

LIBERTY, EQUALITY, FRATERNITY



James Fitzjames Stephen



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FRATERNITY

JAMES FITZJAMES STEPHEN

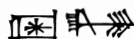
EDITED BY STUART D. WARNER



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ἡδὺ τι θαρσαλέαις
τὸν μακρὸν τείνειν βίου ἐλπίσι, φαγαῖς
θυμὸν ἀλδαίνουσαν ἐν εὐφροσύναις,
φρίσσω δέ σε δερκομέγ'α
μυρίοις μόχθοις διακναιόμενον.
Ζῆνα γὰρ οὐ τρομέω
ἐν ἰδία γνώμῃ σέβει
θνατοῦξ ἄγαν, Προμηθεῦ

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Sweet is the life that lengthens,
While joyous hope still strengthens,
And glad, bright thought sustain;
But shuddering I behold thee,
The sorrows that enfold thee
And all thine endless pain.
For Zeus thou has despised;
Thy fearless heart misprized
All that his vengeance can,
The wayward will obeying,
Excess of honour paying,
Prometheus, unto man.

Prometheus Bound

(translated by G. M. Cookson)



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FOREWORD

James Fitzjames Stephen's *Liberty, Equality, Fraternity* figured prominently in the mid- to late nineteenth century Victorian debates on two concepts at the heart of politics in the modern world—liberty and equality. Understanding himself to be a defender of an older English Liberalism that he thought to be under assault and weakening at an ever-quickening pace, Stephen attempted in *Liberty, Equality, Fraternity* to offer a corrective to what he believed were the mistaken views of liberty, equality, and fraternity that were leading the charge. He found these views most fully and powerfully expressed in three of John Stuart Mill's works: *On Liberty*, *The Subjection of Women*, and *Utilitarianism*. Stephen thus subjected Mill's political philosophy to intense criticism in *Liberty, Equality, Fraternity*. Yet Stephen was no mere polemicist, and throughout *Liberty, Equality, Fraternity* we find Stephen's own understanding of liberty—as ordered liberty—equality—as equality under law—and fraternity—as a value incompatible with a free society—braided around his critique of Mill. And it is *this* understanding that is the most important feature of *Liberty, Equality, Fraternity*, and is eminently worthy of the attention of anyone concerned with the character of a free society.

We will be aided in our pursuit of Stephen's understanding of liberty, equality, and fraternity by first surveying certain features of his life and times and the influences upon his thought.

James Fitzjames Stephen was born in London on March 3, 1829. His father, Sir James Stephen, was for a time Regius Professor of Modern History at Cambridge, a position later held by Lord Acton. Stephen's father drafted the

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legislation abolishing the slave trade in the British Empire, and his grandfather too, James Stephen, labored to abolish slavery.¹ Stephen's education took him to Eton, Kings College (London), and Trinity College (Cambridge) where he was a student of Sir Henry Sumner Maine. After further study at the Inner Temple, he was called to the Bar in 1854. Stephen's pursuit of a career in law carried him to India in 1869 to serve for some two and a half years as Legal Member of the Viceroy's Council (succeeding Maine) and ultimately to a Judgeship on the Queen's Bench.

Stephen's legal career would surely have failed to provide sufficient support for his immediate family, so he took up a second career as a journalist. Stephen wrote often and on a wide range of intellectual matters. Many of his best pieces appeared in four periodicals in particular: *Cornhill Magazine*, *Fraser's Magazine*, *Pall Mall Gazette*, and *Saturday Review*. Eventually, 55 of the articles that Stephen published in *Saturday Review*, ones that he himself admired, were collected and published in three volumes in 1892, two years before his death, as *Horae Sabbaticae*.² Many of these have the outward appearance of book reviews and canvass in some detail the works of Thomas Hobbes, David Hume, Edward Gibbon, Edmund Burke, Jeremy Bentham, and Alexis de Tocqueville, among others. And although the intellectual influences upon Stephen were many, his understanding of things moral, social, and political perhaps owes most to Bentham and Hobbes.

