

I *Areopagitica*, toleration and free speech

I begin this book with *Areopagitica* because it speaks to our current concerns about free speech. It speaks directly, but not always clearly. The subtitle, *A Speech of Mr. John Milton for the Liberty of Unlicensed Printing*, sounds clear, but opinion differs as to how far Milton's 'liberty' extends. The traditional view is that *Areopagitica* is one of the founding texts of modern liberalism. A rival view holds that it is illiberal and intolerant. A third view, also iconoclastic, but not hostile, values *Areopagitica* because it limits freedom. Stanley Fish takes the latter line in his provocatively titled book *There's No Such Thing as Free Speech: And It's a Good Thing, Too*. The argument is therefore triangular. The disagreement is not just between those who praise Milton for being tolerant and those who chide him for being intolerant. Some have praised him for being intolerant. The triangular shape of the debate makes *Areopagitica* especially relevant to our own time. Before the collapse of the Soviet Union, Western democracies felt a need at least to pretend to value free speech, but for the past three decades 'speech codes' and other prohibitive initiatives have proliferated. *Areopagitica* has never been more relevant than it is today.

Despite critics' disagreements as to the substance of Milton's argument, its basic shape is clear. It is quadripartite. The first part is historical in method and is intended to embarrass Parliament by demonstrating that licensing was invented by the Church of Rome, an origin 'ye will be loath to own'.¹ Commentators are divided as to the accuracy of Milton's history. My concern is his value today, so I shall concentrate on the other three arguments. The second is a disquisition on 'what is to be thought in general of reading, whatever sort the books be' (491). In this section Milton claims that wise readers can

2 The Value of Milton

put bad books to good use. He even goes so far as to argue that we need bad books. The third argument is practical. Milton claims that licensing 'avails nothing' (491), since evil will always get through. The fourth and final argument claims that censorship leads to 'the discouragement of all learning' (492). This argument sets the pattern for all subsequent defences of what we would now call 'academic freedom', though Milton's concerns are not just academic.

Milton wrote *Areopagitica* in response to Parliament's Licensing Order of June 1643, which required all books to be examined by a censor prior to publication. He published his tract unlicensed in November 1644, when England was in the throes of civil war. We need to remember this, for civil wars seldom foster a spirit of toleration. Milton had personal reasons for wanting to abolish the 1643 Order. He had recently defied it by publishing two unlicensed editions of *The Doctrine and Discipline of Divorce*. He would publish unlicensed two more divorce pamphlets, *Tetrachordon* and *Colasterion*, a few months after *Areopagitica*. Given this context, there can be little doubt that his prime aim was to defend his own right to publish controversial opinions. But he never mentions divorce in *Areopagitica*. Instead, he takes the high ground and argues for a more general freedom. The question is, how general? All well-informed readers agree that he does not argue for complete freedom of the press. At most, he argues for the abolition of prepublication censorship. His trust is that good ideas will defeat bad ones in 'a free and open encounter': 'so Truth be in the field, we do injuriously by licensing and prohibiting to misdoubt her strength. Let her and Falsehood grapple; who ever knew Truth put to the worse' (561). As Thomas N. Corns notes, 'the problem with *Areopagitica* is not that it limits toleration but that it bases its case on a cluster of arguments that point to complete toleration'.² If 'Truth' always defeats 'Falsehood', censorship should not be needed. That is the argument's logical conclusion, but it is not the conclusion Milton reaches. He acknowledges the need for post-publication censorship and excludes some groups even from the limited toleration he does seek. As Corns notes, 'we look for coherence and do not find it' (60).

I shall return to Milton's exclusions shortly, but first we need to look at a more immediate problem: his choice of title. *Areopagitica*

