

John Stuart Mill, the Bargaining Theory of Wages  
and the Trades Unions: the ‘Double Recantation’  
and the Role of Prudence and Social Duty

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**I Introduction**

This paper examines aspects of the relationship between the trades unions and political economy in England during the period from the 1820s to the early 1870s with particular reference to the development of the wages fund doctrine and the bargaining theory of wages. Throughout the period there was increasing pressure to balance individual and collective freedoms. With regard to the labour market this meant the reconciliation of the behaviour of trades unions with the free working of markets. As well as being economic in nature these questions also involved the application of the law. If monopoly and privilege were being dismantled under progressive policies how did the unions (combinations) fit in? Could the state be justified in extending its recognition of combinations which appeared to defend vested interests? Should the law be extended to non-violent but coercive collective actions of unions which infringed the freedom of individuals or damaged the economic position of employers?

A key issue was how far legal opinion and legislation reflected orthodox political economy, which with regard to central government was laissez faire. Nevertheless government sometimes felt obliged to interfere legally but to do so in terms of alleged neutrality between the claims of capital and labour. The situation was different at the local level where the behaviour of the authorities – the magistrates or the police – was often openly partial in favour of the view that industrial issues were matters of private agreement between workers and employers and outside the sphere of government.

This paper explores aspects of the history and development of unions and political economy against this institutional and legal background. The legal aspects form the structure of the discussion which begins with the Repeal of the Combination Laws in 1824 and ends with the Commission on the Trades Unions report in 1969 and the proposed changes in the law favourable to the trades unions which that produced. The twin strands of Classical labour market analysis during the period were the wages fund doctrine and the bargaining theory of wages. The origins of both are to be found in the first few pages of Chapter 8 of the *Wealth of Nations*. Here Smith points out that the maintenance of a worker is ‘advanced to him from the stock of a master’ and he goes on to argue that the nature of the production process in his agricultural example is of the point-input point-output type.<sup>1</sup> Both of these points form the basis of the wages fund doctrine. Almost immediately Smith goes on to argue that the common wages of labour depend upon the contract

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<sup>1</sup> See A. Smith, *Wealth of Nations* (1776, Bk I, Ch. VIII, p.83).

made between workers and employers and that 'the former are disposed to form combinations to raise, the latter in order to lower, the wages of labour'.<sup>2</sup> Here Smith lays down the fundamentals of the later bargaining theory.

These two strands went on to have separate but linked existences. The wages fund doctrine took on a rigid form at the hands of Malthus and later McCulloch,<sup>3</sup> and was used by popularizers of political economy, politicians, journalists and others to argue that wages were fixed during any one production period and therefore union action could not increase wages. One of the clearest expositions of the wages fund doctrine is the statement of it by Henry Fawcett whose work we will consider in section IV:

The capital of a country is that portion of its past produce which has been saved to aid future production, and the wage fund of a country is the portion of this capital which is applied directly to remunerate labour. This wage fund is distributed amongst the whole labouring population, and therefore wages depend directly upon the amount of this fund, and inversely upon the number of the labouring population. If this wage fund is estimated in money, the above simple proportion determines the average money wages of the country. But the quantity of commodities which these money wages represent indicates the real remuneration of the labourer. The aggregate wages paid to the labourer are thus determined; wages, therefore, cannot be permanently raised without either increasing the wage fund or diminishing the number of labourers (1860, p.5)

The wages fund doctrine was sometimes used as an aggregate concept applying to the whole labour force (as in the example above) and at others used to apply to one enterprise or one sector.<sup>4</sup> The doctrine was also used to apply to two time periods –for example where the labour force remained constant from one period to the next but there was an increase or decrease to the wages fund. An example of this is discussed below in the work of Henry Fawcett (see section IV).

The bargaining theory began to be fully developed at the hands of McCulloch in 1824 as we shall see and was developed over the years in the work of Mill and others. Towards the end of the period in question the wages fund doctrine came under attack and this led in 1869 to the abandonment of both strands in a 'double recantation' by Mill in a review of Thorndon's book *On Labour*. In the

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<sup>2</sup> Ibid, pp.83-84 .

<sup>3</sup> See J.Vint , 'The "Rigid" Wages Fund Doctrine: McCulloch, Mill and the "Monster" of Money', in Barber, W.J. (ed.), (1990); Vint (1994), pp. 82-88.

<sup>4</sup> This was particularly the case with regard to popularizers – see for example Harriet Martineau, 'The Manchester Strike', *Illustrations of Political Economy*, No7, Charles Fox. London; see also Vint (1994), pp.137-142.

second part of the review Mill's provides advice to trades unions, against the background of their newly enhanced legal status, to practice 'prudence' and remember their 'social duty'.

The structure of the paper is as follows. Section II outlines McCulloch's contribution to the repeal of the combination laws and the bargaining theory of wages 1824. Section III spells out Mill's approach in the *Principles* in 1848. In section IV the arguments of Dunning and Fawcett in 1860 are considered. Section V discusses the influence of Dunning and Fawcett on Mill's *Principles* 1862. In section VI a brief outline of trade union developments in the 1850s and 1860s is presented. Section VII outlines Mill's double recantation arguments. Section VIII outlines Mill's advice to unions. Section IX presents some concluding comments.

## **II McCulloch, the Combination Laws and the Bargaining Approach to Wages**

McCulloch wrote an article on trades unions for the *Edinburgh Review* in 1824 at the height of the controversy concerning the repeal of the Combination Laws. The Laws were imposed in 1799 and 1800 under the shadow of the French Revolution and fears of working class conspiracy and revolution and an attempt to stop interference with trade in war time. The laws constituted a general statutory prohibition of *all* combinations. McCulloch's article was probably the most comprehensive discussion of the economic impacts of unions by a political economist up until that time.<sup>5</sup> McCulloch was influenced by Adam Smith's bargaining theory of the labour market but took the argument much further. Thus whereas Smith was content to point to the imbalance of power and legality between combinations of employers on the one hand and workers on the other, McCulloch made a theoretical case for the role of trades unions within the labour market. Thus, McCulloch argued strongly in favour of repeal of the Combination Laws, in order to remove the injustice of punishing men for attempting 'to meet combination by combination' (1824b, p.325). In the course of the argument, McCulloch outlined two cases which together set out the case for the role of trades unions and also specified the limits upon them.