Through Bentham, Stephen came to favor utilitarianism. Yet Stephen's utilitarianism was not the technical, philosophical doctrine that one finds represented in Bentham or presented in Henry Sidgwick's *The Methods of Ethics*. Rather, it was a certain disposition of mind that expressed itself by privileging observation and facts over abstract reason. Stephen's utilitarianism is most profoundly marked by a recognition that a calm and intelligent appraisal of moral and political life requires an understanding of the advantages and disadvantages of pursuing one course of conduct rather than another. Our starting point for appraising our moral and political lives demands that we begin from where we are—our time, place, and circum-

1. For more on the role of the Stephen family in the anti-slavery movement, see Frank J. Klingberg, *The Anti-Slavery Movement in England* (New Haven: Yale University Press, 1926).

2. See the bibliography on p. xxvii for a complete reference to this and other works by Stephen cited in this foreword.

stances—for the question we are addressing is what to do next, and that can only be answered by first discovering where we are. Stephen’s utilitarianism, therefore, aims at the reform of current practices, not their elimination, and it is certainly not a morality and politics of uniformity.

Hobbes’s influence on Stephen is more diffuse and perhaps for that reason greater. Stephen’s admiration for Hobbes—“the greatest of English philosophers”³—is profound. Of *Leviathan*, Stephen writes, “Hardly any *magnum opus* of the speculative kind has been so maturely weighed, so completely thought out, and so deliberately fashioned to express in every point the whole mind of its author.”⁴ Stephen was particularly attracted to the idea that informs the whole of *Leviathan*, namely, that political philosophy rests upon a conception of human nature. It is not surprising, then, that Stephen’s own conception of human nature animates *Liberty, Equality, Fraternity*, which should lead us to understand Stephen’s work as a meditation upon human nature as applied to the practical world of political association.

Although it is the spirit of Hobbes more than any particular one of his theories that seems most to have affected Stephen, there are two distinct features of Hobbes’s thought that penetrated deeply into Stephen’s work. The first of these is the view that the interests of human beings conflict, and that this is an irremediable feature of the human condition; and insofar as the interests of individuals conflict, they may arrive at different conceptions of the good.

The second feature of Hobbes’s thought that greatly influenced Stephen is the idea that social order depends upon the imposition of force. Social order, in this view, requires the restraint of morality, law, and religion; and these forms of restraint obtain their power to bring about social order from the intermediary of some human agency.

Liberty, Equality, Fraternity appeared first in periodical form—anon-ymously, although its author was no secret—in the *Pall Mall Gazette* from November of 1872 through January of 1873. It was published in book form in

3. From an autobiographical fragment cited in Leslie Stephen, *The Life of Sir James Fitzjames Stephen* (New York: G. P. Putnam’s Sons, 1895), p. 116. Also, in a telling remark, Stephen says, “Of all men of his age [Hobbes] was most alive to the importance of treating all questions as questions of fact, and of not being led away by phrases.” *Horae Sabbaticae*, vol. 2, p. 63.

4. *Horae Sabbaticae*, vol. 2, p. 20.

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March of 1873 and followed a year later by a second edition which included some minor substantive changes, a lengthy second preface, and additional footnotes in the text responding to some of its critics. That the movement from periodical to book form was not unusual at this time is evidenced by the fact that works similar in some important respects to *Liberty, Equality, Fraternity* followed the same course: for example, Matthew Arnold's *Culture and Anarchy*, Walter Bagehot's *The English Constitution*, and Maine's *Popular Government*.

A not insubstantial amount of Stephen's writing focused on the subject of the law proper, and he produced several works on the criminal law that earned him the highest praise. The best of these works is his three-volume *History of the Criminal Law* (1883), a work about which Maitland remarked, "I am struck every time I take up the book with the thoroughness of his work and the soundness of his judgments. . . . [A]nd — so I think, but it is impertinent in me to say it — he almost always got hold of the true story."⁵ Nevertheless, Stephen's enduring contribution to intellectual affairs is *Liberty, Equality, Fraternity*.

