

# Christ's Parable of the Sower: Intellectual Property Rights in Gossip and Testimony

**Bruce Gardiner**

## Part I

How, in the most general terms, do we respond to what we hear and read? Immanuel Kant wonders that

The same human being can return unread an instructive book that he cannot again obtain, in order not to miss a hunt; he can leave in the middle of a fine speech in order not to be late for a meal; he can leave an intellectual conversation, such as he otherwise values highly, in order to take his place at the gaming table...<sup>1</sup>

Christ wonders likewise in his parable of the sower how some of us can ignore or forget the very words that others recognise as of world transforming import.<sup>2</sup>

I intend to unfold our manifold responses to the words we hear and read by analysing Christ's parable in terms of the intellectual property rights we intuitively exercise in all our communications, spurred on by John Durham Peters' impressive account of the parable in *Speaking into the Air*.<sup>3</sup> Considering Christ's words expressly in terms of intellectual property, which Peters does not, is no less inapt than considering our own words two thousand years later in such terms, as Tertullian demonstrates when claiming the orthodox reader holds an exclusive and inalienable intellectual property right in the Christian scriptures whereas the heterodox reader does not and cannot:

Mea est possessio, olim possideo, prior possideo, habeo originis firmas ab ipsis auctoribus quorum fuit res. Ego sum heres apostolorum. Sicut

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<sup>1</sup> Immanuel Kant, *Critique of Practical Reason* (1788), 5:23, in Kant, *Practical Philosophy*, trans. Mary Gregor (Cambridge: Cambridge University Press, 1996), p. 157.

<sup>2</sup> See Matthew 13:1-23; Mark 4:1-20; Luke 8:4-15; Thomas 9. Thomas lacks Christ's explanation to his intimates.

<sup>3</sup> John Durham Peters, *Speaking into the Air: A History of the Idea of Communication* (Chicago: University of Chicago Press, 1999).

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cauerunt testamento suo, sicut fidei commiserunt, sicut adiurauerunt, ita teneo.

The property is mine. Long have I possessed it. From the first I have possessed it. I have firm warrant from the very owners [authors] to whom it belonged. I am the apostles' heir. As they provided in their will, as they entrusted it to me, as they bound me by oath, so I hold it.<sup>4</sup>

Following Christ, who provisionally sorts into two groups those who hear his parable, which he first broadcasts publicly to an immense, miscellaneous crowd and then explains privately to his disciples when they complain they cannot understand it, I will distinguish between two kinds of listener, those who take the message to heart and those who do not. I characterise the former as taking hold of Christ's words as testimony and the latter entertaining them as gossip.

In more technical terms, I define gossip and testimony as follows. If a message would bear the same interest for those party to it had another sender sent it, then that message is the basic unit of gossip. If it could not bear the same interest for those party to it had another sent it, then it is the basic unit of testimony. The salient distinction is whether one sender serves as well as another. If one does, then the message betokens the representative standing of the sender, but if one does not, it betokens the difference of that sender from all others. On the one hand, each of us enjoys an inalienable, exclusive *authorial* right or capacity to depose testimony as against the entire world. On the other hand, each of us also enjoys a common, cross-vested *personality* right or capacity to gossip along with the rest of the world, sharing intellectual property that is everyone's generally, no one's particularly, and anyone's representatively, through which everyone has a hand in shaping everyone else's personhood as well as one's own. Gossip generates and sustains our indiscriminate sociability, testimony our irreducible autonomy.<sup>5</sup>

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<sup>4</sup> Tertullian, *De Praescriptione Haereticorum*, 37.6-11, in T. Herbert Bindley (ed.), *De Praescriptione Haereticorum; Ad Martyras; Ad Scapulam* (Oxford: Clarendon, 1893), p. 85. English translation by the author.

<sup>5</sup> Although more broadly I equate gossip with deliberative rhetoric and testimony with forensic rhetoric as Aristotle defines them, my justification for doing so is matter for another occasion. See Aristotle, *Rhetoric*, 1358a-1359a, trans. John Freese (Cambridge MA: Harvard University Press, 2006 [1926]), pp. 32-9; trans. George Kennedy (New York: Oxford University Press, 2007 [2005]), pp. 46-51.

