenor of Sir James Stephen's work is to illustrate the necessity of bringing force to bear upon human life at all points." See Alexander Bain, *John Stuart Mill*, 111.
20. *UR*, 10:418.
21. Maurice Cowling, *Mill and Liberalism*, 2nd ed. (Cambridge: Cambridge University Press, 1990), xlviii; Joseph Hamburger, *John Stuart Mill on Liberty and Control* (Princeton, NJ: Princeton University Press, 1999), xv–xvii; Linda Raeder, *John Stuart Mill and the Religion of Humanity* (Columbia:

University of Missouri Press, 2002), 321. For this strain in Beiner's interpretation, see Beiner, *Civil Religion*, 260, 263, 267. For commentary interpreting Mill's writings as intended to put revelation and other traditions in dialogue, see Devigne, *Reforming Liberalism*, 114–20.

22. Most appraisals of Mill's religious humanism are negative. In *A Common Faith*, John Dewey agrees with Mill (although without citing him) in the following crucial areas: (1) the need for an inclusive definition of religious experience ("any activity pursued in behalf of an ideal end against obstacles and in spite of threats of personal loss because of conviction of its general and enduring value is religious in quality"); (2) the problem of particularism in churches and the benefits of broadly defining and defending "the religious" as a comprehensive moral orientation; (3) the non-necessity of theistic belief ("religious qualities and values if they are real at all are not bound up with any single item of individual assent, not even that of the existence of the God of theism"); (3) the utility of what Mill called the "Theism of the Imagination" ("I should describe this faith as the unification of the self through allegiance to inclusive ideal ends, which imagination presents to us"); and (5) the importance of the "public character" of belief versus mysticism and superstition. See John Dewey, *A Common Faith* (New Haven: Yale University Press, 1962), 7, 27, 21–23, 32, 33, 40, 83.
23. *N*, 10:377.
24. *A*, 1:67: *SL*, 8:822 for "Nature" as a "grand instrument" of question begging.
25. *N*, 10:379.
26. *N*, 10:380.
27. *OL*, 18:264.
28. James Eli Adams, "Philosophical Forgetfulness: John Stuart Mill's 'Nature,'" *Journal of the History of Ideas* 53 (1992): 437–54.
29. *N*, 10:385; Mill, "To Walter Coulson [Nov. 22, 1850]," 14:51–53, at 53.
30. Kant's moral outrage is comparable: "However hard we may try to awaken feelings of love in ourselves, we cannot avoid hating that which is and always will be evil, especially if it involves deliberate and general violation of the most sacred rights of man." Kant, "On the Common Saying: 'This May Be True in Theory, but It Does Not Apply in Practice,'" in *Kant: Political Writings*, 61–92, at 87–88.
31. *CS*, 5:715.
32. E.g., *OL*, 18:261. See also Friedrich Hayek, "Individualism: True and False," in *Individualism and Economic Order* (Chicago and London: University of Chicago Press, 1980), 1–32.
33. For this view, see Hamburger, "Candor or Concealment," in *John Stuart Mill on Liberty and Control*, 55–85.
34. *OL*, 18:279, 274.
35. *SW*, 21:293; cf. 325.
36. *SW*, 21:294.

