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Source: *The American Political Science Review*, Dec., 1960, Vol. 54, No. 4 (Dec., 1960), pp. 972-979

Published by: American Political Science Association

Stable URL: <https://www.jstor.org/stable/1952648>

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# THE "OPEN SOCIETY" AND ITS FALLACIES

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A little over 100 years ago John Stuart Mill wrote in his essay *On Liberty* that ". . . there ought to exist the fullest liberty of professing and discussing, as a matter of ethical conviction, any doctrine, however immoral it may be considered."<sup>1</sup> The sentence from which this is taken is not *obiter*: Chapter Two of his book is devoted to arguments, putatively philosophical in character, which if they were sound would warrant precisely such a conclusion;<sup>2</sup> we have therefore every reason to assume that Mill meant by the sentence just what it says. The topic of Chapter Two is the entire "communications" process in civilized society ("advanced" society, as Mill puts it);<sup>3</sup> and the question he raises is whether there should be limitations on that process.<sup>4</sup> He treats that problem as the central problem of all civilized societies, the one to which all other problems are subordinate, because of the consequences, good or ill, that a society must bring upon itself according as it adopts this or that solution to it. And he has supreme confidence in the rightness of the solution he offers. Presumably to avoid all possible misunderstanding, he provides several alternative statements of it, each of which makes his intention abundantly clear, namely, that society must be so organized as to make

that solution its supreme law. "Fullest," that is, absolute freedom of thought and speech, he asserts by clear implication<sup>5</sup> in the entire argument of the chapter, is not to be one of several competing goods society is to foster, one that on occasion might reasonably be sacrificed, in part at least, to the preservation of other goods; *i.e.*, he refuses to recognize any competing good in the name of which it can be limited. The silencing of dissenters on behalf of a received doctrine, of an accepted idea—this is an alternative statement—is *never* justified:<sup>6</sup> it can only do hurt, unwarranted hurt, alike to the person silenced, to the individual or group that silences, to the doctrine or idea on behalf of which the silencing is done, and to the society in the name of which the silencers silence.<sup>7</sup> The quotation I started with is, then, merely the strongest, the most intransigent, of several formulations of a general prescription he makes for advanced societies. We shall do well to examine it, phrase-by-phrase, before proceeding:

"There ought to exist"—*ought*, so that the prescription is put forward on ethical grounds—"the fullest liberty"—a liberty, *i.e.*, that no one (individual, group, government, even society as a whole) is entitled to interfere with—"of professing and discussing"—that is, of pub-

<sup>1</sup> *On Liberty and Considerations on Representative Government*, ed. R. B. McCallum (Oxford, 1946), p. 14 fn.

<sup>2</sup> That is approximately how Mill himself puts it: the words preceding what I have quoted are, "If the arguments of the present chapter are of any validity, . . ." The chapter is entitled "Of the Liberty of Thought and Discussion."

<sup>3</sup> *Cf. ibid.*, p. 9: ". . . we may leave out of consideration those backward states of society in which the race itself may be considered as in its nonage." The distinction seems to turn variously (*ibid.*) on whether "mankind have become capable of being improved by free and equal discussion" and whether they "have attained the capacity of being guided to their own improvement by conviction or persuasion." On the latter point he adds, perhaps a little optimistically: ". . . a period long since reached in all nations with whom we need here concern ourselves." *Cf. ibid.* p. 59, where he refers, astonishingly, to "the present low state of the human mind," that being the point he needs to establish the thesis there in question.

<sup>4</sup> Who should be permitted, in the fashionable jargon of the "communications" literature, "to say what, and to whom."

<sup>5</sup> Those who regard "absolute" as too strong a term to be deemed a synonym of "fullest" may wish to be reminded of the following passage (*ibid.*, p. 11): ". . . the appropriate region of human liberty . . . comprises . . . liberty of conscience in the most comprehensive sense: liberty of thought and feeling; *absolute* freedom of opinion and sentiment on all subjects, practical or speculative, scientific, moral, or theological. [And the] liberty of expressing and publishing opinions . . . is practically inseparable from [liberty of thought] . . ." (italics added). And *cf. ibid.*: "No society . . . is completely free in which [these liberties] . . . do not exist *absolute and unqualified*" (italics added).

<sup>6</sup> *Cf. ibid.*, p. 14: ". . . I deny the right of the people to exercise such coercion, either by themselves or their government. The power itself is illegitimate. The best government has no more title to it than the worst." The statement could hardly be more sweeping.