Unlike Procrustes who fits his guest to the dimensions of an inhospitable bed, and unlike the Pharisees who tax Christ “to catch him in his words,”<sup>6</sup> I intend to apply this simple scheme of intellectual property rights to Christ’s parable with a light touch, as a catalyst or reagent rather than a rule, an heuristic device only. I address primarily the discursive, rhetorical, and literary dimensions of the parable rather than the historical or theological. I refer to Christ rather than Jesus to set the question of his historical existence aside and to bring the question of his formal discursive authority to the fore. And I select the clerical, lay, and scholarly company I keep according to their shared interests rather than their proximity to the cutting edge of any particular project of enquiry.

## **Part II**

I want first to compare Christ’s parable, as Peters does, with Socrates’ story of sowing the truth in his student’s head, which Plato recounts in the *Phaedrus*.<sup>7</sup> Although Peters claims that Socrates’ parable is antithetical to Christ’s, I think rather that Socrates’ mirrors one facet of Christ’s. According to Christ, messages stray further than any sender can anticipate. Some recipients receive the message only to have it snatched from them. Others take it tentatively to heart only to forsake it later or allow it to be buried by other messages. Still others, like Socrates’ student, take the message steadfastly to heart.<sup>8</sup> Yet for Christ, unlike Socrates, the sender does not choose the recipient but instead abandons the message to any recipient who happens to encounter it and chooses to heed it. Socrates’ sower is thrifty and finicky, Christ’s generous and promiscuous. Socrates fears that fit recipients are hard to find and harder to cultivate, but hopes that he can find and cultivate them expertly. Christ presumes they will find and cultivate his message by themselves. For Christ, testimony begins as gossip, as some among its audience recognise the peculiar purchase of the first amid the general pertinence of the second. For Socrates, testimony is from the outset antithetical to gossip, never derivable from it. Christ credits

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<sup>6</sup> Mark 12:13; Matthew 22:15; Luke 20:20.

<sup>7</sup> Plato, *Phaedrus* 276b-277a.

<sup>8</sup> Compare the kindred but more complicated distinctions among the believers who dwell on the twelve mountains described in the long ninth parable of *The Shepherd of Hermas*, from *The Apostolic Fathers: Epistle of Barnabas. Papias and Quadratus. Epistle to Diognetus. The Shepherd of Hermas*, trans. Bart Ehrman (Cambridge MA: Harvard University Press, 2003), chs 94-106, pp. 433-59.

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every recipient of his message with a native competence and independence that Socrates regards as gifts he alone bestows.

The dissemination of gossip gives rise in self-selected hearers to a deliberate stewardship of testimony, as Christ then explains to his disciples. A message accidentally encountered prompts some but not others to take it to heart, those who take it to heart doing so in part *because* others do not. One person's neglect of a message is not merely excused but positively sanctioned by another's attention to it, as one does duty as guardian of a message not merely because others do not but in order to ensure that they need not. Whereas gossip always finds mouths because it is the means by which the public talks to itself in general, testimony survives only if it encounters someone in particular who feels obliged to cherish it as his or her own. Testimony, which makes an exclusive, inalienable claim on certain intellectual property, always remains at the mercy of gossip about it that makes no such claim about any intellectual property that it tosses to and fro in public debate. Testimony flourishes only by grace of gossip, the rhetorical form of providence, or the public's agreement to keep it in mind.

Given the providential power of gossip, testimony must survive the most inclement conditions to which public opinion can and must subject it. Mark envisages such conditions as God's severest special providence in which a cryptic message encounters would-be code-breakers whose cryptographic incompetence God insists on exposing. Matthew envisages such conditions as a local accident of general providence in which messages and recipients keep missing each other. The unreceptive miss everything as often as the receptive receive nothing. Testimony as coddled as Socrates', its sender releasing his hold on it only after ascertaining that the recipient's comprehension of it matches his own, need never discover its ideal form or audience. Only the salutary insult of being tossed around as gossip proves the worth of testimony. Mark extols the superhuman economy of privation and prodigality by which gossip alone confirms one's peculiar hold on Christ's words, whereas Matthew reassures us that our gossiping ways are no more baffling or scandalous than we can humanly wear.<sup>9</sup>