37. *GP*, 11:420.
38. *ACP*, 10:339.
39. Richard Rorty, "Pragmatism as Romantic Polytheism," in *Philosophy as Cultural Politics: Philosophical Papers* (Cambridge and New York: Cambridge University Press, 2007), 4:27–41, at 28–29.
40. See Himmelfarb, *On Liberty and Liberalism*, 220–22.
41. Mill, "Puseyism [II] [Jan. 13, 1842]," 24:815–22, at 820.
42. "Theism," which is the least well argued and polished of the *Three Essays*, is discussed below.
43. Mill, "Preface to *Dissertations and Discussions* (1859)," 10:493–94, at 494; *A*, 1:169.
44. *UR*, 10:419. For comparable readings, see Devigne, *Reforming Liberalism*, 138–62 and Eldon Eisenach, "Authority," in *The Two Worlds of Liberalism* (Chicago: University of Chicago Press, 1981) (ch. 13 *in toto*); 173, 175, 179, 187, 189, 191, 195, 202–3, 204, 208, 223.
45. Ball, *Reappraising Political Theory*, 35.
46. Beiner, *Civil Religion*, 2.
47. Tocqueville, *Democracy in America*, 419.
48. See above, pages 1–2, 13–14. Tocqueville, *Democracy in America*, 417–24.
49. Mill, "To Thomas Carlyle [Oct. 5, 1833]," 12:180–84, at 182.
50. *I*, 21:249. See the very different ideal of education in David Hartley, for whom parental leniency is one of the "chief errors," and religion, "the one only necessary thing." Hartley, *Observations on Man: His Frame, His Duty, and His Expectations. In Two Parts. Part the First Containing Observations on the Frame of the Human Body and Mind, and on their Mutual Connection and Influences*, 4th ed., (London: J. Johnson, 1801), 2:302.
51. Mill's father shared some of the same angst-ridden anger that Bentham had about Christianity. James Mill had a religious education and was even a Christian until 1808. See Bain, *James Mill*, 388. However, during the time he was attached to the circle of Bentham, James Mill became an agnostic and a critic of Christian morality, holding, as John Mill reports, that it is "the greatest enemy of morality." See *A*, 1:42; Bain, *James Mill*, 89.
52. Rawls, *A Theory of Justice*, 101, 103, 106.
53. Rawls notes in his lectures on Mill that Mill's principles of justice and liberty have "roughly the same content" as Rawls's two principles, liberty and difference. However, Mill errs in merely offering a rough approximation of Rawls's theory. See John Rawls, *Lectures on the History of Political Philosophy*, ed. Samuel Freeman (Cambridge, MA: Belknap Press, 2007), 297.
54. *ACP*, 10:338.
55. *A*, 1:221.
56. *OL*, 18:246.
57. Mill, "To Edward Herford [Feb. 1, 1850]," 14:43–45, at 45.
58. Mill, "To Edward Herford [Feb. 1, 1850]," 14:45.

59. [Daniel Seelye Gregory], "John Stuart Mill and the Destruction of Theism," *Princeton Review*, 2 (1878): 409–48.
60. Sell, *Mill on God*, 171n263, quoting an anonymous writer in *The Spectator*, October 24, 1874.
61. "Theism" (hereafter referred to as *T*), 10:443.
62. *OL*, 18:256. Mill may be responding in this passage to a claim made by the Cambridge professor Adam Sedgwick that humility gives the Christian a "pure and perfect rule of life." Mill quotes this in *SD*, 10:58.
63. *OG*, 1:337.
64. *OL*, 18:248–49.
65. Crimmins, *Secular Utilitarianism*, 280.
66. Jeremy Bentham, *Church-of-Englandism and Its Catechism Examined*, ed. James E. Crimmins and Catherine Fuller (Oxford: Clarendon, 2011), 255.
67. Albert Venn Dicey, *Lectures on the Relation Between Law & Public Opinion in England During the Nineteenth Century*, ed. Richard VandeWetering (Indianapolis: Liberty Fund, 2008), 321.
68. *UR*, 10:418–19.
69. *A*, 1:40.
70. *B*, 10:99.
71. *A*, 1:73.
72. See Catherine Fuller, "Bentham, Mill, Grote, and An Analysis of the Influence of Natural Religion on the Temporal Happiness of Mankind," *Journal of Bentham Studies*, 10 (2008): 1–15, at 3.
73. See Priestley, "Introduction," 10: lviii.
74. *A*, 1:233; *C*, 10:127.
75. Mill, *Examination of Sir William Hamilton's Philosophy*, 9:34–35n (hereafter cited as *EX*); Sell, *Mill on God*, 54. I especially rely on Sell's chapter, "The Omnipresence of God," 27–68, and Alan Ryan, "Introduction," 9:vii–lxvii, xi–xx, at xxxv–xxxviii.
76. *EX*, 9:36.
77. *EX*, 9:44
78. *EX*, 9:46.
79. *EX*, 9:47. If we give up the law of contradiction, then we can allow, with Hegel, that God as Absolute Spirit (*Geist*) contains in itself "all that is actual, even evil." See *EX*, 9:47, 98.
80. *EX*, 9:100–101.
81. *EX*, 9:99n (emphasis added).
82. *EX*, 9:101.
83. *EX*, 9:103. Mill's footnote is deleted from the quotation.
84. *N*, 10:386.
85. *UR*, 10:424.
86. *OL*, 18:265.
87. *EX*, 9:465–66, 469. Max Weber's characterization of Calvinist voluntarism in *The Protestant Ethic and the Spirit of Capitalism* is similar.