The first case was that where the wage rate of any set of workmen was below the 'natural and proper level' (1824b, p.319). Here, McCulloch argued, a combination to raise wages would be desirable because 'no master ever willingly consented to raise wages' (1824b, p.319). In such

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<sup>5</sup> J. R. McCulloch, 'Combination Laws - Restraints on Emigration', *Edinburgh Review*, Vol. 39, No. LXXVIII, pp.315-345. McCulloch's article was expanded into *An Essay on the Circumstances which Determine the Rate of Wages and the Condition of the Labouring Classes*, Edinburgh, 1826.

circumstances, the employers could not break the strike by bringing in cheaper labour because the wage rate being offered was below the natural rate. Eventually the masters will realise that in order for their capital to earn a return they will have to pay the higher rate.<sup>6</sup> A combination, then, is able to achieve what the market should achieve but is unable to because of the superior bargaining position of the employers. Thus McCulloch argues:

Every attempt to prevent combination in such cases as this is neither more nor less than an attempt to hinder the workmen from making use of the only means by which their wages can be speedily and effectually raised to their just level. It is committing injustice on behalf of the strong, at the expense of the weaker party (1824b, p.320).

Combinations, then, are a proper part of the mechanism by which workers receive their just reward, and workers should be allowed to form them.

The second case is where wages are at or above their 'natural and proper' rate. McCulloch argues that voluntary combinations to attempt to raise wages will be 'improper and unreasonable' (1824b, p.320) and also ineffective. Repeating the argument from the *Wealth of Nations*<sup>7</sup>, McCulloch argues that the masters would resist and that their greater stock and credit will enable them to hold out longer than the workers (1824b, p.321). Under these circumstances and in the absence of government interference the workers would realize the futility of voluntary combinations to raise wages above the natural rate, and would not engage in them (1824b, p.322).<sup>8</sup> Thus McCulloch was strongly in favour of the repeal of the Combination Laws although he was vehemently opposed to any violence that may result from union activities.<sup>9</sup>

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<sup>6</sup> Although the precise meaning of the 'natural and proper rate of wages' is not spelt out by McCulloch, it would seem to imply the market rate of wages at which profits are at their natural level. A wage rate below the natural level implies a profit rate above its natural level, *ceteris paribus*, and thus the capacity on the part of the employers to absorb the higher 'proper rate' after bargaining. A wage rate above the natural, on the other hand, would imply a profit rate below its natural level and this would induce the masters to strongly resist.

<sup>7</sup> See A. Smith, *Wealth of Nations* (1776, Bk I, Ch. VIII, p.84).

<sup>8</sup> Grampp (1979, p.505) and Hutt (1936, p.188) have argued that McCulloch argued that unions would disappear; on Place's letter see Wallas (1918 p.217).

<sup>9</sup> See McCulloch (1824b, pp.317-318). All of these arguments were repeated in McCulloch's article on combinations in the *Encyclopædia Britannica* in 1854. See also the articles in the *Scotsman*, 1 August 1818, p.245; 29 August 1818, p.277; 12 September 1818, p.292; 26 July 1823, p.473; 2 July 1825, p.422; 5 October 1825, p.638; 12 November 1825, p.721. In the early *Scotsman* articles of 1818 McCulloch was concerned with the violence that had occurred in Manchester as a result of the cotton spinners' strike, and he argued that the violence must be met with the most rigorous of measures. At the same time, however, he argued that the Combination Laws must be repealed.

The campaign for the repeal of the Laws was spearheaded by Francis Place but McCulloch was more than just a passive commentator on these events because the *Edinburgh Review* article swung many MPs in favour of repeal.<sup>10</sup> It is important to note that McCulloch was not here arguing that the unions would disappear after repeal although Place did argue in this way, writing along these lines to Sir Francis Burdett in 1825. McCulloch's argument must be seen as limited to the notion that workers will perceive that voluntary combinations to raise wages where they are already *at or above* the natural rate will be pointless, and that they will therefore not engage in this type of combination. As we have seen, McCulloch also argued that combinations where wages were below the natural rate were desirable, and there is no suggestion that these would wither after repeal.

The 1824 Act went further in granting immunity from the law than many had envisioned. The Act not only swept away the Combination Laws of the late eighteenth century but excluded trades unions from prosecution for conspiracy etc under common or statute law. In the booming trade conditions after the Act there were numerous demands for increased wages accompanied by strikes and violence.<sup>11</sup> This led to demands by employers to reimpose the old laws. Strong union resistance and Place's diplomacy prevented this from happening and instead a Committee was formed. The result was the 1825 Act in which the rights of combination and collective bargaining on wages and hours were maintained but unions were once again made subject to the common law of conspiracy to prevent acts of intimidation and coercion.<sup>12</sup>

In the article of 2 July 1825 McCulloch expressed relief that this legislation was not more draconian and went on in the October article to argue against any further repression. What was needed he argued was the popularization of political economy:

'If the government do not suffer itself to be hurried away by weak, designing, or blood-thirsty alarmists all will soon be well; and instead of employing spies or agitators - police or soldiery - let them pay an Economist for writing a popular treatise, and hawkers for disseminating the work at a cheap rate, that these misguided men may be brought under the laws, from being disabused of their prejudices' (*The Scotsman*, 5 October 1825, p.638).

### **III J S Mill and the Trades Unions - *The Principles of Political Economy* , 1848 and 1852**

*The Principles 1848*

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<sup>10</sup> See Thompson (1980, p.567).

<sup>11</sup> See Musson, pp 26-27.