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<sup>9</sup> Mark magnifies the bounty (in 4:20) as well as the severity (in 4:11-12) of God's tidings whereas Matthew moderates both (in 13:10-17, 23), partly by reversing Mark's ordering of the three harvest yields. Luke more diplomatically insists on the propriety and equity of God's tidings (in 8:10, 15). For another view of the matter, see Frank Kermode, *The Genesis*

Mark's curse propels us into the world of Franz Kafka's parable, "Before the Law," in which a supplicant unconsciously cherishes the very infirmity from which he thinks he craves release, not recognising the gatekeeper who bars his way as his own inmost self, and behaving like a lame man beside the Pool of Bethesda paralysed less by muscular atrophy than by hydrophobia.<sup>10</sup> Matthew reminds us how easily we succumb to recurrent epidemics of blindness, placing us in the topsy-turvy world of John Wyndham's *The Day of the Triffids*, in which only those unfortunate enough to miss "the very thing" they most want to see, a comet shower's "mysterious bright green flashes," are fortunate enough to escape the blinding sting in the comet's tail, the heavens' sanction of the blinding sting in triffids' tails.<sup>11</sup> Wyndham ironically echoes Matthew 13:17, that "many ... have desired to see *those things* which ye see, and have not seen *them*." Our presumption that to see eye-to-eye about something is to see truly is dashed no less disastrously than it once was atop a tower, in Genesis 11.

Given the gospels' entanglement and investment in gossip – abstracting their testimony from it and inciting more of it by doing so – it makes no sense for Christ's disciples to claim exclusive intellectual property rights in the gospels, because only gossip about them ensures that they reach the recipients who may come most to cherish them. So the stake that a disciple or church may claim in the gospel – including the claim to interpret it with peculiar propriety – can be in no way superior to any competing claim. Christ acknowledges that some recipients will cherish his message more than others will, and will spread it more widely. But its truth is a function of its being widely spread. Only as gossip can it be sure to prick the sharpest ear. Moreover, the several kinds of ear that Christ distinguishes are parts of the single ear that takes certain messages to heart only because it can distinguish them from others that it chooses either to entertain casually or to dismiss reluctantly or peremptorily. This is the ear with which we listen to gossip we exchange everyday with everyone who is

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*of Secrecy: On the Interpretation of Narrative* (Cambridge MA: Harvard University Press, 1979), pp. 23-47, 149-52.

<sup>10</sup> Franz Kafka, 'Before the Law' (1915), incorporated into *The Trial* (1925), trans. Idris Parry (London: Penguin, 2000 [1994]), pp. 166-7. Kermode interprets the parable differently in *The Genesis of Secrecy*, pp. 27-8.

<sup>11</sup> John Wyndham, *The Day of the Triffids* (1951), in *The John Wyndham Omnibus* (London: Book Club Associates, 1975), pp. 13-14.

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no one in particular. As Job and his companions remind each other, “Doth not the ear try words?”<sup>12</sup> Christ tells his disciples that their testimony depends on others’ gossip about it and that their intellectual property right in their testimony is no more than a kind of trust to be surrendered promptly to the all and sundry to whom it truly belongs. What the deaf, the diffident, and even the deceitful make of a message is as much a part of its truth – a truth of public deliberation – as what its self-selected custodians and evangelists make of it.

We might wonder if Christ contradicts rather than explains himself. First in his parable Christ tells a casually self-assembled audience that the sower does not carefully select his audience, then in his gloss he tells a carefully selected audience that he does and has. But the contradiction is only apparent. Christ implies that if his message does not encounter recipients who take personal responsibility for its transmission then it will be lost forever. His spendthrift dissemination of his message among all and sundry must repeatedly arouse in certain listeners a proprietary thrift to ensure its sustained dissemination. Only thus may we all keep Christ’s promise that his “words shall not pass away.”<sup>13</sup> So two kinds of intellectual property subsist in the message as long as it survives: an inalienable, peculiar right exercised by every listener who stands witness to its truth, and an alienable, common right exercised by everyone who gossips about it. Christ’s private explanation is a corollary rather than a contradiction of his public parable.