88. See John Calvin, *Institutes of the Christian Religion*, trans. Henry Beveridge (Grand Rapids, MI: Eerdmans, 2001), 2:206.
89. Agreeing with Hamburger, *John Stuart Mill on Liberty and Control*, 55.
90. For Carlyle's complaint that we "have forgotten God" and substituted moral philosophy and the sublime for worship, so that the world is "a great, unintelligible Perhaps," see Carlyle, *Past and Present*, 116, 137.
91. See Calvin, *Institutes of the Christian Religion*, 1:544–45, 548–49.
92. See Stephen, *Liberty, Equality, Fraternity*, 31–32.
93. Adam Smith, *Theory of Moral Sentiments*, 150.
94. *BHMS*, 10:27; Sell, *Mill on God*, 31. For the distinction between voluntarism and intellectualism, see Jerome B. Schneewind, "Natural Law: From Intellectualism to Voluntarism," in *The Invention of Autonomy: A History of Modern Moral Philosophy* (Cambridge: Cambridge University Press, 1998), 17–36.
95. *BHMS*, 10:29.
96. Bain, *John Stuart Mill*, 106.
97. Perhaps owing to the recent Catholic emancipation from legal disabilities in 1829, which Mill heartily approved, he does not focus on Catholic political threats to civic independence. See Mill, "To Gustave d'Eichthal [March 11, 1829]," 12:26–28.
98. The phrase "to stand the consequences" is taken slightly out of context. In the case of self-regarding acts, Mill writes, there should be "perfect freedom, legal and social, to do the action and stand the consequences." See *OL*, 18:276.
99. *SL*, 8:929; *C*, 10:128.
100. *C*, 10:128, for Coleridge on the error of "loving Christianity better than truth."
101. *T*, 10:469; *N*, 10:389.
102. *T*, 10:459.
103. *UR*, 10:425.
104. Mill, "To Thomas Carlyle [Oct. 5, 1833]," 12:182.
105. *T*, 10:469.
106. *UR*, 10:416.
107. "To Auguste Comte [Dec. 15, 1842]," 13:559–563, at 562.
108. *ACP*, 10:332 (emphasis added).
109. Mill, "The Word 'Nature' [Jan. 3, 1823]," 22:8–9.
110. Mill, "To Arthur Helps [1847?]," 17:2000–2002, at 2001.
111. Beiner, *Civil Religion*, 265.
112. *T*, 10:485.
113. For the gloomy view, see *T*, 10:484.
114. *T*, 10:466; Mill, *SL*, 8:809.
115. Bain, *John Stuart Mill*, 112.
116. *T*, 10:466.
117. *T*, 10:467. For the perseverance of design arguments, even in a scientific age, see Matthew D. Eddy, "Nineteenth-Century Natural Theology,"

in *The Oxford Handbook of Natural Theology*, ed. Russell R. E. Manning (Oxford: Oxford University Press, 2013), 100–17, at 113.

118. *D*, 27:662.
119. *T*, 10:463.
120. *T*, 10:464. This quotation comes within a series of rhetorical questions and not as a decisive statement.
121. *T*, 10:464.
122. *UR*, 10:420.
123. *UR*, 10:426.
124. *SL*, 8:739.
125. *T*, 10:485.
126. *T*, 10:484.
127. *T*, 10:486.
128. *D*, 27:660. The inverse is also flawed.
129. *A*, 1:197.
130. Karl Mannheim, "Some Problems of Political Democracy at the Stage of Its Full Development," in *Essays on the Sociology of Culture* (Abingdon, UK: Routledge, 2001), 171–73, at 173, quoting Max Scheler's phrase "democracy of impulse."
131. Weber, *The Protestant Ethic and the Spirit of Capitalism*, 139–43.
132. [Theodore Parker?] "History and Ideas of the Mormons," *Westminster Review* (1853), 196–230, at 218.
133. *C*, 10:143.
134. Mill, "Puseyism [I] [Jan. 1, 1842]," 24:811–15, at 814.
135. Mill, "To John Sterling [Oct. 20–22, 1831]," 12:84.
136. See "Notes on the Newspapers," 6:247.
137. Mill, "To William George Ward" [May? 1865]," 16:1041–42; "Puseyism [I] [Jan. 1, 1842]," 24:812 (both emphases added).
138. Wernick, *Auguste Comte and the Religion of Humanity*, 2.
139. Mill, "Civilization," 18:141.
140. Beiner, *Civil Religion*, 267. Ball finds a genuinely "pedagogical" civil religion in Mill's writings, one that partakes more of the earnest, low-church civil religion of James Mill and less of the Comtian desire to impose a pastoral structure on liberal democracies. See Ball, "The Survivor and the Savant: Two Schemes for Civil Religion Compared," in *Reappraising Political Theory*, 131–57.
141. Compare Alain de Botton, *Religion for Atheists: A Non-believer's Guide to the Uses of Religion* (New York: Vintage, 2013) and Ronald Dworkin, *Religion without God* (Cambridge, MA, and London, UK: Harvard University Press, 2013).
142. *ACP*, 10:332–33.
143. *UR*, 10:422.
144. *A*, 1:251; *T*, 10:486.
145. *UR*, 10:422.
146. *UR*, 10:423.