<sup>12</sup> Ibid, pp.27-28.

Mill's interest in the economic consequences of trades unions only really began with the *Principles* in 1848. Up until then he regarded them as transitory phenomena and hoping for increased co-operation between capital and labour.<sup>13</sup> In the first edition of the *Principles* he made the distinction between combinations designed to raise the general level of wages and those designed to raise wages in particular occupations, and this distinction was to be important in Mill's later recantation discussion.

He begins his analysis by arguing that if the unions could raise the general wage rate by combining together 'this would be a thing not to be punished, but to be welcomed and rejoiced at' (1848, CW, II, p.929). If they could combine they might succeed in diminishing the *hours of labour worked* and obtain the same wages for less work (1848, CW, II, p.930). Unfortunately, Mill argues, the working class is too numerous and scattered to combine effectively.<sup>14</sup> Mill is much more circumspect when it comes to the *level of wages*, and here the wages fund doctrine is employed:

But if they aimed at obtaining actually higher wages than the rate fixed by demand and supply - the rate which distributes the whole circulating capital of the country among the entire working population, this could only be accomplished by keeping a part of their number permanently out of employment (1848, CW, II, p.930).

Here then Mill uses the wages fund doctrine to argue against action by trades unions to raise wages above the equilibrium level set by the market.

When he turns to the question of a partial rise in wages in particular occupations as a result of union action, Mill outlines two possibilities. First, he argues that the wage rise may be at the expense of the consumer as price rises.<sup>15</sup> Mill qualifies this by arguing that if the wage rise could be obtained without affecting the rest of the working class it ought to be regarded as 'a benefit' for although the consumer must pay for it, 'cheapness of goods is only desirable when the cause of it is that their production costs little labour, and not when occasioned by that labour being ill

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<sup>13</sup> See Schwartz (1968, p.69).

<sup>14</sup> In making this judgement Mill may have been thinking back to the collapse of the one attempt at forming a general union. This was the creation of the Grand National Consolidated Trades Union formed by Robert Owen in 1833 and dissolved by him in 1834. See Cole, (1947), pp.84-91.

<sup>15</sup> The producer will only suffer to the extent that total revenue will fall and that may not happen and here Mill employs the notion of elasticity of demand: 'the capitalist who produces the commodity being only injured in so far as the high price tends to narrow the market; and not even then, unless it does so in a greater ratio than that of the rise of price: for though, at higher wages, he employs, with a given capital, fewer workmen, and obtains less of the commodity, yet if he can sell the whole of this diminished quantity at the higher price, his profits are as great as before' (1848, CW, II, p.930).

remunerated' (1848, CW, II, p.930). Mill then goes on to consider the second argument that partial combinations will inevitably hurt the interests of other workers, and again the wages fund doctrine is applied to the problem:

It may appear, however, at first sight, that the high wages of the type-founders [for example] are obtained at the general cost of the labouring class. This high remuneration either causes fewer persons to find employment in the trade, or if not, must lead to the investment of more capital in it, at the expense of other trades: in the first case, it throws an additional number of labourers on the general market; in the second, it withdraws from that market a portion of the demand: effects, both of which are injurious to the working classes (1848, CW, II, p.931).

This is a straightforward application of the wages fund doctrine. Either fewer people are employed immediately, or in the next production period extra capital must enter that particular trade at the expense, *ceteris paribus*, of other trades. However, Mill argues that while these effects might pertain in the short run, in the long run the ultimate regulator of wages is the customary standard of living:

The habitual earnings of the working classes at large can be affected by nothing but the habitual requirements of the labouring people; these indeed may be altered, but while they remain the same, wages never fall permanently below the standards of these requirements, and cannot long remain above that standard (1848, CW, II, p.931).

Given this, partial combinations were responsible for holding back population growth:

If there had been no combinations in particular trades, and the wages of those trades had never been kept above the universal level, there is no reason whatever to suppose that the universal level would have been higher than it now is. There would merely have been a greater number of people altogether, and a smaller number of exceptions to the ordinary low rate of wages (1848, CW, II, p.931).<sup>16</sup>

Under these circumstances, Mill argues, 'combinations to keep up wages are therefore not only permissible, but useful, whenever really calculated to have that effect' (1848, CW, II, p.931).<sup>17</sup> Mill went on to make some qualifications to this line of argument. First, he argued that unions must be voluntary, and second they must refrain from threatening violence (1848, CW, II, p.933). Third,

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<sup>16</sup> The precise mechanics of the population response are not spelt out by Mill. Presumably those workers who have gained higher wages by combination will become used to the higher standard of living and limit their families.

<sup>17</sup> Ekelund and Kordsmeier have argued that while Mill described the long run Malthusian effect of unionization 'in no sense did he use this argument to *justify* the existence of such combinations' (1981, p.533). However, the passage here quoted which is from the 1848 and 1849 editions of the *Principles*, but which only appears as a footnote in the *Collected Works*, reveals that this is not the case. Mill clearly argues that unions were *useful* for their Malthusian effects.

Mill argued that piece-work was important in order to provide incentives to effort, and he condemned unions for having rules forbidding this.<sup>18</sup>

*The Principles 1852*

The concern about trades union attitudes to piece-work provoked a change to the text of the third edition of the *Principles* in 1852. In place of the passage reflecting on the usefulness of unions referred to above, Mill substituted a passage containing the argument that 'combinations to keep up wages are seldom effectual, and when effectual, are, for the reasons which I have assigned, seldom desirable' (1852, CW, II, p.932). The reason for this change of mind was the strike by the Amalgamated Society of Engineers aimed at ending piece-work and overtime.<sup>19</sup> This affront to Mill's sensibilities regarding incentives and personal freedom<sup>20</sup> must be seen together with the hope shown in the 1852 edition of the *Principles* regarding the possibilities of co-operation between workers:

But when the elevation of the character and condition of the entire body has at last become a thing not beyond the reach of rational effort, it is time that the better paid classes of skilled artisans should seek their own advantage in common with, and not by the exclusion of, their fellow-labourers (1852, CW, II, p.93).