As many commentators agree, the language of Christ’s explanation is that of the early churches rather than his “own.”<sup>14</sup> What Christ says is transformed into what his disciples hear him say. The evangelists admit that communication entails transformation, and this parable about transmission is transformed just as the parable predicts it will be. It speaks both commemoratively in Christ’s voice and in the voices of all who repeat his words, and prophetically in the apostles’ ears and in the ears of all who hear Christ’s words repeated. Only so can words first heard accidentally be recognised on reflection as a personal call, a summons to tell a truth that no one else can tell because no one else has heard, or hears, or will hear

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<sup>12</sup> Job 12:11; 34:3.

<sup>13</sup> Matthew 24:35; Mark 13:31; Luke 21:33.

<sup>14</sup> A. E. Harvey, *A Companion to the New Testament*, 2<sup>nd</sup> edition (Cambridge: Cambridge University Press, 2004 [1970]), pp. 54-5, 123-7, 236-7.

precisely the same call. For Christ this reflective moment of newly becoming oneself involves the transmutation of adventitious matter into an inherent property of one's own being. The acquisition of such intellectual property is the origin of personal identity, specifically the identity of the disciple as someone who owns the truth that Christ broadcasts for just such an eventuality.

Although this historical transmutation of Christ's message is commonly misunderstood as a misunderstanding, it is neither inevitably nor even routinely so. Fifty years ago, in the heyday of high-fidelity phonographic recording, popular commentaries on the synoptic gospels regretted they could not hear clearly enough the master's voice, incautiously supposing he had not pitched it to withstand the very circumstantial interference to which he demands his hearers attune themselves. For instance, J. C. Fenton surmises that

What seems to have happened is: the parables were remembered without their context, new meanings were read into them, they were put to new uses in the life of the Church, and the original intention of the parables was forgotten. It was then thought that Jesus had used parables in order to hide his message, and sayings of Jesus from another context were used to express this attitude.<sup>15</sup>

Yet these vagaries of context are precisely Christ's concern, and we should not presume that a message is entirely at the mercy of the very obstacles that every sender of every message knows it will inevitably encounter and against which they will already have braced it. To deplore the vagaries of context is to prefer the sower had left his seed in his satchel.

The historical Jesus and his actual audience were and are, historically and actually, subjects of the gossip of their forbears, contemporaries, and successors, as well as of their own gossip about themselves and everyone else, and able to conceive of themselves only as subjects of such gossip and as depositories of testimony about it. That Christ spoke in Aramaic to one audience and the evangelists wrote in Greek for another does not of itself imply the loss or distortion of any element of his message. Mark, playing Priestly Redactor to Christ's Yahwist, may have translated Christ's public words verbatim into somewhat unidiomatic Greek and then re-imagined his private words in more idiomatic Greek, or he may

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<sup>15</sup> J. C. Fenton, *The Gospel of St Matthew* (Harmondsworth: Penguin, 1963), pp. 215-6. Likewise D. E. Nineham, *The Gospel of St Mark* (Harmondsworth: Penguin, 1963), p. 135: "the present placing of the parable is due to St Mark and the original context is lost."

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deftly have re-infused Christ's public words with an Aramaic flavour that may already have dissipated in the much relayed report he first received.<sup>16</sup> Either way, we must not assume that Christ (or any speaker or writer) does not immediately grasp the context transcending, re-contextualising proclivity and potential of his every word, not least because he appears repeatedly to have disagreed with the Pharisees on this very matter.<sup>17</sup>

The most vehemently restrictive interpretation of Christ's parable I have read asserts that in it Christ addresses very specifically the grievances of local Galilean farmers, distressed by rack-rents and taxes, having to subsist on only the least productive land. But the obvious applicability of the parable thus interpreted to "the exploited and marginalised of our world, especially in the South African context," completely undermines the restrictive thesis of interpretation propounded.<sup>18</sup> The interpreter, Ernest van Eck, expressly restricts his reading to six of the eighteen verses Mark devotes to the parable, ignoring the twelve in which Christ according to Mark insists on its very broad applicability. Christ begins and ends his parable by calling his audience to listen to it, in effect designating it his parable of listening to parables and of listening as such, just as he implies when "he said unto them, Know ye not this parable? And how then will ye know all parables?"<sup>19</sup> Christ explicitly proposes the parable as his theory of discourse, as Peters and many others have recognised, the way his words work epitomising the way all words work.