147. *ACP*, 10:335.
148. Alan Megill, "J. S. Mill's Religion of Humanity and the Second Justification for the Writing of *On Liberty*," *Journal of Politics* 34, no. 2 (1972): 612–29, at 621.
149. Rosen, *Mill*, 225–26.
150. Himmelfarb, *On Liberty and Liberalism*, 330.
151. *ACP*, 10: 360.
152. Mill, "Diary of 1854," 27: 651–52 and pages 10–11 of this book.
153. *T*, 10:484.
154. See Alexandre Kojève, "The Idea of Death in the Philosophy of Hegel" *Interpretation* 3, no. 2 (1973): 114–56. One could just as easily cite Gotthold Ephraim Lessing or Lucretius or any number of philosophers on this point.
155. *D*, 27:664.
156. *D*, 27:668.
157. *ACP*, 10:334 (emphasis added). In my reading, Mill endorses Comte's emphasis on *worthy* humans and his inclusion of sentient animals in the Grand Etre.
158. *SD*, 10:65; the criticism of Judaism is intensified in Mill, "To Walter Coulson [Nov. 22, 1850]," 14:53.
159. Mill lists the harmonious doctrines in *UR*, 10:416–17.
160. John Robson cites an important letter from Harriet Taylor on this theme. Harriet calls on John to write on religion in order to throw over "all doctrines and theories, called religion, *as devices for power*, to show how religion & poetry fill the same want, the craving after higher objects, the consolation of suffering, by hopes of heaven for the selfish, love of God for the tender & grateful—how all this must be superseded by morality deriving its power from sympathies and benevolence and its reward from the approbation of those we respect." Quoted in Robson, "Textual Introduction," 10: cxxviii (emphasis added).
161. *ACP*, 10:334.
162. See Berlin, *Four Essays On Liberty*, 188, 191, 201. Bentham's will of May 30, 1832, explains the "Auto-Icon." His attendance at college meetings is sporadic.
163. For Bentham's dream, see James Crimmins, *Secular Utilitarianism: Social Science and the Critique of Religion in the Thought of Jeremy Bentham* (Oxford: Oxford University Press, 1990), 313–16.
164. See Mill, "To Arthur Helps [1847?]," 17:2000.
165. Compare *CRG*, 19:397 and Friedrich Hayek, "Cosmos and Taxis," in *Law, Legislation and Liberty*, vol. 1, *Rules and Order* (Chicago: University of Chicago Press, 1983), 35–54.
166. *CRG*, 19:397.
167. *OL*, 18:277.
168. Comte, *Catechism of Positive Religion*, 4–5, 13; Mill, "To Henry Samuel Chapman [May 28, 1849]," 14:33.