Thus Mill had some second thoughts regarding the utility of partial unions compared with the position he adopted in 1848. This must, however, not be seen as representing a major decline in Mill's sympathy with the working class, for at the same time as his position towards the unions hardened, he grew more favourable to socialism. Indeed, as Schwartz points out, Mill seemed keen to 'grasp any argument which would allow him despite everything to see unionism in a favourable light' (1968, p.87). The opportunity to do this formally in the *Principles* came ten years later when he made the changes to the 5th edition.

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<sup>18</sup> Mill argued as follows: 'but in many trades unions, it is among the rules that there shall be no task work, or no difference of pay between the most expert workmen and the most unskilful, or that no member shall earn more than a certain sum per week, in order that there may be more employment for the rest... Hardly anything worse can be said of the worst laws on the subject of property and industry, than that they place the energetic and the idle, the skilful and the incompetent, on a level: and this it is the avowed object of the regulations of these unions to do' (1848, CW, II, pp.933-934).

<sup>19</sup> See Schwartz (1968, p.86).

<sup>20</sup> In the 1852 edition of the *Principles* in the discussion on piece-work, Mill's reference to 'laws on the subject of property and industry' was amended to refer to 'laws on the subject of industry and its remuneration, *consistent with the personal freedom of the labourer* (1852, CW, II, p.934). My italics.

#### IV Dunning and Fawcett and the Arguments of 1860

In 1860 two important contributions were made to the discussion of trades unions and strikes. One was by T J Dunning, secretary to the London Society of Bookbinders, and the other was by Henry Fawcett. Both publications were instrumental in persuading Mill to make important changes to the 1862 edition of the *Principles*.

Dunning's pamphlet was entitled *Trades Unions and Strikes, their Philosophy and Intention* and was written in 1860 in response to a lecture given in Edinburgh by the political economist A Black, and to two articles published in July 1859, one in the *Edinburgh Review* (written by Harriet Martineau), and the other in the *Quarterly Review*. The point at issue with Black was his use of the orthodox wages fund approach while the reviewers in the *Edinburgh* and the *Quarterly* were criticized for their discussion of a number of reports and publications relating to trades unions and strikes. Dunning argued that wages are determined by bargaining and that the employers were in stronger bargaining position than the workers. As a result 'the workers combine to put themselves on something like equality in the bargain for the sale of their labour with their employers. This is the *rationale* of Trade Societies which is very clearly indicated by Adam Smith in his *Wealth of Nations*' (1860, p.7). Later in the pamphlet Dunning makes a significant reference to both Smith and McCulloch together. Criticizing the Edinburgh reviewer (Martineau) for knowing nothing or feigning to know nothing of the subject of trades unions, Dunning also pointed out that the reviewer 'finding that Adam Smith and McCulloch were dead against him'<sup>21</sup> decided not to 'preach political economy' (1860, pp 26-7). This reveals an awareness on the part of Dunning of the bargaining approach developed by Smith and McCulloch and as I will argue in the next section Dunning's pamphlet was an influence on J S Mill.

Also in 1860, an article on trades unions and strikes by Henry Fawcett was published in the *Westminster Review* and this was important not only for the arguments he put forward but also for the influence he had on Mill.<sup>22</sup> Early in the 1860 article Fawcett presented a very clear statement

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<sup>21</sup> Dunning seems not to have discovered the writer of the *Edinburgh Review* and assuming that it was a man refers to 'him'.

<sup>22</sup> Many of the arguments in this article were first outlined by Fawcett in a paper presented to the National Association for the Promotion of Social Science in 1858, see H. Fawcett, 'The Theory and Tendencies of Strikes', *Transactions of the National Association for the Promotion of Social Science* (1858, pp.635-640).

of the wages fund doctrine – see above p.2. That statement of the orthodox wages fund doctrine was one of the clearest examples to be found in the Classical literature explaining, as it does, the concept in both commodity and money terms. The statement was the forerunner of an almost identical statement in Fawcett's 1865 book *The Economic Position of the British Labourer* which was so iconic as to be used by Thornton as the basis upon which he launched his attack on the wages fund.

Fawcett went on to use the two period version of the doctrine arguing that any reduction in hours by workers, while not reducing wages immediately, will do so in the next production period. Thus in the current production period 'the wage fund which exists would not, perhaps, be immediately diminished, and for a time it is quite possible that the labourers will receive the same wages' (1860, p.5). However, the reduced efforts of the workforce will result in reduced output and thus in the next period the 'wage fund would be necessarily diminished, and consequently it is quite impossible, in the absence of any counteracting circumstances, for the labourer to receive the same wages for less work' (1860, p.5).

Fawcett goes on to consider the question of strikes in relation to economic theory, and here his focus is on the forces which exist to push wages to their natural rate. First, there is the tendency that wages everywhere will be equalized. Second, 'there is the tendency that wages of different employments must constantly tend to be such as will enable the ordinary rate of profit to be returned to the capital employed' (1860, p.6). Fawcett argues that many who unequivocally argue against strikes seem to ignore the fact that these tendencies take time to work and that there are causes which act to disturb wages from their natural rate:

If it is supposed that the laws of demand and supply operate instantaneously, if all the affairs of commercial life were also regulated instantaneously by competition, and if, in a word, it is not remembered that political economy treats of tendencies which require time to produce their influence, strikes may be denounced in one general sentence, and the sweeping conclusion be asserted which is so constantly reiterated, that strikes must inevitably cause loss to the labourers (1860, p.6).