Peters contrasts Socrates' and Christ's theories of communication in this way:

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<sup>16</sup> Retrieving the supposedly lost or distorted message of the historical Jesus is the special concern of three scholars whose work has galvanised my inquiry: Matthew Black, *An Aramaic Approach to the Gospels and Acts* (Oxford: Clarendon, 1967), pp. 63-4, 211-6; D. Calvert, 'An Examination of the Criteria for Distinguishing the Authentic Words of Jesus', *New Testament Studies*, vol. 18, no. 2 (1972), pp. 209-19; and John Dominic Crossan, 'The Seed Parables of Jesus', *Journal of Biblical Literature*, vol. 92, no. 2 (1973), pp. 244-66.

<sup>17</sup> Brian Pickerd offers a nice devotional and pedagogical reading of this dispute in *Scattering Seed in Teaching: Walking with Christ in the Field of Learning and Education* (Eugene, OR: Wipf and Stock, 2016), p. 31.

<sup>18</sup> Ernest van Eck, 'The Harvest and the Kingdom: An Interpretation of the Sower (Mk 4:3b-8) as a Parable of Jesus the Galilean', *HTS Teologiese Studies / Theological Studies*, vol. 70, no. 1 (2014), at [www.hts.org.za](http://www.hts.org.za).

<sup>19</sup> Mark 4:13. Matthew restricts Mark's opening call to his disciples, whereas Luke omits Mark's opening call but repeats his closing one.

For Socrates, dialogue between philosopher and pupil is supposed to be one-on-one, interactive, unique, and nonreproducible. In the synoptic Gospels ... the Word is scattered uniformly, addressed to no one in particular, and open in its destiny...

The parable of the sower – the archetype of dissemination – presents a mode of distribution that is as democratically indifferent to who may receive the precious seeds as the *Phaedrus* is aristocratically selective...

Dissemination is far friendlier to the weirdly diverse practices we signifying animals engage in and to our bumbling attempts to meet others with some fairness and kindness. Open scatter is more fundamental than shared coupling; it is the stuff from which, on rare, splendid occasions, dialogue may arise.<sup>20</sup>

But one communicative mode is no more fundamental than another. Nor are signifying practices erratic enough to elude simple rules of thumb. Peters claims that Christ's manner of speaking does not constitute a method because it lacks "any programmatic purpose."<sup>21</sup> But the more broadly a message is cast the likelier it will reach its optimal custodians as it tests methodically both the message's resilience and its audience's receptivity. Peters does not recognise that the most receptive recipients act as trustees for everyone else, or that Christ's parable defines precisely the prerogatives of gossip and testimony's dependence on it. Gossip ensures that senders and ideal recipients of messages can find each other expeditiously despite distraction and distance. Christ's theory of communication enfranchises the recipient of a message who is no longer the sender's creature, whom he or she remains in Socrates' parable of intellectual nepotism. Socrates sees gossip as no more than a profitless chaos of drifting opinion and commonplace prejudice. Christ sees gossip as the providential medium of our intellectual and spiritual communion and autonomy.

Peters opposes Christ's theory of communication to Socrates' much as Ezra in 2 Esdras opposes the germination of a seed in the soil to the gestation of a child in the womb:

But people, who have been formed by your hands and are called your own image because they are made like you, and for whose sake you

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<sup>20</sup> Peters, *Speaking into the Air*, pp. 35, 51, 62.

<sup>21</sup> Peters, *Speaking into the Air*, p. 52.

