

Contextualizing the “Marketplace of Ideas” in Libraries

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ABSTRACT: “The marketplace of ideas” is frequently invoked in debates concerning the merits of free, unrestricted speech; as social and information centres of their communities, libraries are often implicated in these debates. If we suppose that libraries are supporters of civic debate, what does it mean to take the “free market of ideas” as the principle by which the free speech debate is organized? This paper contextualizes the tendency to imagine the public sphere as a free market in ideas within jurisprudence and the neoliberal arts of government, consulting democratic theory to question which frameworks libraries might draw from to reimagine their contribution to the public sphere.

Keywords: civic space; democracy; free speech; markets; neoliberalism



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Introduction: Free Speech and the “Marketplace of Ideas” in Library Spaces

In June 2017, the Toronto Public Library (TPL) gained widespread attention and criticism for permitting a memorial service for Barbara Kulaszka, a lawyer who had represented neo-Nazis and Holocaust Deniers, to be held in one of its rooms.¹ In the wake of the controversy, Vickery Bowles, City Librarian for the TPL, was awarded the Ontario Library Association’s Les Fowlie Intellectual Freedom Award at the beginning of 2018.² Shortly afterwards, Bowles announced the launch of the event series *On Civil Society*, the largest system-wide series the TPL had ever hosted.³ The purpose of the series was to provoke thought and spark public debate about divisive social and political issues. In a series of sponsored articles published in the *Toronto Star*, staff from the TPL spoke about the tendency of citizens to restrict themselves to isolated “bubbles” of social experience, suggesting that the series could help participants break out of those bubbles and “remind people of healthy ways to disagree.”⁴ Thinking of libraries as indispensable to democracy in their role as facilitators of public discourse is certainly not new,⁵ but given the TPL’s politically fraught year, the series had special significance.

Academic libraries are experiencing the impact of speech debates occurring on university campuses—for example, the one centred on Jordan B. Peterson, who first gained attention in the fall of 2016 when he publicly opposed Bill C-16, which added “gender identity” and “gender expression” to the list of prohibited grounds for discrimination under the Canadian Human Rights Act and the Criminal Code. Peterson characterized the bill as part of “the vanguard of a radical leftist ideology,” and suggested that the law would criminalize his

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- 1 See, for example, Ainslie Cruickshank, “Memorial Goes Ahead at Toronto Library for Lawyer Who Represented Far-Right Extremists,” *Toronto Star*, July 12, 2017, <https://www.thestar.com/news/gta/2017/07/12/memorial-goes-ahead-at-toronto-library-for-lawyer-who-represented-far-right-extremists.html>.
 - 2 “OLA’s Les Fowlie Intellectual Freedom Award,” Ontario Library Association, http://www.accessola.org/web/OLA/Membership/Awards_ola/OLA_Les_Fowlie_Intellectual_Freedom_Award.aspx.
 - 3 Vickery Bowles, “What’s on at the Library: On Civil Society,” Feb. 23, 2018, <http://torontopubliclibrary.typepad.com/programming/2018/02/on-civil-society.html>.
 - 4 “Bursting Your Bubble,” *Toronto Star*, Feb. 27, 2018a, https://www.thestar.com/on-civil-ground/civil-society/sponsored_sections/2018/02/27/bursting-your-bubble.html; “How to have a Healthy Debate,” *Toronto Star*, Feb. 27, 2018b, https://www.thestar.com/on-civil-ground/civil-society/sponsored_sections/2018/02/27/how-to-have-a-healthy-debate.html.
 - 5 See, for example, John Buschman, *Dismantling the Public Sphere: Situating and Sustaining Librarianship in the Age of the New Public Philosophy* (Westport: Libraries Unlimited, 2003); Nancy C. Kranich, *Libraries and Democracy: The Cornerstones of Liberty*, (Chicago: American Library Association, 2001).

refusal to use a student's chosen gender pronoun.⁶ In December 2017, Wilfrid Laurier University master's student and teaching assistant, Lindsay Shepherd, penned an op-ed in the *National Post* after being reprimanded by her supervising professor for playing a clip of a debate between Peterson and Nicholas Matte in an undergraduate tutorial. Bowles, in fact, made explicit reference to Shepherd in her effort to express the significance and timeliness of the *On Civil Society* series, arguing that Shepherd "was just wanting to have a discussion about different points of view... I think that's very dangerous for a democracy when you have people trying to shut down discussions on controversial subjects."⁷ Significantly, less than a month after the TPL announced its *On Civil Society* event series, Shepherd's student group *Laurier Students for Open Inquiry* announced its *Unpopular Opinion Speaker Series*, to which they invited far-right commentator Faith Goldy to speak against immigration into Canada at their inaugural event.⁸ In her *National Post* op-ed, Shepherd defended her decision to present the debate between Matte and Peterson by arguing that "watching ideas being debated in action is how a 'marketplace of ideas' is formed."⁹

Arguments in favour of free and unrestricted speech often employ metaphorical figures and phrases appealing to the marketplace of ideas. This family of expression evokes the image of a process in which rational consumers choose from among the ideas presented to them in an environment of unrestricted competition. In this line of argument, it follows that truth and reason will emerge automatically in a fashion similar to the way competition in the marketplace automatically produces price signals or an equilibrium. The marketplace metaphor is commonly invoked at many sites of speech, and libraries are no exception. For example, the Association of College & Research Libraries' 2015 *Framework for Information Literacy for Higher Education* states, "Learners who are developing their information literate abilities... [will come to] see themselves as contributors to the information marketplace rather than only consumers of it."¹⁰ The American Library Association (ALA) also invoked this phrase in its statements on Intellectual Freedom, which quote the 1965 *Lamont v. Postmaster General* United States Supreme Court decision to

6 Jordan Peterson, "The Right to be Politically Incorrect," *National Post*, November 21, 2016, <http://nationalpost.com/opinion/jordan-peterson-the-right-to-be-politically-incorrect>.