<sup>7</sup> Not to speak of "mankind." *Cf. ibid.*, pp. 14-15: ". . . the peculiar evil of silencing the expression of an opinion is, that it is robbing the human race; . . . those who dissent from the opinion, still more than those who hold it."

licly propagating—"as a matter of ethical conviction"—which, however, as any reader can quickly satisfy himself by re-examining Chapter II, is not intended to exclude other types of conviction, "intellectual" conviction for example—"any doctrine"—and "doctrine" is not intended to exclude, either, since he uses the term synonymously with "idea" and "opinion"; usually, indeed, he prefers the word "opinion"—"however immoral it may be considered"—where "immoral" also is used merely to cover what Mill considers the extreme case, the case in which, he supposes, people are least likely to refrain from silencing; and he would be equally willing, as the context shows, to write "however wrong," that is, "however incorrect," "however dangerous," "however foolish," or even "however harmful," and where "it may be considered" is recognizably shorthand for "it may be considered by anyone whomsoever."

It is fashionable, these days, in part because of a fairly recent book by the scientist-philosopher K. R. Popper,<sup>8</sup> to call the kind of society Mill had in mind an "open society"—by at least implied contrast with a "closed" society, that is, an "hermetically sealed" society, in which Mill's grand principle is, by definition, *not* observed. And we are told, variously, by writers whom we may call (because they so call themselves) Liberals, that we have an open society and ought to protect it against the machinations of those who would like to close it; or that we have a closed society and ought, heeding Mill's arguments, to turn it forthwith into an open society; or that democracy, freedom, progress—any or all of them—must stand or fall, according as we maintain or inaugurate or return to an open society; or that all who are opposed to the idea of the open society are authoritarians, enemies of human freedom, totalitarians. We are told all this, however, at least in its application to civilized societies in general (as opposed to the United States in particular),<sup>9</sup> on grounds that have

<sup>8</sup> K. R. Popper, *The Open Society and Its Enemies* (London, 1945), 2 vols. The term "open society" is of course much older (Bergson uses a distinction between "open" and "closed" society in *Les deux sources de la morale et de la religion*, though for a quite different purpose). Popper wedded the term "open society" to Mill's ideas, and the term "closed society" to those of his *bêtes noires*, Plato especially.

<sup>9</sup> The exception is necessary, because the American arguments are often based on the meaning of the Constitution of the United States, the First Amendment especially.

not varied perceptibly since Mill set them down in the *Essay*. We are still dealing, then, with Mill's issue; and we shall think more clearly about it, I believe, if we keep it stated as much as possible in his terms—for no subsequent pleader for the open society has possessed his clarity or vigor of mind—as follows: Ought there to exist in organized society—the United States, *e.g.*—that "fullest liberty of professing and discussing" that Mill argues for? On what theoretical grounds can that liberty be defended? Is openness of the kind Mill's society would possess one of the characteristics of the *good* society? Before attempting to deal with these questions, let me pause to clarify certain aspects of his position.

## I

First, Mill must not be understood as saying, over-all, something *more* extravagant than he is actually saying. He is fully aware of the necessity for laws against libel and slander, and does not deem them inconsistent with his doctrine.<sup>10</sup> He is aware, also, of organized society's need to protect its younger members against certain forms of expression,<sup>11</sup> which is to say that his "fullest liberty of professing and discussing" is to obtain only among adults. Laws prohibiting, *e.g.*, the circulation of obscene literature amongst school-children, or, *e.g.*, utterance calculated to undermine the morals (however the society chooses to define morals) of a minor, are presumably not proscribed. Nor does the doctrine outlaw sanctions against incitement to crime<sup>12</sup>—provided, one must hasten to add, nothing political is involved (Mill would permit punishment for incitement to, *e.g.*, tyrannicide, only if it could be shown to have resulted in an overt act).<sup>13</sup>

<sup>10</sup> *Cf. op. cit.*, p. 73: "Whenever, in short, there is a definite damage, or a definite risk of [definite?] damage, either to an individual or to the public, the case is taken out of the province of liberty, and placed in that of morality and law."

<sup>11</sup> *Cf. ibid.*, p. 72: "... protection against themselves is confessedly due to children and persons under age. . . ."