Given that disturbing causes *are* important, the question of strikes must be reconsidered. Fawcett then examines two cases. The first is where some cause operates to produce different wages in different industries, and here strikes could force employers to pay more, exerting a 'tendency to equalize the wages of different employments' (1860, p.7). Employers would be unable to resist by bringing in fresh labour because wages elsewhere would be higher. The second case is where some 'temporary cause has temporarily raised the profits of a particular business above the ordinary rate'

(1860, p.8). Here again a strike will force the employers to pay more, and 'the workman is forced upon his employer as a partner' (1860, p.17). Fawcett went on to look forward to the day when workers and employers could form voluntary partnerships in which to share the fruits of their work (1860, p.17).

## V John Stuart Mill: Dunning and Fawcett's Influence on the 1862 Edition of

### The Principles

As a result of Dunning's pamphlet and Fawcett's article, Mill made important additions to the 5th edition of the *Principles* in 1862, and the importance to Mill of Fawcett's contribution is further highlighted when, four years later, he wrote to Fawcett congratulating him on including the *Westminster Review* ideas in the chapter on co-operation in his new book, *The Economic Position of the British Labourer* (1865).<sup>23</sup> In the same letter he expressed doubts about Fawcett's chapter on wages, proclaiming that he thought he 'could show that an increase of wages at the expense of profits would not be an impracticability on the true principles of political economy'.<sup>24</sup> It has been argued that this letter to Fawcett expressing disagreement with him over wages marks the beginning of Mill's change of mind, which was to come to full fruition in the recantation.<sup>25</sup> It seems more likely, however, that the seeds of change are to be found in Mill's *positive* reaction to Fawcett's earlier 1860 contribution, for this prompted Mill to make significant changes in the *Principles*, of 1862 outlining a positive role for unions within an explicitly Smithian bargaining model of the labour market, and this argument reappears in the recantation.

In the first of two new paragraphs added to the fifth edition of the *Principles* (1862), Mill discusses the argument that the labour market does not work perfectly and that consequently the market rate is not fixed for the worker 'by some self-acting instrument, but is the result of bargaining between human beings - of what Adam Smith calls *the higgling of the market*' (1862, p.932). This would appear to owe something to Fawcett although Fawcett did not refer to Smith in his 1860 article. The other source that Mill quotes here is Dunning's pamphlet.<sup>26</sup> Perhaps inspired

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<sup>23</sup> Letter to Henry Fawcett, 1 January 1866, in Mill, *The Later Letters*, *Collected Works*, Vol. XVII (1972, p.1130).

<sup>24</sup> Letter to Fawcett, *Collected Works*, Vol. XVII, (1972, p.1130).

<sup>25</sup> See, for example, Schwartz (1968, p.94)

<sup>26</sup> Mill refers to Dunning in a footnote introduced in the 1862 edition and placed at the end of the section on combinations.

by Dunning, Mill explicitly links his comment about the 'higgling of the market' with the question of trades unions, a linkage which was not made in Smith's original discussion:

...those who do not 'higgle' will long continue to pay even over a counter, more than the market price for their purchases. Still more might poor labourers who have to do with rich employers, remain long without the amount of wages which the demand for their labour would justify, unless, in vernacular phrase, they stood out for it: and how can they stand out for it without organized concert? What chance would any labourer have, who struck singly for an advance of wages? How could he even know whether the state of the market admitted of a rise, except by consultation with his fellows, naturally leading to concerted action? (1862, p.932).<sup>27</sup>

The need for countervailing power in the labour market is clear enough, and to it Mill adds the extra point that workmen need to combine in order to gain information concerning the relationship of the actual rate of wages to the market level. Although Mill retains the passages I referred to earlier which questioned the likely efficacy of strikes for general and partial wages,<sup>28</sup> Mill now argues that combinations are necessary for the market system to work effectively:

I do not hesitate to say that associations of labourers, of a nature similar to trades unions, far from being a hindrance to a free market for labour, are the necessary instrumentality of that free market (1862, p.932).

In the second of the two new paragraphs Mill explicitly accepts the second of Fawcett's arguments, referring to him by name as the authority on which he was drawing. Mill argued that workers were now able to know when firms were prospering and when they were not, and that they tended to strike for higher wages when profits rose. This was now seen as part of the process by which workers would share in the increased profitability of their labour and for a second time Mill takes a remarkably positive view of strikes:

Strikes, therefore, and the trade societies which render strikes possible, are for these various reasons not a mischievous, but on the contrary, a valuable part of the existing machinery of society (1862, p.933).

Thus the 1862 edition reveals considerable progress by Mill *towards* the position taken eventually in 1869. The original 1848 analysis of the inability of unions to generally or partially raise wages above market levels without adverse consequences is preserved, as is Mill's critical opinion of

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<sup>27</sup> Smith's original reference appeared in Book I, Chapter V of the *Wealth of Nations* when discussing the point that different types of labour are not all equally disagreeable. When the different products of different sorts of labour are exchanged for each other some allowance is made, he argues, for the differing degrees of both hardship and ingenuity - not by any accurate measure but by the 'higgling and bargaining' of the market place (1776, p.49).

<sup>28</sup> See above, pp.5-7.

unions' attitudes to piece-work first outlined in 1852. In 1862 however, there is the additional more positive view of combinations as a necessary part of the market system, required because of information problems and the inferior bargaining position of workers. The analysis is very Smithian in general approach, but Mill is closer to McCulloch of 1824 than to Smith in spelling out the circumstances, where wages are stuck below equilibrium, under which unions can have a useful role. This line of argument, together with others, was to have an important role in Mill's recantation.

## **VI Union Developments in the 1850s and 1860s**

### *The Progress Towards Legitimacy*

The role for and legitimacy of trades unions became a very important issue in the third quarter of the nineteenth century as a result of the development of large scale craft-based unions. The arguments and discussion between unions and the government were to influence political economy and the law at the end of the decade and beyond. A brief outline is required in order to set aspects of Mill's recantation in perspective.

In the late 1850s the trades union movement began to mount a campaign against the Master and Servant Law which discriminated against workers by making breach of contract on their part a criminal offence, whereas it was deemed to be only a civil offence if carried out by an employer. A political campaign followed which led to the Master and Servant Act 1867 which remedied some of the defects of the current legislation but still left the unions vulnerable to criminal action in 'aggravated cases'.