169. *UR*, 10:426.
170. For Mormon estimates, see "History and Ideas of the Mormons," 215, 218.
171. *D*, 27:667. For this characterization of Smith by the Mormon apostate John C. Bennett and others, see "History and Ideas of the Mormons," 201, 205.
172. Mill, *D*, 27:667. Mill explains Christianity's expansion with reference to the concentration of intellect among Roman Christians. See *G*, 20:272. The spread of a new revelation in an age of communication and publicity is more difficult to understand. The followers of Saint-Simon proselytized for a "new religion," but they represent a special case of religion for an age of reason. See Mill, "Enfantin's Farewell Address (1832)," 25:1256–59 for Enfantin; and "Fontana and Prati's St. Simonism in London [Feb. 2, 1834]," 23:674–80, for Prati, a preacher of Saint-Simonianism.
173. For an overview of moral minorities and majorities in America, see Robert Tsai, *America's Forgotten Constitutions: Defiant Visions of Power and Community* (Cambridge, MA: Harvard University Press, 2014).
174. Richard Lyman Bushman, *Mormonism: A Very Short Introduction* (Oxford: Oxford University Press, 2008), 27, 43; Bushman, "Mormon Persecution in Missouri, 1833," *Brigham Young University Studies*, 3 (1960): 11–20, at 12–14, 19.
175. At the conclusion of their 1833 manifesto, the signatories of Jackson County, MO, pledged their lives, fortunes, and sacred honors to the cause of expelling the Mormons. See "The Manifesto of the Mob [1833], http://www.blacklds.org/mob.
176. Bushman, *Mormonism: A Very Short Introduction*, 14. For the complaints of dissident Mormons against Smith and the church hierarchy, see the "Resolutions" published in the sole issue of the *Nauvoo Expositor* (Nauvoo, IL: William Law et al., 1844).
177. *OL*, 18:290; "History and Ideas of the Mormons," 214–15.
178. *OL*, 18:290.
179. *OL*, 18:290. My thanks to Dale Miller for discussion of this point.
180. Hume, for instance, argues, "Those who pass the early part of life among slaves, are only qualified to be, themselves, slaves and tyrants; and in every future intercourse, either with their inferiors or superiors, are apt to forget the natural equality of mankind." See David Hume, "Of Polygamy and Divorce," in *Essays: Moral, Political, and Literary*, rev. ed., ed. Eugene F. Miller (Indianapolis: Liberty Fund, 1987), 181–90, at 185. For Victorian writers, see Sebastian Lecourt, "The Mormons, the Victorians, and the Idea of Greater Britain," *Victorian Studies* 56, 1 (2013): 85–111.
181. *OL*, 18:291. Mill likely means that no community capable of liberal self-government can rule another, and that no community can impose its own tastes on another, even if these tastes are associated with advanced civilizations.
182. Martha M. Ertman, "The Story of *Reynolds v. United States*: Federal 'Hell Hounds' Punishing Mormon Treason," in *Family Law Stories*, ed. Carol Sanger (New York: Foundation Press, 2008), 51–75, at 68.

183. "History and Ideas of the Mormons," 224–25.
184. *OL*, 18:291.
185. See *CRG*, 19:396, on colonial dependencies; and "Notes on the Newspapers," 6:216, on the flawed military government of Ireland.
186. See Eileen P. Sullivan, "Liberalism and Imperialism: J. S. Mill's Defense of the British Empire," in *John Stuart Mill's Social and Political Thought: Critical Assessments*, ed. G. W. Smith (London: Routledge, 1998), 389–405, at 405; Jennifer Pitts, *A Turn to Empire: The Rise of Imperial Liberalism in Britain and France* (Princeton, NJ: Princeton University Press, 2005), 103–22 ("Jeremy Bentham: Legislator of the World?"); 123–62 ("James and John Stuart Mill: The Development of Imperial Liberalism in Britain"), at 162.
187. He concludes that "it cannot be done. The spirit of Democracy has got too much head there, too prematurely." See Mill, "To John Pringle Nichol [Dec. 21, 1837]," 12:363–66, at 365.
188. C. L. Ten, "Mill on Race and Gender," *CM*, 171–74.
189. PC 1282 (April 16, 1834), E/4/740, 895–920, at 904, India Office Records, British Library.
190. *OL*, 18:240–41n.
191. Mill, "The Petition of the East India Company," 30:81; Martin Moir, Introduction, 30: xlvi–xlvii. Presumably, the inhumane practices are widow burning and thuggery.
192. See Nancy Gardner Cassels, "John Stuart Mill, Religion and Law in the Examiner's Office," in *J. S. Mill's Encounter with India*, ed. Martin I. Moir, Douglas M. Peers, and Lynn Zastoupil (Toronto: University of Toronto Press), 173–97.
193. Lata Mani, *Contentious Traditions: The Debate on Sati in Colonial India* (Berkeley: University of California Press, 1998), 195.
194. *OL*, 18:256.
195. Mill, "Memorandum of the Improvements in the Administration of India during the Last Thirty Years," 30:91–160, at 121–22. A certain amount of controversy surrounds the "religious" status of Thagi. See Chris Barker, "Thug Life: John Stuart Mill on Terror in India," *Foreign Affairs*, March 3, 2017. Mill's unpublished dispatches include scattered references to the gradual disempowerment of the Hindu religion, and indications that Mill looks on this prospect as humanizing, but his official remarks in *On Liberty* suggest that he is well aware that suppressing Hinduism is likely to be done for the sake of empowering Christianity rather than for the sake of enlightened liberty.
196. Mill, "Memorandum of the Improvements in the Administration of India," 30:123.
197. Mill, "Memorandum of the Improvements in the Administration of India," 30:123.
198. Mill, "Memorandum of the Improvements in the Administration of India," 30:125.