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have formed all things – have you also made them like the farmer’s seed? Surely not, O Lord above!<sup>22</sup>

On the contrary, Christ’s theory entails both kinds of transmission, a decisive break between the sender and one recipient and an umbilical cord tying the sender to another recipient, as interdependent as they are dichotomous. Whether or not the Jewish writer of chapters 8 through 14 of 2 Esdras knew Christ’s parable, he redundantly supplies a Socratic antidote to it, taking one half of it for the whole, as does Peters.<sup>23</sup> Ezra hopes that those who take God’s word to heart may redeem those who do not, whose representatives the already redeemed appoint themselves believing that God means them to do so because the foison of the redemption he has already bestowed on them will more than suffice as a ransom to redeem the others.<sup>24</sup>

Mark’s sketch of a seaside crowd pressing Christ into a boat is as picturesque as any of Eugène Boudin’s Trouville beach scenes in which a breeze bathes a holiday crowd with its transcendental tidings while it also bears the crowd’s own idle but no less momentous chatter.<sup>25</sup> Christ banks on the breeze to snatch whatever he says and carry it to whomever it may, his “words commandeered by the wind and waves that randomly toss things about,” as Martin Heidegger with Socratic derision complains of other wayward words.<sup>26</sup> Gossip, including Christ’s, is simply something in the air, as we say of public opinion. Because anyone anywhere owns it, authorial intention and immediate occasion do not suffice to explain it. When Joachim Jeremias asks “What did Jesus intend to say at this or that particular moment?”, we may reply that Christ intended to say whatever

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<sup>22</sup> 2 Esdras 8:44-45 (New Revised Standard Version). This passage and others from that part of 2 Esdras called 4 Ezra are included in M. Eugene Boring, et al. (eds), *Hellenistic Commentary to the New Testament* (Nashville: Abingdon, 1995), pp. 91-3.

<sup>23</sup> For the relation of the Jewish part (chs 8-14) and Christian parts (chs 1-2, 15-16) of 2 Esdras, see Theodore Bergren, ‘Christian Influence on the Transmission History of 4, 5, and 6 Ezra’, in James VanderKam and William Adler (eds), *The Jewish Apocalyptic Heritage in Early Christianity* (Assen: Van Gorcum, 1996), pp. 102-27.

<sup>24</sup> For a helpful gloss on 2 Esdras 8, see Bruce Longenecker, *2 Esdras* (Sheffield: Sheffield Academic, 1995), pp. 52-8.

<sup>25</sup> Christian tourists of the Holy Land now visit a natural open-air amphitheatre called Sower’s Cove on the western shore of Lake Galilee, as described for instance by Todd Bolen on [www.bibleplaces.com](http://www.bibleplaces.com). Accessed 8 January 2018.

<sup>26</sup> Martin Heidegger, *The Beginning of Western Philosophy* (1932), trans. Richard Rojcewicz (Bloomington: Indiana University Press, 2015), p. 95.

anyone anywhere claims that he or an agent of his said, wittingly or not, including Mark and Matthew, both of whom Jeremias disbelieves.<sup>27</sup> Only the wit of all and sundry can remedy the unwitting of one or more whose intention runs the gauntlet of the autonomic, habitual, whimsical, and infelicitous aspects of verbal communication that only all and sundry together can master. Yet neither is intention ineffectual or illusory, because every communication intends something somehow. Donald Juel wonders if “careless abandon should characterise the church’s ministry” because “the coming of the kingdom of God is not something over which we have any control” without acknowledging that Christ’s message depends on the gratuitous intermeddling, impious as well as pious, of some whose care alone may redeem the carelessness of others.<sup>28</sup> Christ heeds the preacher’s advice, in Ecclesiastes 11:4-6, to sow seed come what may as the weather is neither unpredictable nor inhospitable enough to quite undermine his efforts. Although “the seed should spring and grow up, he knoweth not how,” and “the earth bringeth forth fruit of herself,” the seed’s incalculable destiny cannot warrant deliberate carelessness in its sowing.<sup>29</sup>

Ignoring the impious, J. D. Kingsbury writes as if Christ’s parable belongs only to Christians who flourish because of it and not the uncomprehending Jews who flock to hear it in the first place. Kingsbury implies that Jesus speaks to the crowd because, not although, he knows it will not understand his explanation of its not understanding:

According to Matthew, the parable is a riddle only for the crowds, not for the disciples, because the latter, by virtue of the very fact that they have been made disciples, have also been made the recipients of divine insight and therefore comprehend the parables of Jesus as a matter of course.