7 "How to have a Healthy Debate."

8 Lindsay Shepherd, "Why I Invited Faith Goldy to Laurier," *Macleans*, March 22, 2018, <http://www.macleans.ca/opinion/why-i-invited-faith-goldy-to-laurier/>.

9 Lindsay Shepherd, "My Laurier Interrogation Shows Universities Have Lost Sight of Their Purpose," *National Post*, December 5, 2017, <http://nationalpost.com/opinion/lindsay-shepherd-wlus-interrogation-revealed-how-university-has-lost-sight-of-its-key-purpose>.

10 Association of College & Research Libraries, *Framework for Information Literacy for Higher Education* (Chicago: Association of College & Research Libraries, 2015), <http://www.ala.org/acrl/standards/ilframework>.

affirm the rights of readers.¹¹ Rory Litwin, founder of Litwin Books and Library Juice Press, made reference to the phrase in his *Library Journal* Movers & Shakers interview: he asserted that libraries represent a variety of political ideals “actually functioning successfully in the world,” including a libertarian ideal, realized through the “marketplace of ideas” that libraries offer.¹² Although these examples do not necessarily represent thoughtful engagement with the meaning of the phrase, and, indeed, may simply reflect a repetition of a familiar and positive-sounding platitude, we believe the phrase—and its ideological implications—warrants closer scrutiny.

An article by Ronald J. Heckart on this subject laid much of the foundation for our work.¹³ His article, published in 1991, examined understandings of intellectual freedom in librarianship and the relationship between these understandings and the principle of the marketplace of ideas in American juridical reasoning, and explored the challenges that emerge when applying this principle to library practices. Although he provided a succinct overview of the debates on intellectual freedom in librarianship—as well as a compelling argument for a professional ethic that advocates for free speech on the grounds of empowering community members—Heckart did not interrogate the foundation or validity of the marketplace metaphor itself. In drawing from more recent scholarship that has critically evaluated expressions of neoliberalism in librarianship, we wish to investigate whether the implications of this phrase actually align with the values that libraries and librarians wish to advance in their work. The purpose of this paper, however, is not to advance our own opinions about libraries and speech debates, or to explore the limits or applications of concepts like library neutrality or intellectual freedom. Rather, we wish to provide some context for one small part of the ongoing conversation on public speech in academic and library spaces. If we suppose that libraries are sites and supporters of civic debate, what does it mean to take the “free market of ideas” as the principle by which debate is organized?

Library Values

Before we investigate whether the “marketplace of ideas” aligns with library values, we must establish what these values are. This is no easy task: librarianship is often characterized as

11 American Library Association, “Intellectual Freedom: Issues and Resources,” updated in 2017, <http://www.ala.org/advocacy/intfreedom>.

12 “Rory Litwin | Movers & Shakers 2002,” last modified March 15, 2002, <https://web.archive.org/web/20171128152608/https://lj.libraryjournal.com/2002/03/people/movers-shakers-2002/rory-litwin-movers-shakers-2002/>.

13 Ronald J. Heckart, “The Library as a Marketplace of Ideas,” *College & Research Libraries* 52, no. 6 (1991): 491–505.

lacking a theoretical foundation¹⁴ or as being in a perpetual state of crisis.¹⁵ Although the views of the American Library Association (ALA) do not necessarily represent the professional as whole, their stated values serve as a useful reference point. The “Core Values of Librarianship” adopted by the ALA Council in 2004 are as follows: (1) Access, (2) Preservation, (3) Confidentiality/Privacy, (4) The Public Good, (5) Democracy, (6) Professionalism, (7) Diversity, (8) Service, (9) Education and Lifelong Learning, (10) Social Responsibility, and (11) Intellectual Freedom.¹⁶ The document was and is not without criticism, and some scholars have remarked that “ALA Core Values seem to have lost their traction or relevance in the daily work librarians perform,”¹⁷ while others have questioned the worth of values statements more generally.¹⁸ Nevertheless, values statements from other libraries and library organizations often include many of the same values and much the same language as the ALA. Recent political events have also provided opportunities for libraries to re-evaluate their values; for example, in the wake of the Trump administration’s announcement of Executive Order 13769, *Protecting the Nation from Foreign Terrorist Entry into the United States*, the ALA released a public statement reaffirming their values of access to information, privacy, democracy, equity, diversity and inclusion, intellectual freedom, and social responsibility.¹⁹ A number of Canadian organizations, including the Canadian Federation of Library Associations and the British Columbia Library Association, also released their own statements endorsing these values.

In many accounts of the profession, it is the value of intellectual freedom that serves as the core value that underpins and motivates librarianship. André Cossette’s 1972 essay “Humanism and Libraries,” which translator Rory Litwin praises as one of the first examples in North American librarianship to systematically explore the goals of the profession, is one such example.²⁰ In the essay Cossette explores three possible ultimate aims for libraries: preservation, education, and information, concluding that, because an aim of preservation would turn librarianship into a technical rather than a professional role, and an educative role

14 J. Periam Danton, "Plea for a Philosophy of Librarianship: Philosophia vero omnium mater artium," *The Library Quarterly* 4, no. 4 (1934): 527–551; André Cossette, *Humanism and Libraries: An Essay on the Philosophy of Librarianship*, trans. Rory Litwin (Duluth: Library Juice Press, 2009).

15 Buschman, *Dismantling the Public Sphere*, 3.

16 American Library Association, “Core Values of Librarianship,” July 6, 2006, <http://www.ala.org/advocacy/intfreedom/corevalues>.

17 Heidi L. M. Jacobs and Selinda Berg, “Reconnecting Information Literacy Policy with the Core Values of Librarianship,” *Library Trends* 60, no. 2 (2011): 391.