In October 1866 a barrel of gunpowder was dropped down the chimney of a house occupied by a Sheffield saw grinder who had not paid his dues (subscription fee). This was not particularly unusual as there had been acts of similar violence in Sheffield over the previous two decades but they had increased in frequency in 1865 and 1866 and became known as the Sheffield Outrages.<sup>29</sup> However, on this occasion the outrage occurred at the same time as a huge outdoor gathering which met on Woodhouse Moor Leeds to argue for male suffrage reform, followed by an address by John Bright. Anti-reform elements in Sheffield picked up on a possible link between the outrage and union activity, and pressure came from Sheffield town council and the Chamber of Commerce for an inquiry. A meeting was held with the home secretary, Walpole, on November 14<sup>th</sup>. Three days

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<sup>29</sup> See Curthoys (2004), p.65; Cole (1947) pp.200-205.

later Walpole met a deputation of union leaders who also requested an inquiry in order to clear their organization of complicity in violence.<sup>30</sup>

These events reinforced Walpole's inclination that there should be a general inquiry into the law relating to trade unions and the whole question of the relations between workers and employers. The appointment of a Royal Commission of Inquiry into Trades Unions took place in February 1867. In addition, in the January of that year, there was the famous decision in the case of *Hornby v Close* which deprived the unions of much of their assumed legal status under the Friendly Societies Act 1855.

In the midst of this turmoil the union leaders attempted to retain a united front and put a case to the Royal Commission. A group of five men - the 'Junta' - formed the 'Conference of Amalgamated Trades'. This group - William Allan, Robert Applegarth, Edwin Coulson, George Odger and Daniel Guile - began meeting frequently and secretly in London. They managed to persuade the Royal Commission that they should nominate a member and they chose the radical, distinguished lawyer and historian Frederic Harrison, while Robert Applegarth was to act as expert trades union witness in attendance. John Stuart Mill was offered a seat on the Commission but declined and suggested Fawcett instead. It must be recalled at this point that Mill at his election for Westminster in 1865 had the active support of Odger, a pioneer trades unionist, and other union leaders. He returned this help with financial and literary support for working class candidates in the 1868 election.<sup>31</sup>

The Commission's Final Report was published in early 1869. The Commissioners accepted that the unions had acted outside the law and that they had rules which put them outside the protection of the Friendly Societies Act. All members agreed that the trades unions should be made legal but the majority was against giving further protection from the criminal law with regard to certain offences including 'conspiracy', 'intimidation', 'molestation' and 'obstruction'. The Minority Report, signed by Lichfield, Hughes and Harrison (who drafted it) suggested several changes to the law: (1) Persons combining should not be liable for indictment for conspiracy unless their actions would be criminal if committed by a single person; (2) The common law doctrine of restraint of trade in its application to trade associations should be repealed; (3) That all legislation dealing

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<sup>30</sup> See Curthoys (2004), pp.65-66; Fraser (1999), pp.42-43.

<sup>31</sup> See Fraser (1974) p.153.

specifically with the activities of employers or workmen should be repealed; (4) That all trade unions should receive full and positive protection for their funds and other property.

### *Mill and the Minority Report*

In correspondence with Henry Reeve, editor of the *Edinburgh Review*, on the 18<sup>th</sup> of March, Mill indicated that he would write a review of Thornton's book and also raised doubts concerning Reeve's suggestion that he should write on the Report of the Royal Commission.

With regard to your suggestion for reviewing the Report of the Commission, do you purpose that this should be done in the same or in a separate article? Since, in that case, it would be necessary to express an opinion on the question of prohibiting by law those employments of trades-union funds which may be decided to be illegitimate; and, moreover, of giving efficacy to the legal prohibition by the appointment of a public prosecutor expressly for its enforcement. These are very grave questions, and I am not yet prepared to give a final opinion on every part of them, though I am clearly against adopting some of the recommendations of the majority of the Commission, as reported in to-day's papers. I think that the systematic enforcement of legal penalties against strikes, even for undesirable objects, would be the commencement of a feud between employers and workmen, and between workmen and the Government, more internecine than we have ever yet seen.<sup>32</sup>

This letter to Reeve is important because it indicates that Mill has knowledge of the Report and that he has concerns with the majority view of the Commission. In another letter on the 22<sup>nd</sup> march Mill replies once again to Reeve expressing his concern about a follow up proposal Reeve had put to him:

I was much surprised at what seemed like a proposal on your part to write reviews both of the Trades-Union Commission Report and also of Mr. Thornton's book; and I am not at all surprised to find that your meaning was to include a review of both in one article. This, however, will not suit me, nor, indeed, could I undertake a review of the Trades Commission Report, even separately, for a considerable time to come; and I do not intend to defer writing on Mr. Thornton's book until I write on the Trades Commission Report. For this and various other reasons, with many apologies for the trouble I have given you, I decide to withdraw my proposal altogether. I am much obliged to you for your willingness to insert an article by me on a subject in which there are considerable differences of opinion between us.<sup>33</sup>

In the end Mill's review of Thornton was published in two parts in the *Fortnightly Review* edited by John Morley. As we have seen above Mill was in favour of the general approach taken by those who supported the Minority Report and he later went on to publicly align himself with them in a letter published in the trade union paper the *Bee-Hive* on 26<sup>th</sup> June 1869:

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<sup>32</sup> Mill (1972), CW, letter number 1407, pp. 1576-1577.

<sup>33</sup> Mill (1972), CW, letter number 1412, p. 1582.