alludes to *Areopagiticus*, a speech written in 355 BCE by the Athenian orator Isocrates. The resemblance is puzzling because Isocrates had wanted to increase supervision of public morals. The Areopagus ('hill of Ares') was the site of a judicial council that had exercised great influence in the early years of the Athenian democracy. Isocrates urged a return to its austere values. Critics who argue that *Areopagitica* is intolerant hear Milton's title as a declaration of totalitarian intent. John Illo pulls no punches. In two hard-hitting essays he challenges liberal critics to explain the title. In 'The Misreading of Milton' he draws an Orwellian analogy: 'The very title is misunderstood . . . The Areopagiticus, originally a criminal court, had become, by the time of Aeschylus, the office of Big Brother.'³ Illo reiterates the challenge in 'Areopagiticus Mythic and Real': 'If the *Areopagitica* is libertarian, why did Milton choose as model and title an illibertarian oration?'⁴ Wishful critics sometimes reply that Milton's real allusion is not to Isocrates but Saint Paul, who had preached on the hill of Ares. But Milton clearly refers to Isocrates in his opening address to Parliament: 'I could name him who from his private house wrote that discourse to the Parliament of Athens' (489). Like it or not, Milton was thinking of *Areopagiticus* when he wrote *Areopagitica*. Are we therefore to conclude that he is advocating the rule of 'Big Brother'?

Miltonists of all persuasions have taken on trust the oft-repeated claim that Isocrates was intolerant. The truth is more complicated. He was a conservative, but he did not advocate draconian laws. His ideal lawgiver was Solon, who had repealed the laws of Draco (from whom we get 'draconian'). If we read the *Areopagiticus*, a surprise emerges. Isocrates praises the old Areopagus for *not* legislating virtue. Athenians in his own time suppose that laws are the answer to every ill. The founders of democracy were wiser. They knew that 'virtue is not advanced by written laws but by the habits of every-day life . . . they held that where there is a multitude of specific laws, it is a sign that the state is badly governed, for it is in the attempt to build up dikes against the spread of crime that men in such a state feel constrained to multiply the laws.'⁵ This is close to Milton's thinking. He even borrows and adapts the image of dikes. Legislators who build fences against evil are

4 The Value of Milton

like 'that gallant man who thought to pound up the crows by shutting his park gate' (520). You can shut yourself in, but you cannot shut the world out. Milton throughout his career had little faith in laws. Adam in *Paradise Lost*, foreseeing the laws of Moses, declares, 'So many laws argue so many sins' (12.283). Proliferation of laws signals that the battle against evil has already been lost.

Illo again misrepresents *Areopagitica* when he draws a damaging parallel between Milton and Roman Catholic censors. He cites the following passage from the 1564 Tridentine Index: 'Whereas the number of suspected and pernicious books, wherein an impure doctrine is ... disseminated, has ... increased beyond measure, Fathers, especially chosen for this inquiry, should carefully consider ... the matter of censures of books ... to the end that this holy Synod ... may more easily separate the various and strange doctrines, as cockle from the wheat'.⁶ Illo seizes on the simile of cockle and wheat and notes what he takes to be a parallel when Milton alludes to the myth of Psyche, who was charged with the task of separating 'confused seeds'. Illo paraphrases, 'In *Areopagitica*, for cockle and wheat, Milton used the figure of Psyche and the confused seeds. He and the Catholic Synod knew that division into clean and unclean doctrines was a matter for religious decision. Only the clean, whether Catholic or Protestant, could be freely disseminated' (185). If we read Milton's simile in context, however, it is clear that he is arguing against a 'division into clean and unclean':

Good and evil we know in the field of this world grow up together almost inseparably; and the knowledge of good is so involved and interwoven with the knowledge of evil, and in so many cunning resemblances hardly to be discerned, that those confused seeds which were imposed on Psyche as an incessant labour to cull out, and sort asunder, were not more intermixed. It was from out the rind of one apple tasted, that the knowledge of good and evil as two twins cleaving together leaped forth into the world. And perhaps this is that doom which Adam fell into of knowing good and evil, that is to say of knowing good by evil. As therefore the state of man now is; what wisdom can there be to choose, what continence to forbear without the knowledge of evil? (514)

Where the Council of Trent urged immediate action, Milton recommends patience. He repeats this advice at the end of *Areopagitica* when he declares, 'it is not possible for man to sever the wheat from

the tares ... that must be the angels' ministry at the end of mortal things' (564). Both Miltonic passages recall Matthew 13:24–30. The good man in Christ's parable tells his servants not to separate cockle from wheat but to 'let both grow together until the harvest' (13:30). Far from invoking Psyche as a justification of censorship, Milton tells worldly authorities to keep their noses out.