18 John N. Berry III, “Dumbed-Down Core Values,” *Library Journal* 125, no. 8 (2000): 6.

19 “American Library Association, “ALA Opposes New Administration Policies that Contradict Core Values,” news release, January 30, 2017, <http://www.ala.org/news/press-releases/2017/01/ala-opposes-new-administration-policies-contradict-core-values>.

20 Rory Litwin, preface to Cossette, *Humanism and Libraries*, viii.

represents a “bourgeois librarianship” that accepts the values of the dominant culture serving to instill and reinforce class hierarchies, libraries must accept an informational aim.²¹ An informational aim, in his view, not only resolves the problems inherent in the alternative aims, but is also most compatible with the promotion of democracy: through the core function of the dissemination of information, the library “contributes to the formation of an informed electorate that is capable of rational decisions,” and it is the value of intellectual freedom that this function relies upon.²² Heckart’s work on libraries and the marketplace of ideas supports Cossette’s assertions, adding that the reorientation from an educational to an informational aim arose in the 1930s, around the time of the ALA’s first Library Bill of Rights statement in 1939.²³ In Heckart’s account, this period saw a turn away from a “centripetal orientation” in librarianship (akin to Cossette’s educative aim), where librarians served as stewards whose major moral imperative was to elevate the literary tastes and characters of their patrons, and toward a “centrifugal orientation” (akin to Cossette’s informational aim), where librarians acted as facilitators between patrons and information resources regardless of content, and where librarians’ major moral imperative concerned the defence of intellectual freedom.²⁴ Heckart concedes that this shift in values has not been painless, and the stalwart defence of intellectual freedom has created a fundamental tension in librarians’ activities—librarians are now caught between the passive role as neutral keepers of information and the active defence of speech and ideas.²⁵ This tension is still present in the profession, observable at events such as the 2018 ALA Midwinter Meeting’s debate on library neutrality.²⁶

Contextualizing the Marketplace Metaphor

If librarianship is organized by uneasily coexisting values and practices, then which, if any, of these values is a “marketplace in ideas” supportive of, and to what extent? The origin of the “marketplace of ideas” is generally attributed to John Milton’s *Areopagitica*, published in 1644, and its development is attributed to John Stuart Mill in *On Liberty*, published in 1859.²⁷ A close reading of these texts indicates, however, that attributing this image—in

21 Cossette, *Humanism and Libraries*, 46.

22 Ibid., 56.

23 Heckart, “The Library as a Marketplace of Ideas,” 495.

24 Ibid., 493.

25 Ibid., 497.

26 Amy Carlton, “Are Libraries Neutral?” *American Libraries*, February 12, 2018, <https://americanlibrariesmagazine.org/blogs/the-scoop/are-libraries-neutral/>.

27 See, for example, Alvin I. Goldman, “Speech Regulation and the Marketplace of Ideas,” in *Knowledge in a Social World* (New York: Oxford University Press, 1999), 189–219.

which the market does not only coordinate the distribution of goods but additionally coordinates the use of knowledge—to Milton or Mill is anachronistic. Mill’s argument that supposedly presents this metaphor appears at the beginning of Chapter 2 of *On Liberty*, titled “Of the Liberty of Thought and Discussion.”

The peculiar evil of silencing the expression of an opinion is, that it is robbing the human race; posterity as well as the existing generation; those who dissent from the opinion, still more than those who hold it. If the opinion is right, they are deprived of the opportunity of exchanging error for truth: if wrong, they lose, what is almost as great a benefit, the clearer perception and livelier impression of truth, produced by its collision with error.²⁸

From this passage, it is clear that Mill opposes the censorship of speech; however, a lack of censorship does not necessarily entail a market. The main problem *On Liberty* addresses is not state censorship, but rather the threat social censure poses to liberty. Inheriting Tocqueville’s fears of a “tyranny of the majority,” Mill argues that

when society is itself the tyrant—society collectively over the separate individuals who compose it—its means of tyrannising are not restricted to the acts which it may do by the hands of its political functionaries. Society can and does execute its own mandates: and if it issues wrong mandates instead of right, or any mandates at all in things with which it ought not to meddle, it practises a social tyranny more formidable than many kinds of political oppression.²⁹

Because of this tendency towards social tyranny, Mill states that a *laissez-faire* approach alone cannot sufficiently ensure liberty and social progress. Rather, with regard to questions of truth in politics and civic life, he argues that

if either of the two opinions has a better claim than the other, not merely to be tolerated, but to be encouraged and countenanced, it is the one which happens at the particular time and place to be in a minority. That is the opinion which, for the time being, represents the neglected interests, the side of human well-being which is in danger of obtaining less than its share.³⁰

Thus, for Mill, some opinions should be favoured over others—namely the unpopular opinions of the minority. If a market is supposed to represent neutral exchange that favours

28 John Stuart Mill, *Utilitarianism and On Liberty*, (Malden: Blackwell, 2000), 100.

29 Ibid., 90–91.

30 Ibid., 124.

no one in particular, Mill's views are not compatible with such a model.³¹ Mill fears that if a market model were applied, the conformity-demanding influence of public opinion would come to dominate, leading to social tyranny. Mill actually argues *against* a marketplace of ideas, and although he does not condone censorship, he explicitly advocates for discriminating between opinions in civil dialogue to protect the minorities.

Mill's defence of liberty involves a departure from the idea, which has many iterations in liberal thought, that civil society is the site of a process or mechanism from which progress and truth will emerge naturally. For Mill, the guarantee of progress is not found in a process immanent to society, but instead in the contributions of the talented few who manage to live "in advance of society in thought and feeling."³² In a *laissez-faire* situation, wherein the natural process of society were permitted to run its course, the "experiments in living" undertaken by the advanced few would be terminated prematurely.³³ For this reason, Mill insists on employing individual rights to limit the reach of the invisible hand.