...whatever will remain objectionable in the rules or practices of any of the unions may be left to public opinion and to the general laws of the country, and constitutes no reason whatever why trades' unions should be outlawed and denied any of the legal facilities enjoyed by other associations established for inoffensive or useful purposes. (p.5)

Mill was working on the Thornton review while Harrison was preparing a Bill, the details of which were also published in the *Fortnightly Review* on 6<sup>th</sup> July 1869.<sup>34</sup>

## **VII John Stuart Mill's Recantation Article Part 1: The Double Recantation**

The recantation from the wages fund doctrine in the *Fortnightly Review* was contained in an article in two parts, entitled 'Thornton on Labour and Its Claims' published in in May and June 1869. This was a review of Thornton's book *On Labour*.<sup>35</sup> Part I was a theoretical critique and rejection of the wages fund doctrine influenced by Thornton's analysis. Part II was a consideration of the bargaining process and the role of trades unions. The second part must be seen in terms of Mill's sympathies with the minority on the Commission and the likely consequent improvement in legal status and power of unions.

In Part 1 Mill begins with an analysis of Thornton's critique of the supply and demand of commodities developed in *On Labour* in 1869. In turning his attention to the wages fund doctrine itself, Mill first of all made it clear that he accepted that labour may be one of Thornton's exceptions outlined in the commodity discussion where several prices may equate supply with demand. He then went on to outline the orthodox wages fund doctrine arguing that the wages fund could be altered but that in the short run it was predetermined. He also pointed out very firmly that not only will the demand for labour increase with the cheapness but it will do so 'in exact proportion', the wages bill being fixed. After reviewing the orthodox theory Mill went on, like Longe and Thornton before him, to develop the counterargument that the demand for labour was perfectly inelastic in the short run:

But is this a true representation of the matter of fact? Does the employer require more labour, or do fresh employers of labour make their appearance merely because it can be bought cheaper? Assuredly, no. Consumers desire more of an article, or fresh consumers are called forth, when the price has fallen: but the employer does not buy labour for the pleasure of consuming it; he buys it that he may profit by its productive powers, and he

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<sup>34</sup> F. Harrison, 'The Trades Union Bill', *Fortnightly Review*, n.s. 6 (July 1869).

<sup>35</sup> *On Labour, its Wrongful Claims and Rightful Dues, its Actual Present and Possible Future*, McMillan, London, 1869.

buys as much labour and no more as suffices to produce the quantity of his goods which he thinks he can sell to advantage. A fall of wages does not necessarily make him expect a larger sale for his commodity, nor, therefore, does it necessarily increase his demand for labour (1869, pp.515-516).

The significant feature of this passage is that Mill was here quite clearly arguing that the demand for labour was a derived demand - for Mill the short run labour demand curve was of zero elasticity.

This was enough to satisfy Mill that labour was indeed one of Thornton's 'excepted cases - the case which the law of equality between supply and demand does not provide for, because several prices all agree in satisfying that law' (1869, p.514). How then will the price of labour be determined? Mill was quite clear that the price of labour would be as a result of bargaining between employers and the employed, and that there was a need for strong trades unions in these circumstances. Referring back to Thornton he argued as follows:

...we are already able to see that the question between one of those prices and another will be determined by causes which operate strongly against the labourer, and in favour of the employer. For, as the author observes, there is this difference between the labour market and the market for tangible commodities, that in commodities it is the seller, but in labour it is the buyer, who has the initiative in fixing the price. It is the employer, the purchaser of labour, who makes the offer of wages; the dealer, who is in this case the labourer, accepts or refuses. Whatever advantage can be derived from the initiative is therefore on the side of the employer. And in that contest of endurance between buyer and seller, by which alone, in the excepted case, the price so fixed can be modified, it is almost needless to say that nothing but a close combination among the employed can give them even a chance of successfully contending against the employers (1869, p.515).

Thus Mill argued quite explicitly that the labour market was one of Thornton's exceptions where the wage rate will be determined by bargaining between employers and workers. But in Part I Mill goes further than he had in 1862 and further than Fawcett and McCulloch had gone before him. Instead of arguing that the highest wage rate that can be obtained by union action is that which the market would otherwise have generated - the 'natural and proper level' as McCulloch put it - Mill rejected this analysis along with the orthodox wages fund market analysis:

The doctrine hitherto taught by all or most economists [including myself], which denied it to be possible that trade combinations can raise wages, ***or which limited their operation in that respect to the somewhat earlier attainment of a rise which the competition of the market would have produced without them,*** - this doctrine is deprived of its scientific foundation, and must be thrown aside (1869, pp.517-518) (my emphasis).

In considering how far wages can rise Mill takes an extreme position with regard to an individual capitalist:

There is no law of nature making it inherently impossible for wages to rise to the point of absorbing not only the funds which he had intended to devote to carrying on his business, but the whole of what he allows for his private expenses, beyond the necessities of life.

The real limit to the rise is the practical consideration, how much would ruin him, or drive him to abandon the business, not the inexorable limits of the wages fund.

In short, there is abstractedly available for the payment of wages, before an absolute limit is reached, not only the employer's capital, but the whole of what can possibly be retrenched from his personal expenditure; and the law of wages, on the side of demand, amounts only to the obvious proposition, that the employers cannot pay away in wages what they have not got (1869, p.517).

In part I then Mill makes a radical break with the past with a *double recantation*. The wage fund doctrine has been rejected and the wage rate is no longer determined by market forces but by a process of bargaining. At the same time the long established Classical approach which specified economic limits to union bargaining within the framework of the analysis of market imperfections has also been rejected. Mill argued that wages can rise to the point where they absorb not only the funds set aside for business 'but the whole of what he allows for his private expenses, beyond the necessities of life' or 'the whole of what can possibly be retrenched from his personal expenditure' (1869, p.517). In an even more radical vein Mill goes on to question the role of economics:

The right and wrong of the proceedings of trades unions becomes a common question of *prudence and social duty*, not one which is peremptorily decided by the unbending necessities of political economy (1869, pp517-518).