Illo misrepresents *Areopagitica*, but we should not leap to the opposite extreme and assume that Milton and Isocrates were 'tolerant' in the modern sense of accepting differences. Our bland phrase 'a tolerant society' has blurred important distinctions between tolerance, indifference, and acceptance. If you 'tolerate' something, then (by definition) you dislike it. That is why we sometimes hear that 'tolerance is not enough'. An activist who takes part in (say) a gay pride parade is demanding more than tolerance. Tolerance is not acceptance. As we shall see in a moment, Milton excludes Roman Catholics from toleration. This has led hostile critics to contrast him with his contemporary Roger Williams, who in his *Bloudy Tenent of Persecution*, published in the same year as *Areopagitica*, did extend toleration to Catholics. Williams may have been more enlightened than Milton, but it does not follow that he was a warm-hearted multiculturalist. Martin Dzelzainis warns us against sentimentalizing his brand of toleration: 'while Williams thinks [Catholics] should be tolerated, this does not mean, as we might expect, that they are "to be let alone". On the contrary, such "antichristian idolaters" ought to be "spiritually stoned to death"'.⁷ One can be tolerant and still be hard to live with.

The interpretative difficulties in *Areopagitica* arise partly from its abrupt transitions. Just when we think we have grasped Milton's point, he will drop a bombshell that changes everything. Such moments tend to cluster around the great ringing sentences that have inspired the popular belief that *Areopagitica* advocates complete freedom. The most notorious of these moments occurs near the end of the work, right after his conclusion that it 'is more wholesome, more prudent, and more Christian that many be tolerated, rather than all compelled'. Those words have warmed the cockles of many a liberal heart, but the very next words are chilling: 'I mean not tolerated popery, and open superstition, which as it extirpates all religions and

6 The Value of Milton

civil supremacies, so itself should be extirpate' (565). The problem is not just that Milton denies toleration to Catholics but that he excludes them so casually, as if there were no contradiction with what he had just said. As Fish notes, 'I mean not tolerated popery' follows hard on the heels of 'passages that find their way into every discussion of free speech and the First Amendment', but liberal commentators who quote these purple passages usually stop at 'I mean not'. Fish paraphrases, 'of course, I didn't mean Catholics, them we exterminate'.⁸ That is melodramatic ('exterminate' sounds like a Dalek and conveys the false impression that Milton is advocating genocide), but Fish is right to insist on an abrupt disjunction. Milton goes on to extend the censor's reach to just about anything: 'that also which is impious or evil absolutely either against faith or manners no law can possibly permit, that intends not to unlaw itself: but those neighbouring differences, or rather indifferences, are what I speak of' (565). The oxymoron 'neighbouring differences' typifies the problem. Some praise Milton for tolerating 'differences', others chide him for limiting tolerance to neighbours, while yet others praise him for recognizing that freedom needs limits. Fish uses Milton's exclusions to justify exclusions in our own time: 'all affirmations of freedom of expression are like Milton's, dependent for their force on an exception that literally carves out the space in which expression can then emerge' (103). Fish believes that all 'free' societies are ultimately founded upon exclusion:

When the pinch comes (and sooner or later it will always come) and the institution (be it church, state, or university) is confronted by behavior subversive of its core rationale, it will respond by declaring 'of course we mean not tolerated —————, that we extirpate', not because an exception to a general freedom has suddenly and contradictorily been announced, but because the freedom has never been general and has always been understood against the background of an originary exclusion that gives it meaning. (104)

Fish supports this argument by referring us to the 'charter and case law of Canada', where 'thinking about freedom of expression' is 'close to the *Areopagitica*'. He cites the case of James Keegstra, an Albertan high school teacher, who was convicted of 'wilfully promoting hatred against an identifiable group' after he taught his students that the

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[More information](#)

Areopagitica, toleration and free speech 7

Holocaust was a fraud. The cases might seem different, since Milton's words 'that also which is impious or evil' casts a wide net. Fish acknowledges the difference, but is unruffled by it, and he even welcomes a broad sweep of unspecified prohibitions:

No doubt there are other forms of speech and action that might be categorized as 'open superstitions' or as subversive of piety, faith, and manners, and presumably these too would be candidates for 'extirpation'. Nor would Milton think himself culpable for having failed to provide a list of unprotected utterances. The list will fill itself out as utterances are put to the test implied by his formulation: would this form of speech or advocacy, if permitted to flourish, tend to undermine the very purposes for which our society is constituted? (103)

Fish is not alone in welcoming an open-ended 'list' that can be trusted to 'fill itself out'. He might have cited another instance of 'Canadian thinking about freedom': section 45.2 of the Ontario Human Rights Code, which empowers Ontario Human Rights Tribunals to issue 'an order directing any party to the application to do anything that, in the opinion of the Tribunal, the party ought to do to promote compliance with this Act'. This notorious clause has drawn analogies with Star Chamber, the repressive English court abolished by Act of Parliament in 1641. In the final paragraph of *Areopagitica*, Milton likens Parliament's 1643 Licensing Order to 'a Star-chamber decree' and expresses relief that 'that Court' has 'fallen from the stars with Lucifer' (570). Yet Milton's own exclusions use sweeping language in the manner of Star Chamber and the Ontario Human Rights Code.

The abrupt transitions in *Areopagitica* are not all from tolerance to intolerance. Sometimes the current flows in the opposite direction:

I deny not, but that it is of greatest concernment in the church and commonwealth, to have a vigilant eye how books demean themselves, as well as men; and thereafter to confine, imprison, and do sharpest justice on them as malefactors: for books are not absolutely dead things, but do contain a potency of life in them to be as active as that soul was whose progeny they are; nay they do preserve as in a vial the purest efficacy and extraction of that living intellect that bred them. I know they are as lively, and as vigorously productive, as those fabulous dragon's teeth; and being sown up and down, may chance to spring up armed men. And yet on the other hand unless wariness be used, as good almost kill a man as kill a good book; who kills a man kills a reasonable creature, God's image; but he who destroys a good book, kills reason itself, kills the image of God, as it were in the eye. (492)

8 The Value of Milton

I have quoted this passage at length to bring out its subtle shifts. Critics who see Milton as intolerant focus on the first half; those who see him as tolerant focus on the second. A change clearly occurs, but it is hard to say where. The 'dragon's teeth' simile is especially difficult. The reference is to Cadmus, the legendary founder of Thebes. He sowed dragon's teeth in the ground, from which armed men sprang up and fought each other. Milton's point is that books mobilize armies. The phrase 'spring up armed men' would have had a strong topical resonance in 1644. Does Milton welcome the armed crop? Michael Wilding thinks he does. Both in his book *Dragon's Teeth* and his article 'Milton's *Areopagitica*: Liberty for the Sects', Wilding assumes that the 'armed men' are fighting alongside Milton for 'radical ideas' and 'social change': 'That early comparison of books to "Dragons teeth" that "may chance to spring up armed men" expresses it all. Books are like soldiers. They are part of the battle for change, part of the revolutionary armoury.'⁹ But the dragon's teeth in Milton's simile are part of the counter-revolutionary armoury. That is why he calls them 'malefactors' and acknowledges Parliament's need to watch them with 'a vigilant eye'. On one level, Wilding has slipped. But on another level, his misreading is strangely true to the passage. Strictly speaking, Milton does not turn from bad books to good books until the pivotal words 'And yet on the other hand', but several memorable phrases ('not absolutely dead things', 'potency of life', 'preserve as in a vial') admit celebratory notes on the wrong side of the divide. The result is that the 'dragon's teeth' are ambiguated and we are left wondering whether the 'vial' is filled with poison or the elixir of life.

The 'dragon's teeth' passage comes early in *Areopagitica*, right after Milton's synopsis of his four arguments. I shall now look at the last three of those arguments in detail, beginning with the second, on 'what is to be thought in general of reading' (491). It would be a bold defendant who tried to use this argument in Star Chamber or an Ontario Human Rights Tribunal. Milton argues that harmful ideas should not only be tolerated, but welcomed, since 'bad books . . . to a discreet and judicious reader serve in many respects to discover, to confute, to forewarn, and to illustrate' (512–13). Quoting Saint Paul, 'To the pure all things are