To demonstrate John Milton's advocacy for a free market in ideas, Alvin Goldman and other scholars typically refer to the following passage from *Areopagitica*:

and now the time in special is, by privilege to write and speak what may help to the further discussing of matters in agitation. The temple of Janus with his two controversial faces might now insignificantly be set open. And though all the winds of doctrine were let loose to play upon the earth, 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 in a free and open encounter? Her confuting is the best and surest suppressing.³⁴

Milton's words describe a "free and open encounter," and, unlike Mill, he does not advocate for discriminating between certain types of speech. Notably, however, neither Mill nor Milton actually use the words "market" or "marketplace," nor do they mention "competition" or "exchange." Curiously, the metaphors and images employed by both Milton and Mill are drawn, not from commerce, but from combat. In Milton's work, truth and falsehood "grapple"; Mill states that truth often "has to be made by the rough process of a struggle between combatants fighting under hostile banners."³⁵ Combative struggle is not the same as

31 Jill Gordon, "John Stuart Mill and the 'Marketplace of Ideas,'" *Social Theory and Practice* 23, no. 2 (1997): 235–249, <https://www.jstor.org/stable/23559183>.

32 Mill, *Utilitarianism and On Liberty*, 93.

33 Ibid., 132, 138, 152.

34 John Milton, *Areopagitica* (London: Oxford University Press, 1944).

35 Mill, *Utilitarianism and On Liberty*, 124.

competition in a market. There are, in fact, multiple models by which truth and information can be coordinated, distributed, and selected—competition being only one highly specific form among several. If it is possible to analogically relate combative activity to truth-seeking activities, we might construct an image in which the victor in combat is equivalent to the true opinion; in fact, this is precisely the truth-seeking activity involved in ancient Greek and Germanic practices of trial by combat.³⁶

In contrast, if we instead take competition rather than combat as an analogical model, something quite different is at stake. The significance of competition for truth and knowledge does not concern its selective activities but rather its coordinating potential. This is illustrated well by Friedrich Hayek, who defines competition as an informational mechanism that achieves “decentralized planning by many separate persons.”³⁷ In an economy of truth specific to a competitive model, the truth is not analogous to the “victor” (i.e., to the firm that manages to sell the good, or to the buyer who successfully maximizes her utility in purchasing), but instead to the formation of prices and the maintenance of market equilibriums, which are the unintended effects of aggregating partial and self-interested competitive choices.

The purpose of exploring the historical origin of this metaphor is not to contest whatever prestige the “marketplace of ideas” formulation might have benefitted from by its association with early liberal thinkers; even if it were true that Mill or Milton had envisioned a marketplace of ideas, this would not constitute an argument for taking it as the model for informational environments. However, it does demonstrate that the tendency to conceptualize debate using the model of competition is relatively new. For our purposes, the question of who first imagined debate in terms of a “marketplace of ideas” is less significant than the question of how and why it became possible to analogically extend the metaphor of the market.

Neoliberalism: Generalization of the Market and Legal Forms

The reimagining of formerly extraeconomic spheres of activity as markets or sites of competition is not a philosophical excursion but rather a political project. For this reason, understanding the practical implications of attempting to recast the public sphere as a “free market in ideas” inevitably involves outlining the modern neoliberal context of government.

36 Michel Foucault, “Truth and Juridical Forms,” in *Power: The Essential Works of Foucault, 1954–1984*, Vol. 3., ed. James D. Faubion, trans. Robert Hurley (New York: New Press, 2000): 34–38.

37 F. A. Hayek, “The Use of Knowledge in Society,” *The American Economic Review* 35, no. 4 (1945): 521.

Michel Foucault's studies in the late 1970s are one of the earliest investigations of neoliberalism, and arguably the first to come to terms with its specificity. These studies were presented in a series of lectures presented at the Collège de France from 1978–1979, and were published in English as *The Birth of Biopolitics* in 2004.³⁸ Foucault's interpretation attributes the origins of neoliberalism to a crisis of governing rather than a crisis of capitalism, as is argued in Marxist accounts;³⁹ Foucault understands neoliberalism less as a form of economic organization than as an art of governing subjects. Neoliberalism is not only concerned with administering the economy, but also with universalizing “economizing” action both in its interpretation and its management of the world.⁴⁰ This shift in concern is expressed in developments in economics, such as Gary Becker's economic approach to the study of human behaviour and the University of Chicago's “Law and Economics” movement, but also in developments in government, such as the New Public Management and the application of “best practices” to public administration.⁴¹ Extending the object of government from *the economy* to *economizing* introduced the possibility of extending the scope of economic styles to govern beyond the sphere to which they were formerly limited. As a result, the influence of neoliberalism is totalizing, extending beyond the market to encompass social, juridical, and civic space.

In contrast to accounts less sensitive to historical specificity, and for which neoliberalism is simply “Adam Smith revived,”⁴² Foucault emphasizes the differences between the naturalism of *laissez-faire* liberalism and the constructivism of neoliberalism. Where the classical political economists understood the market as a natural human relation that would flourish in the space left vacant by the absence of state intervention, neoclassical economic thought is aware that markets and competitive dynamics are actually constructed and enframed by state action, and that they presuppose a definite set of material and juridical conditions.⁴³ An example of such a condition is property rights, which not only secure a space for the

38 Michel Foucault, *The Birth of Biopolitics: Lectures at the Collège De France, 1978–79*, trans. Graham Burchell (New York: Palgrave Macmillan, 2008).

39 See, for example, David Harvey, *A Brief History of Neoliberalism* (Oxford: Oxford University Press, 2005). Harvey is not incorrect in arguing that the emergence of neoliberalism was catalyzed by a crisis of capitalism; however, while the economic crisis of the late 1970s accounts for the moment at which neoliberalism appeared, this its own is not sufficient to explain the governmental form it took.