### **VIII John Stuart Mill's Recantation Article Part II: The Limits to Bargaining and Advice to Trades Unions**

In Part II Mill went on to specify limits to the bargaining process - an upper limit to the wage rate which would be where the employer receives too little profit 'to compensate him for the anxieties and risks of trade', and here the labourers would be 'killing the goose to get at the eggs' (1869, p.690); and a lower limit where wages may be so low as 'to diminish the numbers or impair the working powers of the labourers' (1869, p.690). Between these limits, Mill argued, the wage rate will be determined by what Adam Smith called 'the higgling of the market' (1869, p.690) Here Mill was very clearly building upon the 1862 edition of the *Principles* where, influenced by Fawcett, he outlined a bargaining approach to the labour market along Smithian lines.

In the next paragraph the higher limit is redefined by Mill more carefully as 'the highest wages consistent with keeping up the capital of the country, and increasing it *pari passu* with the increase of people' (1869, p.690). In keeping with this aggregate approach Mill goes on to argue that only a general union, comprising all classes of labourers, could attain this highest wage level. Thus in the case of a general union a limit is being set by 'normal profits'. A partial union, by contrast, could

only reach a 'nearer limit - that which would destroy, or drive elsewhere, the particular branch of industry in which the rise takes place' (1869, p.690). It is tempting to read into these statements the notion of a limit being set by 'normal profits' and if so one might conclude that Mill *softens* his position compared with Part I.

But Mill maintains continuity when he expands on the question of 'prudence and social duty' (discussed in Part 1), in considering the implications of a wage rise in a particular trade being achieved through an increase in price. The effect of this he argues, will generally fall on the remainder of the labouring classes:

...it follows also that a real rise even of partial wages - of wages in one or a few employment's - when thrown on the consumer by an increased price of the articles produced, is generally a gain made, wholly or in part, at the expense of the remainder of the labouring classes. For, the aggregate incomes of the purchasing public not being increased, if more is spent on some articles of consumption, less will be spent on others (1869, p.694).

Mill goes on to analyse two cases - one where demand falls off as a result of the price rise and one where it remains the same. In the former if the workers manage to retain their improved wages then profits will fall and the employers may withdraw their capital; in the latter consumers will spend less on other items and this may lead to unemployment. Mill argues that in the end it is likely that non-unionised workers will suffer:

Still, the rise of wages in any department is necessarily at the expense either of wages in other departments or of profits, and in general both will contribute to it. So long, at least, as there are any classes of labourers who are not unionised, the successes of the Unions will generally be a cause of loss to the labourers in the non-unionist occupations (1869, p.695).

Given this, Mill goes on to point out where he thinks the workers responsibilities lie:

From the recognition of this fact arises a serious question of right and wrong, as between Unionists and the remainder of the labouring classes. As between themselves and their employers, they are under no obligations but those of *prudence*. The employers are quite capable of taking care of themselves. Unionists are under no moral duty to their employers which the conditions they may seek to impose on them can possibly violate. But they owe moral duties to the remainder of the labouring classes, and moral duties to the community at large: and it behoves them to take care that the conditions they make for their own separate interest do not conflict with either of these obligations (1869, p695)(my emphasis).

Thus although in part II Mill is a little more circumspect and careful in discussing limits to wage rises he nevertheless make it clear that the wage rate will be determined by bargaining and that workers' bargaining power will not be constrained by economic forces. Now the way in which this

power is exercised will depend on the extent to which workers will behave prudently with regard to the economic position of their employers and morally with regard to their social duties towards other workers and the community more generally.

Although Mill does not refer to the Royal Commission in his review of Thornton it must surely be the case that Part II of the Recantation article, following on from Part I and building on the earlier arguments in the *Principles* 1848, was written with the new changed position of the unions in mind. Mill's advice to them was partly to reassure them of the legitimacy of their self interest in bargaining with employers but also to remind them of their wider social duties with regard to others.

## **IX Conclusions**

The Classical economists were not sentimental about trades unions. On the contrary they were critical, cautious and sceptical. Capitalists and workers had conflicting interests over wages although there was a common interest in capital accumulation. These relationships were conditioned by and set in the context of the arguments for the free market economy. Trades union interference with the operation of the free market system was as unwelcome as government interference if it distorted market outcomes. Given this, it was all the more impressive that from the time of Adam Smith the Classical economists gave a role to trades unions where the logic of the market required such a role. Despite the inferences which could be drawn from the wages fund doctrine, and which were often drawn by popularizers of political economy, the Classical economists themselves maintained sufficient analytical detachment to argue a case *for* trades unions under certain circumstances for the best part of a hundred years. Moreover the case was not just one which allowed the trades unions to exist and take care of the rights of individual workers but one which legitimized their role in bargaining for higher wages under certain circumstances.

All of this then reflects the fundamental strength of Classical economics. The core ideas were powerful enough that Classical writers could follow them wherever they led into the periphery of applications and the wages fund doctrine and the analysis of bargaining were good examples of this. Mill's recantation analysis broke with both of these - at once rejecting the wages fund doctrine as well as the limits to bargaining previously present in the analysis of market imperfections. The rejection of the wages fund doctrine thus took out with it the bargaining theory so carefully built up from 1824 onwards. With the bargaining theory rejected at a crucial time in trade union history, and

with his sympathies lying with the union movement, Mill felt obliged to offer some advice for the future. Given the potential theoretical and social implications of Mill's 'double recantation' as well as the severe doubts he raises concerning the efficacy of economic theory in this context it is not surprising that Mill argued in the *Preface to the last edition of the Principles* in 1871 that 'the additional light which had been thrown on the question of the influence of strikes on wages are not yet ripe for inclusion into political economy (1871, CW, II, p.xciv).

While Mill was writing the two articles which constituted 'Thornton on Labour and Its Claims', Harrison's Bill was coming before Parliament. Despite his efforts it was not until 1871 that an Act was passed which still did not meet the arguments of the Minority supporters. It was not until 1875, after Mill's death, that an Act was passed that removed completely the threat of conspiracy and other legal challenges. The trades union campaign was finally successful after fifty years of struggle.

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