<sup>12</sup> *Cf. ibid.*, p. 49: "... even opinions lose their immunity when the circumstances in which they are expressed are such as to constitute their expression a positive instigation to some mischievous act." To this writer's mind a curious concession, which Mill ought *not* to have made. Once it is made, a society wishing to silence this or that form of persuasive utterance has only to declare the behavior it is calculated to produce a crime, and it may silence—with Mill's blessing.

<sup>13</sup> *Cf. ibid.*, p. 14 fn.

And, finally—a topic about which, as it seems to me, there is much confusion amongst commentators on Mill—he would permit the police to disperse a mob where a riot is clearly imminent, even if its shoutings did bear upon some political, social, or economic issue; but not, he makes abundantly clear, on grounds of any official exception to the doctrinal tendency of the shoutings. The individuals concerned would be free to resume their agitation the following morning.<sup>14</sup>

This is an important point because the passage in question, dealing with the mob at the corn-merchant's house, has given Mill an undeserved reputation for having been an adherent of the clear-and-present-danger doctrine as we know it today. We may perhaps clear it up best as follows. The situations covered by the clear and present danger doctrine, as applied, *e.g.*, to the Communist "threat," and by parallel doctrines in contemporary political theory,<sup>15</sup> are those in which Mill was *most* concerned to maintain absolute liberty of discussion—those situations, namely, in which the ideas being expressed have a tendency dangerous to the established political, social, or economic order. We must not, then, suppose his society to be one in which anarchists, or defenders of polygamy, for example, could be silenced because of the likelihood of their picking up supporters and, finally, winning the day; since for Mill the likelihood of their picking up supporters is merely a further reason for letting them speak. *All* utterance with a bearing on public policy—political, social or economic—is to be permitted, no matter what some members of society, even the majority, even all the members save some lonely dissenter,<sup>16</sup> may happen to think of it. Mill must, then, also not be understood as saying something *less* extravagant than he is actually saying.

Second, what is at issue for Mill is not merely unlimited freedom of speech (as just defined) but, as he makes abundantly clear, unlimited

<sup>14</sup> Cf. *ibid.*, p. 49.

<sup>15</sup> *E.g.*, the doctrine that enemies of liberty must not be permitted to take advantage of "civil liberties" in order to undermine and destroy them; or the doctrine that free society is entitled to interfere with free expression in order to perpetuate its own existence. Mill would certainly not have countenanced either doctrine.

<sup>16</sup> Cf. *ibid.*, p. 14: "If all mankind were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person, than he, if he had the power, would be justified in silencing all mankind."

freedom of thought as well, *and* a way of life appropriate to their maintenance. To put it otherwise: when we elevate freedom of thought and speech to the position of society's highest good, it ceases to be merely freedom of thought and speech, and becomes—with respect to a great many important matters—the society's ultimate standard of *order*.

Mill did not dwell upon the inescapable implications of this aspect of his position; it has been left to his epigones, especially in the United States, to think the position out. The open society, they tell us repeatedly, *must* see to it that all doctrines start out equal in the market-place of ideas; for society to assign an advantaged position to these doctrines rather than those would be tantamount to suppressing those; society can, therefore, have no orthodoxy, no public truth, no standard, upon whose validity it is entitled to insist; outside its private homes, its churches, and perhaps its non-public schools, it therefore cannot indoctrinate; *all* questions are for it open questions, and must, publicly, be treated as open. If it has public schools and universities, it will be told (and with unexceptionable logic), these also must treat all questions as open—otherwise what happens to the freedom of thought and so, ultimately, to the freedom of speech of the student who might have thought differently had his teachers not treated some questions as closed? Even if in their hearts and souls all the members of the open society believe in a particular religion, or a particular church, each must nevertheless be careful in his public capacity to treat all religions and churches as equal, to treat dissent, when and as it occurs, as the peer of dogma, to treat the voodoo missionary from Cuba as on an equal plane with an Archbishop of his own church.<sup>17</sup> The open society's first duty (so its custodians will remind it, and if not those at home then those abroad)<sup>18</sup> is to freedom; and that means that it is *not* free to give public status to its beliefs, its standards, and its loyalties. Mill's disciples are completely faithful to the spirit of his thought when they insist that if we mean business about freedom, that is how it is going to have to be. The open society confers "freedom" upon its members; but it does so at the cost of its own freedom as a society.

Third, Mill denies the existence—that is to say, at any particular place and moment—not only of a public truth,<sup>19</sup> but of any truth what-

<sup>17</sup> Who, after all, is to say which is right?