The French Revolution gave birth to the creed "Liberty, Equality, Fraternity"; however, this creed outlasted the Revolution, finding expression in the nineteenth century, both on the continent and in England. In offering a powerful polemic against this creed in *Liberty, Equality, Fraternity*, Stephen is most emphatically not presenting himself as a defender of, as he puts it, "Slavery, Caste, and Hatred." But he believed that many exponents of the creed of liberty, equality, and fraternity exaggerated the advantages and ignored the disadvantages of the political arrangements intended by this famed triptych of values, thereby distorting a proper understanding of liberty, equality, and fraternity along the way. In *Liberty, Equality, Fraternity*, Stephen makes a point of revealing the character of these disadvantages. We should not lose sight of the fact, however, that Stephen's criticisms are informed by his own understanding of these values, an understanding to which we now turn.

5. Cited in Leslie Stephen, *The Life of Sir James Fitzjames Stephen*, p. 415.

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Sir Isaiah Berlin directs us to the idea that a political philosophy is often presented by means of analogy to the more familiar: a contract, the family, an army on the march, a night watchman, or an umpire.⁶ Stephen's understanding of liberty leads him to employ the metaphor of water running through pipes. In a passage that both makes use of this metaphor and stakes out other important features of his conception of liberty, Stephen remarks:

Discussions about liberty are in truth discussions about a negation. Attempts to solve problems of government and society by such discussions are like attempts to discover the nature of light and heat by inquiries into darkness and cold. The phenomenon which requires and will repay study is the direction and nature of the various forces, individual and collective, which in their combination or collision with each other and with the outer world make up human life. If we want to know what ought to be the size and position of a hole in a water pipe, we must consider the nature of water, the nature of pipes, and the objects for which the water is wanted. . . .⁷

To understand this remark, we must explore two important features of Stephen's conception of liberty. First, Stephen recognizes liberty to be an instrumental value, not a value in and of itself; and the ultimate value that liberty principally serves is the well-being of society. We should be careful not to misunderstand this feature of Stephen's thought—as a common understanding of Stephen would have us do—as portraying either a disregard for liberty or an authoritarian bent, for *Liberty, Equality, Fraternity* does not support such a reading. Not to value liberty as an end in itself is not to treat it lightly or to shy away from its endorsement as central to a civilized world. It is rather, as Stephen would see it, an admission that liberty, along with all of the other social elements of human life, has its advantages and disadvantages; and, if we are primarily concerned with the well-being of society, then we should not blindly support any given liberty in those circumstances in which its disadvantages outweigh its advantages.

6. See Isaiah Berlin, "The Purpose of Philosophy," in *Concepts and Categories* (New York: Viking Press, 1978), pp. 9–10.

7. *Liberty, Equality, Fraternity*, p. 119. Three other analogies between water pipes and liberty are to be found on pp. 14–15, 23, and 118.

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The second feature of Stephen's conception of liberty is that liberty is fundamentally a negative concept. Stephen understands liberty at its core to be an absence of restraint; however, liberty cannot be understood to involve an absence of *all* restraint; for Stephen, like Hobbes, recognizes that it is impossible for a society and, therefore, liberty to exist in the absence of all restraint. Restraints are required if there is to be any society at all, if only because the human condition is one in which the actions of some frequently and inevitably conflict with the actions of others. This understanding of the role of restraint in society is the basis for Stephen's distinguishing between liberty and license, and it encourages him to understand liberty as an "absence of *injurious* restraint."⁸ In this conception of liberty, morality, law, and religion are understood to restrain an individual's actions, but not injuriously, and hence do not constitute an infringement of his liberty. In fact, in the deepest sense, it is these restraints that make liberty of action possible. And since these restraints constitute a realm of power, Stephen can maintain that, "Liberty, from the very nature of things, is dependent upon power. . . ."⁹

Now we can begin to understand Stephen's frequent appeals to a waterworks project to illuminate the nature of liberty. Just as the holes of water pipes are given their character and value by the nature of what bounds them, so liberty is given its character and value by what bounds and, hence, forms it; namely, the restraints of morality, religion, and law. A society's liberties are thus constituted by the restraints that allow for the possibility of choice. For Stephen, therefore, talk of liberty makes no sense outside of the context of the restraints of morality, law, and religion.