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Areopagitica, toleration and free speech 9

pure' (Titus 1:15), he claims that this 'remarkable saying' applies not only to 'meats and drinks, but all kinds of knowledge whether of good or evil' (512). This claim is still relevant in our own time. One can hardly open a newspaper without encountering some issue that engages with it. On the day I write these words, the opinion pages of the online edition of *The New York Times* are abuzz with comments and counter-comments responding to an opinion piece by Peter Ross Range entitled 'Should Germans Read *Mein Kampf*?' Hitler's book has been officially banned in Germany since the end of World War II, but Bavaria's copyright expires at the end of 2015, and 'after that, anyone can publish the book: a quality publisher, a mass-market pulp house, even a neo-Nazi group'. Range thinks the time is due for a 'cautionary' 'German scholarly edition'. Predictably, some of his readers disagree. Ronald S. Lauder, President of the World Jewish Congress, urges Range to consider how 'Holocaust survivors and their relatives' would feel 'if they visit a German bookstore and see Hitler's book on the shelves'. He concludes, 'We must do everything we can to prevent the publication and mass distribution of *Mein Kampf*.' On the same web page, Abraham H. Foxman, a Holocaust survivor and National Director of the Anti-Defamation League, takes the opposite view – that Hitler's book is 'an essential document to help Germans understand their history, even at the risk that neo-Nazis and haters could also use the book to promote a sinister agenda'.¹⁰ Online comments are divided, but most agree with Foxman. Kenneth Stow, from Haifa in Israel, strikes a Miltonic note: 'To confront perversity, one must know it first hand.' Stow does not quote Milton, but he could have, for the most famous passages in *Areopagitica* are exhortations to 'confront perversity':

I cannot praise a fugitive and cloistered virtue, unexercised and unbreathed, that never sallies out and sees her adversary, but slinks out of the race, where that immortal garland is to be run for, not without dust and heat. Assuredly we bring not innocence into the world, we bring impurity much rather: that which purifies us is trial, and trial is by what is contrary. That virtue therefore which is but a youngling in the contemplation of evil, and knows not the utmost that vice promises to her followers, and rejects it, is but a blank virtue, not a pure. (515–16)

Range, too, thinks it wiser to shine a light on evil. He does not make the extreme claim that it was always safe to give *Mein Kampf* an

10 The Value of Milton

imprimatur, but he thinks that times have changed sufficiently since World War II that it is now safer to give Germans ‘unfettered access’ to ‘Hitler’s dreary and often incomprehensible diatribe’ than to keep it ‘under wraps’. This also has a Miltonic resonance. Towards the end of *Areopagitica*, Milton reminds Parliament of their own past experience, when the bishops’ censorship backfired. If seditious books are given the allure of forbidden fruit, licensing has an outcome ‘utterly opposite to the end which it drives at: instead of suppressing sects and schisms, it raises them and invests them with a reputation’ (542).

Licensing may be self-defeating, but toleration has dangers, too. Milton acknowledges this, but his concession again leaves us wondering just what he has conceded. I turn now to what is the most bewildering puzzle of all in this perennially puzzling pamphlet. At the climax of the second stage of his argument, just when he has persuaded many of us to sally out and seek temptation, he makes another surprising concession:

But of our priests and doctors how many have been corrupted by studying the comments of Jesuits and Sorbonnists, and how fast they could transfuse that corruption into the people, our experience is both late and sad. It is not forgot, since the acute and distinct Arminius was perverted merely by the perusing of a nameless discourse written at Delft, which at first he took in hand to confute. (519–20)

The first sentence refers to English churchmen who had converted to Catholicism. It does not help Milton’s case to remind Parliament that Protestants ‘have been corrupted by studying . . . Jesuits’. The next example is even more damaging, for this time the source of corruption came from within the Protestant fold, so Milton cannot claim (as he might in the first example) to have offered sufficient safeguard by excluding Catholics. Jacobus Arminius (1560–1609) was a Dutch Reformed pastor who had studied at Geneva under Calvin’s successor, Theodore Beza. Calvinists believed that God has determined from all eternity who will be saved and who will be damned, regardless of their merits. As a renowned Calvinist, Arminius was in 1591 called upon to refute the views of two anonymous Delft ministers who had strayed from orthodox Calvinism. However, he found himself sympathizing with the views he had