<sup>18</sup> As witness the sermons addressed by the New York press to the Trujillo regime.

<sup>19</sup> Except, we must remind ourselves, the public truth that there is no public truth.

ever unless it be the truth of the denial itself. (Let us not press this last too far, however, lest it seem a mere "debater's" point; it is of course, the Achilles' heel of all skepticisms.) Reduced to its simplest terms, the argument of the *Essay* runs as follows: whenever and wherever men disagree about a teaching, a doctrine, an opinion, an idea, we have no way of knowing which party is correct; the man (or group) who moves to silence a teaching on the ground that it is incorrect attributes to himself a kind of knowledge (Mill says an "infallibility") that no one is ever entitled to claim short of (if then) the very case where the question is sure not to arise—that is, where there is unanimity, and so no temptation to silence to begin with. When, therefore, Mill's followers demand the elevation of skepticism to the status of a national religion, and the remaking of society in that image, they are not reading into his position something that is not there—for all that Mill himself, as I have intimated, preserves a discreet silence on the detailed institutional consequences of his position. They are, rather, only making specific applications of notions that, for Mill, are the point of departure for the entire discussion.

The *basic* position, in fine, is not that society must have no public truth, no orthodoxy, no preferred doctrines, *because* it must have freedom of speech; but that it must not have them *for the same reason* that it must have freedom of speech, namely: because, in any given situation, no supposed truth has any proper claim to special treatment, and this in turn because it may turn out to be incorrect—nay, *will* turn out to be at least partially incorrect, since each competing idea is at most a partial truth. Nor is that all: Mill's freedom of speech doctrine is not merely derivative from a preliminary assault upon truth itself;<sup>20</sup> it is *inseparable from* that assault and cannot, I contend, be defended on any other ground. It is incompatible with religious, or any other, belief.

Fourth, Mill is not saying that no man must be silenced because every man has a "right" to freedom of speech. Consistent skeptic that he is, he warns us—and from an early moment—that he disclaims any advantage that might accrue to his argument from an appeal to abstract right; he is going to justify his position in terms of "utility," in terms of "the permanent interest of a man [*sic*] as a progressive being,"<sup>21</sup> whatever that may mean; and he sticks scrupulously to at least the first half of the promise throughout the *Essay*. This raises interesting questions as to (a) what Mill could

have meant—whether indeed he means anything at all that people committed to the idea of abstract right might find intelligible—by such words as "ethical," "immoral," etc.; as to (b) the pains Mill takes, throughout his main argument, to reduce the question, "Should some types of expression be prohibited in civilized society because the ideas they express are wicked?" to the question, "Should some types of expression be prohibited because they are intellectually incorrect?"; and as to (c) the kind of moral fervor his followers have poured into the propagation of his views. Everything reduces itself for Mill to intellectual argument, where you either win or draw or lose by the sheer appeal to reason—which, for Mill, excludes *ex hypothesi* any appeal to revelation or authority, for that would merely precipitate an endless discussion as to the status, from the standpoint of reason, of revelation and authority.

The notion of a "right" to freedom of speech, a capacity on the part of every man to say what he pleases that society must respect, because he is *entitled* to it—of a right that men have to live in the kind of society that Mill projects—is a later development. It occurs in different countries for different reasons and under different auspices; but to the extent that it is intended seriously it represents a complete break with Mill. Those who appeal to such a notion therefore have in his own shrewd example a warning that they must not attempt to do so on his grounds;<sup>22</sup> and much current confusion about the open society would be avoided if they would but take the warning to heart. In short, if we are going to speak of a *right* to freedom of speech, a *right* to live in an open society, we are going to have to justify it with arguments of a different character from Mill's, and so move the discussion onto a plane entirely different from Mill's. We are, above all, going to have to subordinate what we have to say to certain rules of discourse from which Mill, by his own fiat, is happily free. For any such right is inconceivable save as one component of a system or complex of rights, that mutually limit and determine one another and are meaningless save as they are deemed subject to the general proposition that we are not entitled to the exercise of *any* right unless we discharge the duties correlative to that right. Once we begin to argue from premises of that sort we shall begin to talk sense, not non-

<sup>22</sup> We must distinguish here between a "natural" or "ethical" "right" to freedom of expression and a mere constitutional right. The case for the latter could of course be rested upon Mill's grounds, insofar as they are valid.