Stephen is promoting an understanding of *ordered liberty* or *liberty under morality and law*. Part of the value of liberty lies in its allowing individuals to pursue their own choices or, more exactly, *a certain set of choices* rather than others, for this contributes to the well-being of society. Importantly, some sets of choices must be excluded. Genuine options are possible for human beings only within the context of a web of restraint provided by the moral, political, legal, and religious institutions that form the social arrangements in which individuals can pursue their own ends in concert with one another.

8. *Liberty, Equality, Fraternity*, p. 122; my emphasis.

9. *Liberty, Equality, Fraternity*, p. 111.

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Therefore, on Stephen's analysis, the character and value of liberty reside in the restraints that frame it: there is no liberty outside of restraint.

Morality is foremost among the restraints that shape society generally and a free society in particular. For Stephen, morality is constituted in some measure by the fear of disapprobation, the fear of the opinion of others, the fear of being ostracized. Thus, Stephen remarks that "the custom of looking upon certain courses of conduct with aversion is the essence of morality."¹⁰ And this aversion or disapprobation Stephen understands as being coercive. Although morality on this account might therefore be considered a system of force, the force in question is the pressure imposed by others and not punishment (or the threat of punishment) inflicted by government. Here we must underscore the idea that, as Stephen sees it, the restraints imposed by morality are vastly more extensive and important than those of law in establishing the web of restraint in which liberty is formed and has value:

Criminal legislation proper may be regarded as an engine of prohibition unimportant in comparison with morals and the forms of morality sanctioned by theology. For one act from which one person is restrained by the fear of the law of the land, many persons are restrained from innumerable acts by the fear of the disapprobation of their neighbors, which is the moral sanction; or by the fear of punishment in a future state of existence, which is the religious sanction; or by the fear of their own disapprobation, which may be called the conscientious sanction.¹¹

Stephen's conception of morality as a web of restraint that shapes individual conduct is deeply influenced by his conception of the human condition. Forgoing a Pollyannish understanding of human beings, Stephen embraces a position some—perhaps with cause—may consider a dark and foreboding one. It may be more accurate to see Stephen as offering a rather sober-minded understanding of human beings, one that captures the curse *and* blessing of the human condition. Without the discipline imposed by morality, individuals will tend to pursue a life of idleness, a life that is vapid, without high culture, a life lacking the motivation to achieve greatness of character. Stephen

10. *Liberty, Equality, Fraternity*, p. 13.

11. *Liberty, Equality, Fraternity*, pp. 8–9.

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sees that the human condition involves greater ambiguity than a world of men and women possessing exclusively either greatness or meanness of character: We are a mixed lot. Unfortunately, the human spirit typically does not aim high; however, human beings do have social desires, Stephen suggests, which in conjunction with the restraints of morality help to sustain a social order in which greatness of character and liberty are possible and can flourish. And while rejecting an optimistic view of human beings, Stephen lovingly cradles the high culture of England that a few are able to produce. However, both the few who are capable of high culture and those who are not still greatly benefit from being subjected to an Augustinian or Calvinist tinged morality of self-restraint and discipline.

Given that liberty is of instrumental value for Stephen, it is easy to understand why he rejects any categorical, simple principle of liberty, one that would specify exactly which liberties should be protected, and where and when. "We must," Stephen writes, "proceed in a far more cautious way, and confine ourselves to such remarks as experience suggests about the advantages and disadvantages of compulsion and liberty respectively in particular cases."¹² However, there are certain liberties that Stephen highlights in *Liberty, Equality, Fraternity* and in other of his writings that he believes to be of paramount importance to civilized life. The first is property: "Of all items of liberty, none is either so important or so universally recognized as the liberty of acquiring property."¹³ The second liberty of great importance to Stephen, perhaps surprisingly, is privacy: "Legislation and public opinion ought in all cases whatever scrupulously to respect privacy. . . . To try to regulate the internal affairs of a family, the relations of love or friendship, or many other things of the same sort, by law or by the coercion of public opinion, is like trying to pull an eyelash out of a man's eye with a pair of tongs. They may put out the eye, but they will never get hold of the eyelash."¹⁴

Essential to protecting these liberties and others is the rule of law. And so closely linked is the rule of law to various liberties that Stephen suggests the rule of law is itself a liberty; for in a significant way, the procedures afforded to individuals by the rule of law specify the liberties that an individual has.