40 See also Harvey, *A Brief History of Neoliberalism*, 3.

41 Wendy Brown, *Undoing the Demos: Neoliberalism's Stealth Revolution* (New York: Zone Books, 2015), 122–141.

42 Foucault, *The Birth of Biopolitics*, 130; For an example of such a reading, see Simon Clarke, “The Neoliberal Theory of Society,” in *Neoliberalism: A Critical Reader*, eds. Alfredo Saad-Filho and Deborah Johnston (London: Pluto Press, 2005), 50–59.

43 Foucault, *The Birth of Biopolitics*, 120–121, 130–132; see also Harvey, *A Brief History of Neoliberalism*, 2.

individual actor, but also provide the conditions for market relations to exist between individuals. Rights of speech and association do something similar: they not only secure an individual's rights of conscience, but also provide the supporting conditions for a public sphere.⁴⁴ However, differences in the juridical forms that enframe a public sphere can alter the character of the sphere itself. In this way, debate may become transformed into competition as the speech situation is transformed from a site of equal deliberation into a market-like site of accumulation and investment.⁴⁵

Free Speech as Free Markets

Because judicial forms enframe spheres, any investigation of the neoliberal public sphere must involve an analysis of the legal forms that support it. The marketplace of ideas metaphor is most strongly linked to American jurisprudence, and is used as a recurring line of judicial argumentation throughout the 20th century, beginning with Justice Oliver Wendell Holmes' dissent in the 1919 Supreme Court case *Abrams v. United States*. However, because of the tendency for legal reasoning to become generalized to a social norm, a phenomenon we will discuss in more detail below, this line of argumentation has significance beyond the United States. The critical moment in the development of this argument is the infamous 2010 US Supreme Court decision in *Citizens United v. the Federal Elections Commission*, a case that overturned the Campaign Reform Act of 2002, which had regulated corporate financial contributions to electoral campaigns, and permitted corporations to use unlimited treasury funds for public political speech at any point leading up to an election. Along with the 2010 ruling in the case of *Speechnow.org v. Federal Elections Commission*, the *Citizens United* ruling helped super PACs—political action committees that are permitted to raise unlimited campaign contribution funds from individuals, corporations, and other groups—to dominate American campaign financing and political speech in the years that followed. Presenting the majority opinion of the court, Justice Anthony Kennedy used the word “marketplace” no fewer than eight times, referring to elections as “political marketplaces” and claiming that the regulation of corporate financial campaign support deprives society “of an uninhibited marketplace of ideas.”⁴⁶ In his concurring opinion, Justice Anthonin Scalia added that, “Indeed, to exclude or impede corporate speech is to muzzle the principal agents of the modern free economy. We should celebrate rather than

44 Claude Lefort, *The Political Forms of Modern Society: Bureaucracy, Democracy, Totalitarianism* (Cambridge: MIT Press, 1986), 256–257.

45 Brown, *Undoing the Demos*, 157.

46 *Citizens United v. Federal Election Comm'n*, 558 U.S. (2010) (Kennedy opinion), <https://supreme.justia.com/cases/federal/us/558/310/opinion.html>

condemn the addition of this speech to the public debate.”⁴⁷

Although met with widespread opposition and criticism, the *Citizens United* decision was welcomed by some librarians. In a 2011 opinion article in *American Libraries* magazine, Jeffrey Beall asserted that the decision reflected librarians’ core values and should be celebrated by the profession.⁴⁸ In this article, Beall characterizes the case as addressing unconstitutional restrictions on freedom of speech and argues that the decision brought the law in line with the “realities of modern mass communication.”⁴⁹ He proceeds to argue that the laws mandating disclosure of corporate contributions are sufficient to ensure that corporate voices do not drown out the voices of others, and asserts that librarians should welcome the decision as part of their mandate to support the freedom of speech. In making this case, it is only natural that Beall chose to employ the language of a “marketplace of ideas” to argue against the censorship of corporate speech and its relevance for librarians.

Less predictably, in characterizing opposition to the *Citizens United* decision as part of an “anti-free speech movement,” Beall made the curious choice of arguing that this opposition was morally equivalent to book banning and censorship.⁵⁰ Although this rhetorical choice has the appearance of hyperbole calculated to provoke a moral panic by appealing to an image that unfailingly attracts the condemnation of librarians, in fact this line of argument was not invented by Beall. During the Supreme Court’s initial oral arguments on *Citizens United* in March 2009, Justice Samuel Alito hypothesized a scenario in which corporate treasury funds were used to fund a book with political content. The line of questioning based on this hypothetical scenario led Deputy Solicitor General Malcolm Stewart to acknowledge that the then-current regulations might “prohibit the publication of the book using the corporate treasury funds.”⁵¹ Later in the course of the case, Justice Roberts interpreted this acknowledgement as an admission that the current FEC regulations could “extend to banning [a] book.”⁵² Despite the significant flaws in analogizing restrictions on the use of corporate treasury funds for the purposes of promoting a documentary film—the actual subject of the case—to the outright banning of a book, the Justices’ appeals to the emotional imagery of book banning irreversibly reoriented the case from an argument that hinged on the

47 *Citizens United v. Federal Election Comm’n*, 558 U.S. (2010) (Scalia concurring opinion), <https://supreme.justia.com/cases/federal/us/558/310/concurrence2.html>

48 Jeffrey Beall, “Librarians and the Threat to Free Political Speech: Why Librarians Should Back the *Citizens United* Decision,” *American Libraries* 42, No. 9/10 (2011): 33.

49 *Ibid.*, 33.

50 *Ibid.*, 33.

51 *Citizens United v. Federal Election Comm’n*, 558 U.S. (2010), Oral Argument, Mar 24, 2009, https://apps.oyez.org/player/#/roberts2/oral_argument_audio/23491.