<sup>20</sup> *Ibid.*, *passim*.

<sup>21</sup> *Ibid.*, p. 9.

sense, about freedom of speech and the open society. And the essence of the sense, I hasten to add, will be found to lie in the fact that we are no longer driving the roots of our doctrine into the soil of skepticism, because (as I have suggested already) once we speak of a right<sup>23</sup> we have already ceased to be skeptics. And nothing is more certain than that we shall come out with something quite different from Popper's conception of the open society.

Fifth, Mill was fully aware (as his disciples seem not to be) both of the novelty and of the revolutionary character of his proposal for a society organized around the notion of freedom of speech. Just as he deliberately cuts himself off from any appeal to the notion of abstract right, so does he cut himself off from any appeal to tradition. Not only had no one ever before taught his doctrine concerning freedom of speech. No one had ever taught a doctrine even remotely like his. No one, indeed, had ever discussed such a doctrine even as a matter of speculative fancy.<sup>24</sup> Hardly less than Machiavelli, and more than Hobbes, Mill is in full rebellion against both religion and philosophy, and so in full rebellion also against the traditional society that embodies them.<sup>25</sup> Hardly less than Machiavelli, he conceives himself a "new prince in a new state,"<sup>26</sup> obliged to destroy what has preceded him so that he may create what he feels stirring within him.<sup>27</sup> Hardly less than Machiavelli, again, he is a teacher of *evil*: all truths that have preceded his are (as we have noted in passing above) at most partial truths, and enjoy even that status only because Mill confers it upon them.<sup>28</sup> To reverse a famous phrase, Mill thinks of himself as standing not upon the shoulders of giants but of pygmies. He appeals to no earlier teacher,<sup>29</sup> identifies himself with nothing out of the past; and his doctrine of freedom of speech is, as I have intimated already, the unavoidable logical consequence of the denials from which his thought moves. Not, however, because it is in fact to be the public policy of the society he will found, not because it is to govern his followers' actions with respect to the

freedom of thought of others, but because it is the perfect weapon—perfect because of its alleged connection with the quest for truth—to turn upon the traditional society that he must overthrow. For he who would destroy a society must first destroy the public truth it conceives itself as embodying; and Mill's doctrine of freedom of speech, to the extent that it gets itself accepted publicly, does precisely that. I do not, I repeat, believe it can be separated from the evil teaching that underlies it; and nothing could be more astonishing than the incidence of persons amongst us who because of their religious commitments must repudiate the evil teaching, yet continue to embrace the doctrine.

Sixth, Mill's most daring *démarche* in the *Essay* (and Popper's in the *Open Society and Its Enemies*) is that of confronting the reader with a series of false dilemmas: unlimited freedom of speech or all-out thought-control; the open society or the closed society; etc. I say "false" for two reasons: first, because unlimited freedom of speech and the open society are not real alternatives at all, as I hope shortly to show. And second, because the dilemmas as posed conceal the real choices available to us, which are always choices as to how-open-how-closed our society is to be, and thus not choices between two possibilities but choices among an infinite range of possibilities. Mill would have us choose between never silencing and declaring ourselves infallible, as Popper would have us believe that a society cannot be a little bit closed, any more than a woman can be a little bit pregnant. All our knowledge of politics bids us not to fall into that trap. Nobody wants all-out thought-control or the closed society; and nobody has any business pretending that somebody else wants them. For the real question is, how open can a society be and still remain open at all? Or, to put it differently, is there any surer prescription for arriving, willy nilly, in spite of ourselves, at the closed society, than is involved in current pleas for the open society?

## II

That brings me to the central business of this article, which I may put as follows. Let us adjourn objections to open society doctrines on the ground that they are rooted in demonstrably evil teachings. Let us also suppose, *arguendo*, that we have organized a society in accordance with Mill's prescriptions, and for Mill's reasons. Have we then cause to suppose, as Mill thinks, that we shall end up forwarding the interests of truth? In other words, Mill offers us not only an exhortation but a prediction, and we wish merely to know what would in fact happen if we did what he tells us to do.

<sup>23</sup> Again, we must except the merely constitutional right.

<sup>24</sup> Plato, of course, contemplates a freedom of speech *situation* in Book IX of the *Republic*; but merely to show that it can result only in disaster.

<sup>25</sup> Cf. Leo Strauss, *Thoughts on Machiavelli* (Glencoe, 1958), ch. 4, *passim*.