12. *Liberty, Equality, Fraternity*, p. 35.

13. *Liberty, Equality, Fraternity*, p. 120.

14. *Liberty, Equality, Fraternity*, pp. 106, 107–8.

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For Stephen, the rule of law is a remarkable moral conquest, a monumental achievement over despotism and the desires of some to enslave others for their own purposes. The rule of law both constitutes and vouchsafes liberties that Stephen, although holding them to be instrumentally valuable, embraces and understands to be of paramount importance to the civilized world he deeply valued.

Along with fellow Victorians such as Arnold, Maine, W. E. H. Lecky, and even J. S. Mill, Stephen was deeply troubled by what he saw as the debilitating consequences of an ever-expanding democracy. In part because of the Reform Bill of 1867 which doubled the electorate in England, by the time of his writing *Liberty, Equality, Fraternity*, Stephen reasoned that there was no turning back from an extensive democratic government; that is, no turning back from a regime resting upon universal suffrage. “If I am asked, What do you propose to substitute for universal suffrage? . . . I answer at once, Nothing. The whole current of thought and feeling, the whole stream of human affairs, is setting with irresistible force in that direction.”¹⁵ Stephen argued, however, that even if universal suffrage were achieved, the promissory note of *political equality* that defenders of universal suffrage advanced could not be fulfilled:

Legislate how you will, establish universal suffrage, if you think proper, as a law which can never be broken. You are still as far as ever from equality. Political power has changed its shape but not its nature. The result of cutting it up into little bits is simply that the man who can sweep the greatest number of them into one heap will govern the rest. The strongest man in some form or other will always rule. If the government is a military one, the qualities which make a man a great soldier will make him a ruler. If the government is a monarchy, the qualities which kings value in counsellors, in generals, in administrators, will give power. In a pure democracy the ruling men will be the wirepullers and their friends. . . . Changes in the form of a government alter the conditions of superiority much more than its nature.¹⁶

15. *Liberty, Equality, Fraternity*, p. 155.

16. *Liberty, Equality, Fraternity*, pp. 154–55.

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What is especially troubling to Stephen is that the plea for democracy or political equality frequently masquerades as a plea for liberty. This conflates democracy and universal suffrage—which are concerned with the distribution of political power—with liberty, which is another matter entirely.¹⁷ A precondition of deliverance from the political and cultural predicament that will be spawned by growing democracy is the recognition of the evils that the so-called political equality will make manifest in the world. It is just this recognition that Stephen hopes to provide in *Liberty, Equality, Fraternity*.

Whatever may be the benefits of democracy, it also levies severe costs that render it a languid business. For the “wirepullers” need only satisfy an ignorant multitude, and this, Stephen feared, would ultimately lead to a debased and mediocre culture, one predicated on sordidness and vulgarity. In order to satisfy the unenlightened, these new rulers would extend government into the deepest recesses of the lives of individuals, willingly abandoning certain liberties along the way.