199. Charles-Louis de Secondat, Baron de Montesquieu, *Spirit of the Laws*, trans. Anne Cohler, Basia Miller, and Harold Stone (Cambridge: Cambridge University Press, 1989), 315.
200. See Morley, "Auguste Comte," in *Critical Miscellanies*, 3:378–79.
201. *UR*, 10:428, *ACP*, 10:332. His tone when speaking in the 1854 diary about the possible death of his wife is both more hopeful and more resentful. See *D*, 27:654.
202. *ACP*, 10:332.
203. *CRG*, 19:570–71.
204. *OL*, 18:234.

Conclusion and Applications

1. *DIA* [II], 18:198.
2. Adam Smith, in contrast, provides an extended discussion of the political economy of militias, standing armies, and martial education. See Smith, *Wealth of Nations*, 2:186–202.
3. Mill, "To Harriet Mill [Feb. 18, [1854]," 14:162–64, at 164.
4. Mill, "Civilization," 18:139.
5. *SD*, 10:33.
6. *OL*, 18:303.
7. *OL*, 18:303.
8. See Finlay, "Mill on Education and Schooling," *CM*, 504–17.
9. Mill, "Carlyle's French Revolution (1837)," 20:131–66, at 162.
10. *A*, 1:197.
11. See Donner, "Mill on Individuality," *CM*, 427.
12. *C*, 10:141.
13. *SW*, 21:313.
14. *I*, 21:255.
15. *SD*, 10:34.
16. As Mill says about Aristotle's *Politics* and *Ethics*, the principle value of these works is moderation. They "have for their most marked characteristics that dread of extremes and love of the *via media* which were deeply rooted in Aristotle's mind." Mill, "Grote's Aristotle," 11:505.
17. See, in general, Claeys, *Mill on Paternalism*.
18. See, for example, Piers Norris Turner, "The Absolutism Problem in *On Liberty*," *Canadian Journal of Philosophy* 43 (2013): 322–40.
19. *PPE*, 2:210.
20. Montesquieu, *Spirit of the Laws*, 602 [book 29, ch. 1].
21. *OL*, 18:310.
22. *BHMS*, 10:29; *B*, 10:111.
23. *D*, 27:645.
24. *BHMS*, 10:29.

25. Mill, "To Gustave d'Eichthal [Dec. 6, 1831]," 12:90–93, at 90.

Abbreviations

1. *SL*, 8:951; *A*, 1:265.

Index

Alexis de Tocqueville famously identified the problem of democracy as the "tyranny of the majority," where the rule of the majority oppresses or marginalizes minorities and individuals. John Stuart Mill, perhaps more than any other liberal thinker, attempted to find a solution to this problem. In this study of Mill's political theory, Chris Barker shows how Mill's civic education transforms individuals into citizens who are free to form opinions, analyze arguments, and wield a power capable of moderating the irresponsible power of the ruling majority. Barker examines Mill's thought as it is applied to five prominent components of democratic life—marriage, economic participation, scientific expertise, representative politics, and religion—with particular emphasis on gender and economic reform. Barker concludes that Mill's interpretation of liberty is not well described as either negative or positive. Instead, liberty consists in the mental independence or thinking power of the educated individuals composing and challenging majorities.

"Educating Liberty: Democracy and Aristocracy in J. S. Mill's Political Thought is a welcome addition to the growing scholarship on John Stuart Mill's 'word and deed.' This book provokes and entices the reader, offering perspectives that will take Mill scholarship into new directions and neatly bringing together a number of topics, such as the reflective equilibrium between principles and practice, in one volume. Readers interested in Mill will definitely seek out this book."

—Antis Loizides, University of Cyprus

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Cover image: A haughty aristocrat ignores the democratic "cit." cf. BMSat 8310. June 9, 1794. Hand-coloured etching © The Trustees of the British Museum.

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