<sup>26</sup> Cf. *ibid.*, p. 9.

<sup>27</sup> Cf. *ibid.*, ch. 2, *passim*.

<sup>28</sup> Cf. *op. cit.*, pp. 42-46.

<sup>29</sup> That he had broken sharply with his father and with Bentham is, I take it, a commonplace.

My contention will be that, once the question is put in that way,<sup>30</sup> we run up against some insuperable objections to his prescriptions in and of themselves—objections, moreover, that remain equally valid even if one starts out, unlike Mill, from a supposed "right," whether natural or constitutional, to freedom of speech. I shall argue the objections in a logical order such that if each in turn were overcome the remaining ones would still stand.

Mill's proposals have as one of their tacit premises a false conception of the nature of society, and are, therefore, unrealistic on their face. They assume that society is, so to speak, a *debating club* devoted above all to the pursuit of truth, and capable therefore of subordinating itself—and all other considerations, goods, and goals—to that pursuit. Otherwise, the proposals would go no further than to urge upon society the common-sense view that the pursuit of truth is *one* of the goods it ought to cherish (even perhaps that one which it is most likely, in the press of other matters, to fail to make sufficient provision for); that it will neglect this good only at its own peril (a point that could easily be demonstrated); and that, accordingly, it should give hard and careful thought to what kind of provision it can make for it without disrupting unduly the pursuit of other goods. But we know only too well that society is *not* a debating club—all our experience of society drives the point home—and that, even if it were one, like the UN General Assembly, say, the chances of its adopting the pursuit of truth as its supreme good are negligible. Societies, alike by definition and by the teaching of history, cherish a whole series of goods—among others, their own self-preservation, the *living* of the truth they believe themselves to embody already, and the communication of that truth (pretty much intact, moreover) to future generations, their religion, etc.—which they are not only likely to value as much as or more than the pursuit of truth, but *ought* to value as much as or more than the pursuit of truth, because these are *preconditions* of the pursuit of truth.

To put it a little differently, the proposals misconceive the strategic problem, over against organized society, of those individuals who *do* value the pursuit of truth above all other things. That strategic problem we may state as follows: *fortunate* that society that has even a small handful—a "select minority," in Ortega y Gasset's phrase—of persons who value the pursuit of truth in the way in which Mill imagines a society valuing it. *Fortunate* that select

minority in such a society, if it can prevail upon the society to provide it with the leisure and resources with which to engage in the pursuit of truth; or, failing that, at least not to stand in the way of its pursuit of truth. And *wise* that society whose decision-makers see deeply enough into things to provide that select minority—even in the context of guarantees against its abusing its privileges—the leisure and the resources it needs for the pursuit of truth. To ask more than that of society, to ask that it give that select minority freedom to treat publicly all questions as open questions, as open not only for itself in the course of its discharge of its own peculiar function but for everybody, is Utopian in the worst sense of the word; and so, certain to defeat the very purpose the asking is intended to serve. By asking for all, even assuming that all to be desirable, we imperil our chances of getting that little we might have got had we asked only for that little.

If we nevertheless waive that objection, we confront another, namely, that the proposals have as a further tacit premise a false conception of human beings, and how they act in organized society. Concretely, Mill not only assumes that speech (the professing and discussing of any doctrine, however immoral) is incapable of doing hurt in society. (He has to assume this, since he calls for non-interference with speech, while the overriding principle of the *Essay* is that society is always entitled to interfere in order to prevent hurt, whether to itself or to its individual members.) This is disturbing enough: Socrates, we recall, taught otherwise, namely, that he who teaches my neighbor evil does *me* hurt. But Mill also assumes (else again his proposal is romantic) that people can be persuaded either to *be* indifferent toward the possible tendency of what their neighbors are saying, or at least to *act* as if they were indifferent. We know nothing about people, I suggest, that warrants our regarding such an assumption, once it is brought out into the open, as valid. Thus his proposals, like all political proposals that call implicitly for the refashioning of human nature, can be enforced only through some large-scale institutional coercion. And I believe it to be this consideration, above all, that explains the failure of Mill's followers, to date, to persuade any organized society to adopt his proposals. We have no experience of unlimited freedom of speech as Mill defines it, of the open society as Popper defines it, unless, after a fashion and for a brief moment, in Weimar Germany—an experience no organized society will be eager to repeat.

Let us now turn to still another objection. I contend that such a society will become *intol-*

<sup>30</sup> *I.e.*, as a problem for "empirical" political theory.