An appeal to *political* equality is only one form that the appeal to equality takes, and it is an appeal that Stephen finds to be suspect, as we have seen. What is more disturbing to Stephen is the appeal to equality *per se*, for this is a conception that is devoid of content. One needs to know, Equal in what respect? However, when equality is offered as a value without qualification, what is typically being offered is equality of property. Equality in this sense is especially antithetical to liberty: “If human experience proves anything at all, it proves that, if restraints are minimized, if the largest possible measure of liberty is accorded to all human beings, the result will not be equality but inequality. . . .”¹⁸ As a result of industriousness, luck, skill, and a myriad of other factors, some will acquire and accumulate much more property than others: Liberty of action thus leads to inequality of results, an inequality that can be eliminated, if at all, only by constant governmental interference in the various liberties of individuals to pursue their own ends. For Stephen, equal-

17. In his essay “Hobbes on Government,” Stephen writes, “It would tend considerably to clear up various matters connected with the question of extension of the suffrage, if we bore in mind the fact that the question is one, not of liberty, but of the distribution of political power.” See *Horae Sabbaticae*, vol. 2, p. 12.

18. *Liberty, Equality, Fraternity*, p. 120.

ity of property is the death-knell of liberty, and this provides a powerful reason to eschew it.

The equality that Stephen does value is equality under the law, the equality vouchsafed by the rule of law: Treat like cases alike. As philosophers of law recognize, however, deciding what constitutes a like case is puzzling. Yet, however complicated this issue is, numerous contemporary readers of *Liberty, Equality, Fraternity* will find Stephen's understanding of what constitutes a like case in at least one area of life to be defective. Stephen holds that men are superior to women, not only in terms of physical strength, but also in terms of "greater intellectual force" and "greater vigour of character."¹⁹ Men and women, not being equal in these respects, should not be treated the same by those "laws which affect their relations"²⁰; for example, the law of military conscription and, most especially, the law of marriage. Indeed, Stephen presses the point that such inequality actually benefits women.

Central to the legacy bequeathed to us by the liberal tradition is the idea that there is no natural, political authority, an idea expressed with great clarity by two of the founders of the liberal tradition, Hobbes and Locke. Toward the end of the eighteenth century and the start of the nineteenth, an idea that had its home in the world of politics, begins to spread to a broader range of human relationships, including the various relationships between men and women. The dismissal of natural authority in political life in the seventeenth century begins to be extended, leading many to dismiss hierarchical relationships generally by the end of the nineteenth century. And it is within the context of this movement of ideas that one must locate Stephen's views on the relations between men and women; for certainly Stephen is attempting to hold on to a world in which hierarchical relations are possible and desirable.

Although the nineteenth century was replete with accounts of the first two frames of the triptych of political values—liberty and equality—fraternity, the last frame, received surprisingly little critical attention. Indeed, whatever the influence of the French Revolution, it was much more because of Auguste Comte's "Religion of Humanity"—and J. S. Mill's partial appropriation of

19. *Liberty, Equality, Fraternity*, p. 138.

20. *Liberty, Equality, Fraternity*, p. 143.

it—that reflection about fraternity became any part of the English intellectual landscape. And if only because substantial criticisms of the idea of fraternity were rare, Stephen's savage attack on the value of fraternity becomes quite noteworthy.

By fraternity, Stephen understands the idea of a universal brotherhood, the idea of a universal love of mankind; that is, the idea of individuals in a society associated with each other foremost by the love that they feel for one another. Support for the moral and political value of fraternity flows, Stephen believes, from two sources. The first source is a maudlin view of human nature that imagines a world without significant conflicts of interest among individuals and the hostility to which those lead. Few defenders of fraternity would suggest that this is the world of human beings as we find it. Thus, the second source is an appeal to the progress of which human beings are capable if only they are liberated from various restraints and treated as the equals that they are; and it is the human nature that is to be newly animated by the driving forces of progress which makes fraternity possible.

For Stephen, however, a more sober-minded reflection reveals human nature to be incompatible with fraternity. He declares:

I believe that many men are bad, a vast majority of men indifferent . . . and [this] great mass . . . sway[s] this way or that according to circumstances. . . . I further believe that between all classes of men there are and always will be real occasions of enmity and strife, and that even good men may be and often are compelled to treat each other as enemies either by the existence of conflicting interests which bring them into collision, or by their different ways of conceiving goodness.²¹

Defenders of fraternity are sanguine about eliminating a good deal of the enmity and evil to be found in human existence; but, for Stephen, these elements of the human condition, although capable of being ameliorated to some degree by morality, religion, and law, stem from permanent features of human nature. Stephen claims that it is not only different interests that put individuals at odds with one another, but also differing conceptions of the good, both ineradicable features of human nature. And Stephen thought that

21. *Liberty, Equality, Fraternity*, p. 169.

