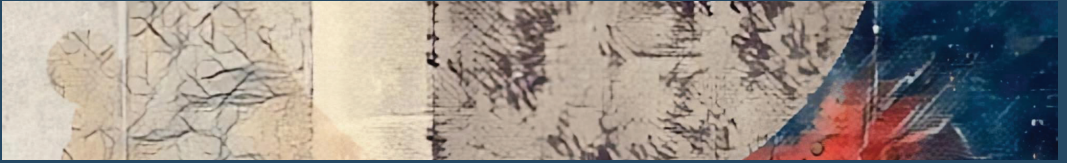




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A PHILOSOPHY OF COVER SONGS



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Interlude: Torment and Interpolations

There may come a time—if it has not been reached already— when all the great works of music have been written. John Stuart Mill writes: ‘The octave consists only of five tones and two semi-tones, which can be put together in only a limited number of ways, of which but a small proportion are beautiful: most of these, it seemed to me, must have been already discovered, and there could not be room for a long succession of Mozarts and Webers, to strike out, as these had done, entirely new and surpassingly rich veins of musical beauty’ (1873: ch. 5).

Mill’s idea is that there are only a finite number of notes which can be combined in only a finite number of ways. Many of the ways will be awful. Of those that are not, many have already been discovered and documented by great composers.

Mill recounts that he was ‘seriously tormented’ by this line of thought, but notably this confession is in his autobiography rather than in one of his philosophical works. He makes light of it in retrospect, offering it as evidence of the dark place he was in rather than suggesting it as a real concern. The torment, he writes, was ‘very characteristic both of my then state, and of the general tone of my mind at this period of my life.’

In order to make it a cause for concern, we would need the additional assumption that running out of tunes would be bad. Mill suggests that ‘the pleasure of music... fades with familiarity, and requires either to be revived by intermittence, or fed by continual novelty.’ For many of us, however, there are favorite songs which can survive being replayed. Even overly-familiar songs can be given new life by a new musician who changes them up. That is part of the fun of covers.

The argument also relies on a questionable assumption of ‘the exhaustibility of musical combinations.’ That is, it requires that the palette of musi-

cal materials is sufficiently limited that musicians might explore the whole space of worthwhile combinations. Even if the number of possible songs is finite, it might still be so large that musicians would not write all the good songs even in the lifetime of the whole universe. Moreover, musical performance can offer an uncountable infinity of qualities—in timbre, timing, and expression—such that the same musical passage can offer different rewards when played by different musicians.

Nevertheless, Mill is right that there are only so many ways to put together a finite set of notes and chord progressions. Given the structure of a pop song, there are only so many possible melodies, choruses, or bridges. So it is no surprise that many patterns appear in multiple songs. Earlier songs often serve as inspirations for new ones, and songwriters reuse elements from earlier work. Moreover, it is not unheard of for a songwriter to independently hit upon a melody that has already been used by someone else.

The industry term for using the melody from a copyrighted song is *interpolation*. Here is a typical definition: ‘Interpolation is when you use any portion of lyrics or melody from a copyrighted song that you did not write...’ (Easy Song 2021). It is easy to think of interpolations as being almost but not quite covers. For example, Adam Neeley comments on a particular interpolation, ‘In the eyes of the law it’s not a cover, but it’s also not a wholly original song’ (2021).

However, it is important to note that the law does not specify what it means to be a *cover*. Typically, legal decisions do not even turn on whether two versions are the *same song*. Rather, what matters is only whether they are similar enough that the later one steps on the copyright of the earlier one.

Moreover, an interpolation—unlike a cover or quotation—need not be deliberate. The upshot of Mill’s argument, combined with the relative simplicity of pop music melodies, is that interpolations will happen by accident. For example, Sam Smith’s 2014 hit single ‘Stay With Me’ has a melody and chorus with ‘notable similarities’ to Tom Petty and Jeff Lynne’s 1989 ‘I Won’t Back Down.’ News coverage indicates that ‘it wasn’t a deliberate thing’ but instead a ‘complete coincidence.’ Nevertheless, when matters were settled, Petty and Lynne were added to Smith’s song as cowriters. Petty issued a statement saying, ‘All my years of songwriting have shown me these things can happen. Most times you catch it before it gets out the studio door but in

this case it got by. ... A musical accident no more no less' (Coplan 2021).

As Hannah Sparks comments, 'It's not uncommon for today's superstars to retroactively credit additional writers, thus dealing them in for potential royalties' (2021). I could add further examples, but— for reasons Mill anticipated— it is inevitable.