*erant*, one in which the pursuit of truth can only come to a halt. Whatever the private convictions of the society's individual members concerning what Plato teaches us to call the important things (that is, the things with which truth is primarily concerned), the society itself is now, by definition, dedicated to a national religion of skepticism, to the suspension of judgment as *the* exercise of judgment *par excellence*. It can, to be sure, tolerate all expression of opinion that is predicated upon its own view of truth; but what is it to do with the man who steps forward to urge an opinion, to conduct an inquiry, *not* predicated on that view? What is it to do with the man who, with every syllable of faith he utters, challenges the very foundations of skeptical society? What can it say to him except, "Sir, you cannot enter into our discussions, because you and we have no common premises from which discussion between us can be initiated?" What can it do, in a word, but silence him, and look on helplessly as within its own bosom the opinions about the important things descend into an ever greater conforming dullness? Nor—unlike traditional society, which did *not* regard all questions as open questions—need it hesitate to silence him. The proposition that all opinions are equally—and hence infinitely—valuable, said to be the unavoidable inference from the proposition that all opinions are equal, is only one—and perhaps the less likely—of two possible inferences, the other being: all opinions are equally—and hence infinitely—*without* value, so what difference does it make if one, particularly one not our own, gets suppressed?<sup>31</sup> This we may

<sup>31</sup> Cf. Bertrand de Jouvenel, *On Sovereignty* (Chicago: 1957), p. 288: "One of the strangest intellectual illusions of the nineteenth century was the idea that toleration could be ensured by moral relativism. . . . The relativist tells us that the man professing opinion A ought to respect opinion B, because his own opinion A has no more intrinsic value than B. But in that case B has no more than A. Attempts to impose either would be attempts to impose what had no intrinsic value; but also suppression of either would be suppression of what had no intrinsic value. And in that case there is no crime . . . in the suppression of contrary opinions." On equality of opinions in Mill, see note 16 *supra*. On the progress in Mill from "equally valuable" to "equally and infinitely valuable," *cf. op. cit.*, p. 46: ". . . truth has no chance but in proportion as every side of it, every opinion which embodies any fraction of the truth, not only finds advocates, but is so advocated as to be listened to." And the presumption, he insists, is that every opinion *does* contain some fraction of the truth: ". . . it is always probable that dissentients have something worth hearing

fairly call the central paradox of the theory of freedom of speech. In order to practice tolerance on behalf of the pursuit of truth, you have first to value and believe in not merely the pursuit of truth but Truth itself, with all its accumulated riches to date. The all-questions-are-open-questions society cannot do that; it cannot, therefore, practice tolerance towards those who disagree with it. It must persecute—and so, on its very own showing, arrest the pursuit of truth.

I next contend that such a society as Mill prescribed will descend ineluctably into ever-deepening *differences of opinion*, into progressive breakdown of those common premises upon which alone a society can conduct its affairs by discussion, and so into the abandonment of the discussion process and the arbitrament of public questions by violence and civil war. This is the phenomenon—we may call it the dispersal of opinion—to which Rousseau, our greatest modern theorist of the problem, recurred again and again in his writings.<sup>32</sup> The all-questions-are-open-questions society cannot endeavor to arrest it, by giving preferred status to certain opinions and, at the margin, mobilizing itself internally for their defense; for by definition it places a *premium* upon dispersion by inviting irresponsible speculation and irresponsible utterance. As time passes, moreover, the extremes of opinion will—as they did in Weimar—grow further and further apart, so that (for the reason noted above) their bearers can less and less tolerate even the thought of one another, still less one another's presence in society. And again the ultimate loser is the pursuit of truth.

Still another tacit premise of the proposals is the extraordinary notion that the discussion process, which correctly understood does indeed forward the pursuit of truth, and does indeed call for *free* discussion, is one and the same thing with Mill's unlimited freedom of speech. They rest, in consequence, upon a false conception of the discussion process. What they

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. . . and that truth would lose something by their silence" (p. 42).