52 *Ibid.*

distinction between television commercials and documentaries shown through video-on-demand, to one that centred on questions concerning freedom of speech.⁵³ This reorientation appears to have had a profound effect on the Justices' view of the case; when *Citizens United* was reargued in September of 2009, attorney for the plaintiff Theodore Olson immediately returned to this comparison, opening his arguments by stating, “[T]he government admits that that radical concept of requiring public support for the speech before you can speak would even authorize it to criminalize books and signs.”⁵⁴ It appears that the image of book banning is sufficiently scandalous to induce moral panic in librarians and non-librarians alike, no matter how tenuous the analogy.

Beall's *American Libraries* article was met with several rebuttals. His argument that the *Citizens United* decision reflects librarianship's core values, however, is not unlike the argument tacitly advanced in the ALA's statements on intellectual freedom: both of these statements equate free speech with free markets. The ALA explicitly defines intellectual freedom in relation to American Law, as “the rights of library users to read, seek information, and speak freely as guaranteed by the First Amendment,”⁵⁵ and a major portion of their statements on intellectual freedom are found under the heading “First Amendment and Censorship.” In delineating the rights guaranteed by the First Amendment, the ALA invokes the marketplace metaphor as it appears in the *Lamont v. Postmaster General* 1965 Supreme Court decision:

The Supreme Court and other courts have held conclusively that there is a First Amendment right to receive information; the right to receive information is a corollary to the right to speak. Justice William Brennan elaborated on this point in 1965: ‘[...] The dissemination of ideas can accomplish nothing if otherwise willing addressees are not free to receive and consider them. It would be a barren marketplace of ideas that had only sellers and no buyers.’ *Lamont v. Postmaster General*, 381 U.S. 301 (1965).⁵⁶

In the same fashion as the argumentation employed in the *Citizens United* decision and defended by Beall, the ALA's statements earnestly identify free speech with free markets. This association is achieved in part by the ALA's tendency to regard laws more widely as

53 Jeffrey Toobin, "Money Unlimited," *The New Yorker*, May 21, 2012, <https://www.newyorker.com/magazine/2012/05/21/money-unlimited>.

54 *Citizens United v. Federal Election Comm'n*, 558 U.S. (2010), Oral Reargument, Sept 9, 2009, https://apps.oyez.org/player/#/roberts2/oral_argument_audio/22476.

55 American Library Association, “Intellectual Freedom: Issues and Resources.”

56 American Library Association, “First Amendment and Censorship,” June 13, 2008, <http://www.ala.org/advocacy/intfreedom/censorship>.

norms that extend beyond the territory in which they were originally formulated. The ALA does this by conflating intellectual freedom with the First Amendment, combined with its commitment to representing libraries and librarianship outside the scope of American jurisdiction. The mission of the ALA makes no mention of operating solely within the boundaries of the United States, and, indeed, the first core organizational value listed in the ALA's strategic plan concerns "[e]xtending and expanding library services in America *and around the world*" [emphasis added].⁵⁷ As an organization with an international focus, it would have been entirely possible for the ALA to endorse freedom of speech as a core value without any reference to American law.⁵⁸ However, the ALA invokes the First Amendment in their statements on intellectual freedom not only to demonstrate their commitment to complying with the law, but also as a broader statement of values that transcends the boundaries of the state. In doing so, the First Amendment becomes more of a metaphor for the value of free speech than a specific legal obligation. This recognition of laws as norms of behaviour is another means through which legal forms play an active role in shaping social relations that extend beyond territorially delimited legal jurisdictions. Similarly, this is why Lindsay Shepherd is able to invoke this phrase in a Canadian publication and be instantly understood: American legal reasoning has become a generalized social norm. The use of the image of a "barren marketplace of ideas" in the *Lamont v. Postmaster General* decision serves to enforce and circulate norms of speech relations modelled on market relations. The line of reasoning pursued both by Beall and the ALA rests on a questionable identification of free speech with a free market inherited from recent American jurisprudence.

Speech or Capital? Citizen Sovereignty or Consumer Sovereignty?

Legal scholar Timothy J. Kuhner has described the *Citizens United* decision as "neoliberal jurisprudence," which he defines as "the use of neoclassical economic theory as judicial reasoning."⁵⁹ Kuhner outlines a number of arguments advanced in the decision that import their reasoning from neoclassical economic theory, including the framing of democracy as a market—with economic currency posited as equivalent to political currency—and the framing of corporations as citizens whose speech is a welcome and necessary component of

57 American Library Association, "American Library Association Strategic Directions," January 24, 2017, http://www.ala.org/aboutala/sites/ala.org.aboutala/files/content/governance/StrategicPlan/Strategic%20Directions%202017_Update.pdf (emphasis added).

58 They could have, for example, appealed to Article 19 of the Universal Declaration of Human Rights.

59 Timothy K. Kuhner, "Citizens United as Neoliberal Jurisprudence: The Resurgence of Economic Theory," *Virginia Journal of Social Policy & the Law* 18, no. 3 (2011): 395–468.

democracy. Kuhner criticizes the lack of consistency in the decision, and argues that it takes its logic from neoclassical economic principles that “are imported to decide the shape of political values” in a judicial move that is fundamentally undemocratic.⁶⁰ Kuhner also describes the ruling as a “manifesto,” an announcement of “corporations’ full inclusion into the political sphere,” and of the Supreme Court’s “commitment to judging political controversies by neoclassical standards.”⁶¹ In this way, Kuhner’s critique points to the case’s broader effects on legal thought and the use of legal thought to circulate values and norms and disseminate them into the broader culture. What is at stake is not (or not only) that the market is permitted to impinge on or displace the sphere of democratic institutions, but rather that the objects and forms of action found within this institutional sphere are stamped in the image of relations formerly confined to the market.

