

Bentham and J.St. Mill on parliamentary deliberation

There exists a fine comparative literature on J.S. Mill's *Considerations on Representative Government* and Jeremy Bentham's mature democratic theory.¹ What has received less attention are the points of agreement and divergence between Mill's *Considerations* and Bentham's early democratic and parliamentary theory in *Political Tactics* and several other writings on the French Revolution that have been collected in *Rights, Representation and Reform*. There exists great harmony between early (in fact, middle-aged) Bentham and the mature democratic theory of J.S. Mill on some points, although they remain just as sharply divided on another, in my view central, point. A comparison of those bodies of work serves to highlight themes still relevant for democratic theory today.

The hypothesis advanced in this talk consists of two parts. I argue that, first, Mill's hopes towards deliberative modes of conflict resolution in parliament mirror Bentham's earlier, more emphatically cognitive conception of parliamentary procedure. While Bentham's later work stresses "Radical" issues like short parliaments and other features meant to maximize electors' control over parliamentarians, his writings around 1790 unambiguously emphasize the rationalizing force of parliamentary argument, occasionally lapsing into a Rousseauian vocabulary of the constitution of a general will. Mill picks up on this and accentuates the rationalizing features of parliamentary contributions over the numerical aggregation of interests. In consequence, however, first cracks between the conceptions of Bentham and Mill begin to appear: while, for Bentham, a utilitarian perspective on parliamentary elections requires democratic equality,² Mill privileges the cognitive aspects of parliamentary debate to the counterintuitive extreme of introducing plural voting rights in order to improve the quality of deliberative input.

Secondly, both authors sharply separate on questions of the effective powers and functions of parliamentary debate. While early Bentham conceives of parliamentary deliberation as capable of *crafting* legislation and advises as to the minutest details of procedure, Mill transfers the powers of legislative design to an expert commission. This transfer is motivated by the superior deliberative competences of such a commission, and leads to limiting the active competences of parliament.³ I thus argue that the major *functional transformation of parliamentary deliberation* in the move from early Bentham to Mill is one from parliament's *ex ante* function of social steering to its *ex post* functions of ratifying legislation, sanctioning government, articulating grievances and comforting those who lose out in legislation.

I end by claiming that this central divergence plays a role for today's conceptions of deliberative democracy, which, drawing on Mill's work, tend to focus exclusively on the quality of decisionmaking processes, at the expense of reflecting the authority of parliaments in democratic decision making.

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¹ The most important study is F. Rosen, *Jeremy Bentham and Representative Democracy. A Study of the Constitutional Code*, Oxford: Clarendon 1983, pp. 183-199. See also D. Thompson, *John Stuart Mill and Representative Government*, Princeton: PUP 1976.

² See P. Schofield, "Jeremy Bentham, the French Revolution and Political Radicalism", *History of European Ideas* 30, 2004, 381-401.

³ See esp. chap. V of *Considerations*. Cf. Jürgen Habermas, *Strukturwandel der Öffentlichkeit (Structural Transformation of the Public Sphere)*, Frankfurt/M. 1990, 174ff., 211ff.