<sup>32</sup> See *Social Contract*, IV, i., as also *The Discourse on the Sciences and Arts*, *passim*, and Rousseau's famous letter of 1767 to the Marquis of Mirabeau. *Cf. de Jouvenel, op. cit.*, p. 286: "The whole of [Rousseau's] . . . large stock of political wisdom consists in contrasting the dispersion of feelings in a people morally disintegrated by the progress of the 'sciences and arts,' with the natural unity of a people in which dissociation has not occurred." As de Jouvenel notes (p. 287), Rousseau, though himself a Protestant, deplored the introduction of Protestantism into France, and on these grounds.



will produce is not truth but rather only deafening noise and demoralizing confusion. For the essence of Mill's freedom of speech is the divorce of the right to speak from the duties correlative to the right; the right to speak is a right to speak *ad nauseam*, and with impunity. It is shot through and through with the egalitarian overtones of the French Revolution, which are as different from the measured aristocratic overtones of the pursuit of truth by discussion, as understood by the tradition Mill was attacking, as philosophy is different from phosphorus.

Of the latter point we may sufficiently satisfy ourselves, it seems to me, by recalling how the discussion process works in those situations in which men who are products of the tradition organize themselves for a serious venture in the pursuit of truth—as they do in, say, a branch of scholarship, an academic *discipline*, and the community of truth-seekers corresponding to it.<sup>33</sup>

Such men demonstrably proceed on some such principles as these: (a) The pursuit of truth is indeed forwarded by the exchange of opinions and ideas among many; helpful suggestions do indeed emerge sometimes from surprising quarters; but one does not leap from these facts to the conclusion that helpful suggestions may come from just anybody. (b) The man or woman who wishes to exercise the right to be heard has a logically and temporally prior obligation to *prepare* himself for participation in the exchange, and to prepare himself in the manner defined by the community. Moreover (c), from the moment he begins to participate in the exchange, he must make manifest, by his behavior, his sense of the duty to act as if the other participants had something to teach him—the duty, in a word, to see to it that the exchange goes forward in an atmosphere of courtesy and mutual self-respect. Next (d), the entrant must so behave as to show that he understands that scholarly investigation did not begin with his appearance on the scene, that there is a strong presumption that prior investigators have not labored entirely in vain, and that the community is the custodian of—let us not sidestep the *mot juste*—an *orthodoxy*, no part of which it is going to set lightly to one side. (e) That orthodoxy must be understood as concerning first and foremost the frame of reference within which the exchange of ideas and opinions is to go forward. That frame of reference is, to be sure, subject to change, but this is a matter of meeting the

<sup>33</sup> A similar point might be developed over the difference between Mill's freedom of speech and the free discussion of the traditional American town-meeting.

arguments that led originally to its adoption, and meeting them in recognition that the ultimate decision, as to whether or not to change it, lies with the community. (f) The entrant, insofar as he wishes to challenge the orthodoxy, must expect barriers to be placed in his way, and must not be astonished if he is punished, at least in the short term, by what are fashionably called "deprivations"; he must, indeed, recognize that the barriers and the deprivations are a necessary part of the organized procedure by which truth is pursued. (g) Access to the channels of communication that represent the community's central ritual (the learned journals, that is to say) is something that the entrant wins by performing the obligation to produce a craftsmanlike piece of work. (h) The ultimate fate of the entrant who disagrees with the orthodoxy but cannot persuade the community to accept his point of view is, quite simply, isolation within or banishment from the community.

No suggestion is made that this is a complete statement of the rules as we see them operating about us in the scholarly disciplines, or that the particular forms of words employed are the happiest, or most accurate, that could be found. They do, however, seem to me to suggest the broad outlines of the paradigm of the free discussion process as it goes forward in an academic community, and to drive home its differences from the freedom of speech process as Mill defines it. Nor, I think, could anything be more obvious than the answer to the question, which of the two is the more likely to forward the pursuit of truth? But this is not all. *The* point about Mill's model is that by giving equal privileges to those who are in fact opposed to or ignorant of the discussion process, it constitutes a major onslaught against Truth. The two paradigms are not only different, but incompatible.

It would not be easy, of course, to transfer the rules of the discussion process set forth here to the public forum of a society; nor is there any point in denying that the transfer would involve our openly conceding to society far greater powers, particularly as regards silencing the ill-mannered, the ignorant, the irrelevant, than it would ever enjoy under Mill's prescription. Here, however, two things must be kept in mind. First (however reluctant we may be to admit it), that society always has, and constantly exercises, the power to silence. And second, that no society is likely, within the foreseeable future, to remake itself in the image of either of the two paradigms. The question, always, is that of which of the two we accept as the ideal toward which we try to move. That is the real issue at stake between the proponents and opponents of the "open society."