If the neoliberal extension of the market form is expressed at the level of norms and laws by identifying free speech with free markets and imposing neoclassical standards on juridical reasoning, then how does this reconfiguration operate at the level of practice? As Wendy Brown observes in her discussion of *Citizens United*, more is at stake here than mere analogy: the “free market in ideas” is less a metaphor used to understand or distort the image of civic space than it is a model in which this space is recast. A model is more than a metaphor: for Brown, the application of a model involves “recast[ing] formerly noneconomic spheres as markets at the level of principles, norms, and subjects.”⁶² Brown argues that the *Citizen United* decision recasts speech as a form of capital, and recasts citizens as consumers of this speech/capital. Correspondingly, discussion is recast as an activity of productively managing the investment and circulation of speech/capital.⁶³

This tendency to introduce ontologies and relations originating in commerce to other spheres of life has permeated libraries in part through a certain form of managerial outlook. This outlook imposes a distinct set of policies and practices that, in turn, reshapes the way library users relate to library resources and to one another. John Buschman’s *Libraries, Classrooms, and the Interests of Democracy* considers the increasing presence of advertising in schools and marketing in libraries as expressions of neoliberalism in educational institutions, and critiques the imposition of these practices from the perspective of democratic theory.⁶⁴ He views the increasing tendency of libraries to regard their users as “customers” rather than as

60 Ibid., 461.

61 Ibid., 460.

62 Brown, *Undoing the Demos*, 155.

63 Ibid., 156–162.

64 John Buschman, *Libraries, Classrooms, and the Interests of Democracy: Marking the Limits of Neoliberalism* (Lanham: The Scarecrow Press, 2012).

“patrons” as “[t]he paradigmatic example of library marketing,” representing a fundamental shift in libraries’ conception of information as well as a shift in the purpose of the library itself.⁶⁵ By highlighting this replacement—or recasting—of the patron by the customer, Buschman’s study demonstrates how particular uses of language in library policy can shape expectations for behaviours and relations in library spaces. The term “customer” and other related transactional language advances a neoliberal customer service model that shapes expectations for how library-goers use library spaces and interact with one another inside them. Whereas a relationship centred on the “patron” model is compatible with the democratic values Buschman wishes to advance, the “customer” model is not. The language of the “customer” creates a model for behaviour where libraries respond to private consumer demand and serve private, individual interests rather than the public good, marketing their services to advance “the material success of the library.”⁶⁶ The language of the marketplace of ideas operates in a similar way. By employing the neoliberal metaphor of a market in speech, the ALA and other organizations shape expectations for how subjects are expected to view and interpret these resources—for example, library users may come to see different authors as being in competition with one another rather than in conversation—as well as how they are expected to use these resources (for example, seeing themselves as in competition with one another when they use library resources in their own speech). In these examples, we see Brown’s critique in action: a neoliberal model comes to shape the ways library spaces operate in terms of principles, norms, and subjects.

Marketplace in Ideas vs. Deliberative Speech Situation

If libraries are understood as an organ of civic life, what are the impacts of this imposition of neoclassical standards on libraries’ democratic potential? In *Why Some Things Should Not Be for Sale*, political philosopher Deborah Satz calls for an examination of markets’ effects on human relationships, and provides a framework for discerning if a market is “noxious.” A “noxious market” is one in which any of the following four characteristics is present: (1) vulnerability of one of the transacting parties; (2) weak agency of transacting parties; (3) harmful outcomes for individuals; or (4) harmful outcomes for society.⁶⁷ Focusing on this fourth characteristic, in which “the operation of these markets can undermine the social framework needed for people to interact as equals, as individuals with equal standing,”⁶⁸ Satz

65 Ibid., 53.

66 Ibid., 53.

67 Deborah Satz, *Why Some Things Should Not Be for Sale: The Moral Limits of Markets* (New York: Oxford University Press, 2010).

68 Ibid., 95.

distinguishes two distinct market forms that produce harmful outcomes for society: the first is markets that undermine equal societal standing, and the second is markets that undermine equal democratic citizenship, the status of “individuals as co-deliberants and co-participants in making laws that apply to them.”⁶⁹

A market in speech undermines the capacity of individuals to act as co-deliberators; in fact, a market in speech is decidedly opposed to deliberative speech. In deliberative speech, participants act both as speakers and as listeners at once. In contrast, framing the public sphere on the model of the market differentiates participants’ roles into the discrete categories of producers and consumers of speech. Justice Brennan explicitly referenced this differentiation in his *Lamont v. Postmaster General* argument, which was further endorsed in the ALA’s statements on intellectual freedom. Critics of the *Citizen United* decision fear that an unregulated market in speech will allow the public sphere to become dominated by corporations, with private firms coming to assume the role of the speech producers while citizens assume the role of speech consumers. It is not at all clear that this relation is symmetrical; it is entirely possible that producers of speech may exercise power over consumers of speech by structuring and constraining the field of choices available to them. This framing of the speech environment undermines the equal and participatory dimensions critical for democracy.

Deliberative speech is a discussion between parties with a shared object relating to the public good, whereas in competition individuals are related by their private interests and there will necessarily be winners and losers. Democratic codeliberation also holds equality between participants as an ideal, whereas in a market in speech this ideal is impossible to realize, given that capital amassed in the economic market can be carried over—a fact that Justice Kennedy explicitly concedes in the *Citizens United* decision.⁷⁰ Although participants in market speech may not be equals, however, their speech is nevertheless treated as equivalent—in treating speech as capital, which is qualitatively undifferentiated, a speech market situation obscures unequal power relations between actors. Just like capital is capital wherever it comes from, speech is just speech.⁷¹ Deliberative speech, on the other hand, makes qualitative language, which is necessary to critique power relations, possible. When the ALA relies on Supreme Court decisions that use the marketplace model to articulate their understanding of free speech in library spaces and collections, they endorse a model of speech that is incapable of facilitating deliberation.