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the various conflicts of interest and value endemic to the human condition produce enmity not only among individuals, but also among groups. He suspected, for example, that Moslems and Christians would always feel hostility toward one another because of their disparate views of the good.

Stephen believes that those who impatiently hunger for fraternity will not only fail to find a place for it in the world, but are apt to produce corrupting results in the world of practical affairs.

A man to whom this ideal [of fraternity] becomes so far a reality as to colour his thoughts, his feelings, his estimate of the present and his action towards it, is usually, as repeated experience has shown, perfectly ready to sacrifice that which living people do actually regard as constituting their happiness to his own notions of what will constitute the happiness of other generations.²²

Love of humanity often becomes infected by fanaticism. The appeal to fraternity that on the surface bears the stamp of universal brotherhood, underneath has little concern for those in the present. For insofar as the advocates of fraternity recognize that human beings as we find them do not pass muster, it is convenient to discard them to the dustbin of concrete reality in favor of those who exist only in an ethereal, theoretical world: Neither the liberty nor happiness of those in the present matter when a vision of a world driven by fraternity is at stake.

As we have mentioned, Stephen elucidates his own positions in *Liberty, Equality, Fraternity* within the frame of a critique of John Stuart Mill that runs throughout the book. Stephen was a great admirer of the early Mill, the Mill of “The Spirit of the Age,” “Civilization,” “Bentham,” Book VI of *A System of Logic* (“On the Logic of the Moral Sciences”), and the two essays on “De Tocqueville on Democracy in America.” Indeed, Stephen admired *On Liberty* when it first appeared in 1859. However, the Reform Bill of 1867, his experience in India, the publication of Mill’s *The Subjection of Women*, as well as further reflection, moved him to the conclusion that the later Mill had

22. *Liberty, Equality, Fraternity*, p. 181.

renounced what Stephen understood to be the principles of English Liberalism.

As Stephen has it, the faults of *On Liberty* are many: the human condition is too complicated for Mill's "simple principle of liberty" which holds that coercion is justified only to prevent harm to others; the distinction that provides the ground for Mill's principle of liberty, the distinction between self-regarding and other-regarding actions, cannot be articulated in a clear-cut fashion; Mill's principle of liberty is at loggerheads with his utilitarianism; Mill's principle of liberty requires the absence of almost all restraint in human affairs, a circumstance that will lead to idleness and wretchedness, and not the self-development that Mill (following Wilhelm von Humboldt) imagines; liberty without the restraints of morality backed by the sanction of public opinion is license and of no social value; freedom of thought does not tend to verisimilitude as Mill suggests; Mill's principle of liberty, vigorously applied, would be subversive of all morality, for morality is instantiated through the coercive opinions of others.

Stephen's litany of criticism of Mill's *The Subjection of Women* and *Utilitarianism* is briefer but no less severe: The former work misleads us as to the proper relationship between men and women and fosters a view of democracy that violates high culture and liberty; the latter work suggests the possibility of a brotherhood of mankind that is grossly false to the facts and destructive of liberty, as well.

It is fair to say that Stephen understands his view of liberty, equality, and fraternity to be contrary to Mill's in almost every important particular. For on his view, he stands for liberty and Mill stands for license; he stands for equality under law and Mill stands for a morose egalitarianism; he stands for a sober understanding of the conflicts in human affairs and Mill for a great illusion.

It cannot be denied that at least sometimes Stephen misconstrues Mill's doctrine, heedless of the nuances to be found there, and that some of the charges that he levels against Mill miss their intended mark. Nevertheless, it is just as true that Stephen sees in Mill what others have missed and that many of his shots are on target. However, more important than this is the character of Stephen's own teaching on liberty, equality, and fraternity, a teaching that