69 Ibid., 95.

70 *Citizens United v. Federal Election Comm’n*, 558 U.S. (2010) (Kennedy opinion).

71 Brown, *Undoing the Demos*, 161.

Civil Society: Market or Public Sphere?

In its emphasis upon the fact that libraries are an organ of civil society, the Toronto Public Library's event series is significant. "Civil society" is one of the most ambiguous concepts in the history of liberal thought; this ambiguity is due largely to the intermediate space civil society occupies between the "public" (or state institutions) and the private. It is also partly due to the fact that civil society is sometimes identified with the market, other times with the public sphere, and often with both. The modern public sphere is not the same as the ancient public sphere: it is not a political public sphere coextensive with state institutions but rather is located in civil society.⁷² Insofar as citizens are not state officials, they do not perform deliberative political activities in parliamentary debates, but rather in the media, in town halls, and in informally organized discussions. The TPL's *On Civil Society* series presents the library as a critical site in this extraparliamentary sphere of discussion, with Bowles even going so far as to argue that "libraries are, in many ways, the last public spaces where disagreement is accepted and even encouraged."⁷³

It seems natural enough that a certain division of labour should be imposed on these two aspects of civil society—the market attending to the coordination of interests while the public sphere attends to the production of truth in discussion. However, recent developments suggest that this division has been disturbed: the application of market forms to the organization of the public sphere represents an absorption of one aspect of civil society by the other. How did it become possible to imagine the market not only as a producer of exchanges and equilibriums, but also of truth? Recall how the marketplace of ideas analogy implies a certain image of how, when individuals are related in competition, truth is produced naturally. In the same way that Bernard Mandeville's *Fable of the Bees* describes a situation in which private vices are transformed into public virtue through the operation of the market,⁷⁴ Hayek describes how the market not only coordinates interests, but also information. This analogy reveals the economy of truth particular to the market: unrestricted competition between ideas automatically produces truth in the same way that competition in the market automatically produces price signals.

However, the fact that the market may feature an economy of truth does not guarantee its fulfilment of democratic norms. As we have demonstrated, a public sphere framed as a

72 Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society* (Cambridge: MIT Press, 1989), 3.

73 Bowles, "On Civil Society."

74 Bernard Mandeville, *The Fable of the Bees: Or, Private Vices, Publick Benefits* (Oxford: The Clarendon Press, 1924).

marketplace is incapable of performing a critical function and maintaining relations of equality between participants. If this is the case, by what means can a democratically organized public sphere produce truth? How do we challenge the ancient association of democracy with the rule of opinion? In fact, a democratic public sphere is much like a market insofar as it produces truth by establishing a certain relation between participants. However, whereas a market arranges unequal proprietors in a relation of competition, a democratic public sphere arranges equal citizens in discussion. This implementation of equality allows the quality of the discussion—rather than the resources employed to support it—to be decisive; it is only in the context of this relation of equality that it becomes possible for the “the authority of the better argument” to assert itself.⁷⁵

Conclusion

We opened this inquiry by asking if a marketplace of ideas aligns with the values that libraries and librarians wish to advance in their work. Although the ALA’s “Core Values of Librarianship” and the very notion of a set of shared professional values are not immune to criticism, the values of democracy and intellectual freedom are frequently emphasized in the history of the profession. There are many ways of imagining truth-producing activities, as well as many ways of framing and defending intellectual freedom. The tendency to imagine truth-producing activities as a competitive market is specific to neoliberalism, where the public sphere is framed as a site of investment rather than as a site of discussion. This “free market in ideas” is not merely a metaphor, but rather a model: investment, competition, and consumption are not images employed to describe the neoliberal public sphere, but rather are the forms of activity that it demands. When speech is recast as capital and citizens as consumers, citizens’ ability to relate to one another as equals is undermined. In this way, the marketplace model for speech brings libraries’ commitment to intellectual freedom in direct conflict with the ethos of democracy. Even when appeals to free speech invoke democratic ideals, the promotion of the marketplace model of the public sphere undercuts those same ideals; the principles of civil and political rights are paid lip service to undermine those very same principles. If libraries are interested in defending intellectual freedom and participating in speech debates, we must model our practices and institutions in a way that facilitates relations of equality between participants. As Litwin observes, librarians have often attempted to build the foundations of their profession on “a mixture of diverse ideas that sound appealing but are never thought through one against another.”⁷⁶ We have certainly

⁷⁵ Habermas, *The Structural Transformation of the Public Sphere*, 36.

⁷⁶ Litwin, preface to *Humanism and Libraries*, viii.

found this to be the case with models of librarianship organized by the market.

If a market produces truth through competitive relations and deliberation produces truth through equality, how can this equality be implemented in libraries? A pedagogical model for librarianship does not resolve this problem; as Cossette emphasizes, this model has the potential to create an unequal relation between educator and educated, librarian and patron. However, the model of the library as informational provider also has its shortcomings: by acting as a neutral service provider, libraries need only be concerned with patrons as private persons or as bearers of private interests. To advance the values of intellectual freedom without compromising their commitment to democracy libraries must advocate for a model where debate is framed as deliberative rather than competitive: wherein the goal of a common rather than a private good is assumed, where librarians and community members are able to relate on equal social standing, and where qualitative and critical language is available. In the context of debates concerning intellectual freedom, this begins with the decoupling of free speech and free markets. Outlining a specific vision for a deliberative alternative to the increasingly influential marketplace model of librarianship is beyond the scope of this investigation, but should be taken up in future research. Rather than taking up debates organized by familiar contrasts between neutral and value-oriented pedagogy, or between freedom and censorship, in intervening we instead raise the question of what form of relation between participants is encouraged by the way we imagine and frame the institutions and practices of the professional field.

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