Because the Jews have rejected the Word of proclamation and consequently demonstrated that they are an obdurate people (v.13b), God has resolved not to impart to them the secrets of the Kingdom (v.11).<sup>30</sup>

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<sup>27</sup> Joachim Jeremias, *The Parables of Jesus* (1954), trans. S. Hooke (London: SCM, 1954), p. 19. Likewise C. H. Dodd, *The Parables of the Kingdom* (Glasgow: Collins, 1961 [1935]), ch. 1.

<sup>28</sup> Donald Juel, ‘Encountering the Sower: Mark 4:1-20’, *Interpretation*, vol. 56, no. 3 (2002), pp. 277, 282.

<sup>29</sup> Mark 4:27-8.

<sup>30</sup> J. D. Kingsbury, *The Parables of Jesus in Matthew 13: A Study in Redaction-Criticism* (London: SPCK, 1969), p. 49.

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Kingsbury supposes that recipients have already sorted themselves out before they hear the message, rather than that the message itself sorts them out, and implies that Christ uses one audience only for another's sake. Kingsbury envisages Christ teasing the deaf with a message he knows they cannot hear in order to teach those who can hear not to take their hearing for granted. But proving a point in private by subjecting the public to an intentionally unintelligible mime is intolerably abusive, because the public is subject to a bet it knows nothing about that nevertheless determines its fate. Christ cannot be telling some of his audience that his message already belongs to them and not others because he cannot know whose it will become as it goes its own way and does its own work.

Every one of the interpretations of the parable I have read compounds this moral crux by supposing that the passage all three synoptic gospels quote from Isaiah stands on its own even though it is only part of a longer prophecy in which Israel is reassured that its obtuseness will not utterly destroy it but only decimate it, survivors sprouting from the stump of an apparently dead tree. Neither Christ nor Isaiah consigns Israel to oblivion; rather, they assuage the severity of its suffering with the hope that a pious remnant will survive it phoenix-like.<sup>31</sup>

Those who cherish Christ's message are a subset of all and sundry, not the filial descendants of those who cherish and broadcast it beforehand. Any intellectual property right in the message is not hereditary, but an independent claim discovered by accident or grace. Every generation of Christ's congregation is a new subset of a new all and sundry, not the filial descendants of an older congregation, however much a congregation may hope the reticulation of elective affinity flows along genealogical lines. Kingsbury's emphasis on Matthew's "ecclesiological orientation" may or may not explain Matthew's handling of the parable, but it does not explain the parable as such as it makes its own way through all kinds of crowds as

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<sup>31</sup> Matthew 13:15; Mark 4:17; Luke 8:10: each quoting only Isaiah 6:10 but thereby pointing to Isaiah 6:13, a connection typographically more obvious in some English translations (the New English Bible and the Jewish Publication Society Tanakh) than in others (the Authorized Version). Black very helpfully explains the difference between the Targum that Christ and Mark most likely quote and the Septuagint that Paul quotes in Acts 28:27 and the Hebrew text of Isaiah, as well as Matthew and Luke's possible dependence on Q rather than Mark for their quotations of the verse, in *An Aramaic Approach*, pp. 211-6. To ensure I understood Black's exegesis, I consulted Alfred Marshall (ed.), *The Interlinear Greek-English New Testament* (London: Samuel Bagster and Sons, 1974).

gossip.<sup>32</sup> For where two or three are gathered together, gossip is in the midst of them.<sup>33</sup> Although Mrs Meyrick and Mirah, orthodox Christian and Jew, warn Daniel Deronda, no longer the first and not yet the second, that “Saint Anybody is a bad saint to pray to,” no other’s intercession is surer.<sup>34</sup>

Tertullian anticipates Kingsbury’s claim most vehemently, both sheltering under the aegis of Saint Peter’s decree that “no prophecy of the scripture is of any private interpretation”:

Thus, not being Christians, they have acquired no right to the Christian Scriptures; and it may be very fairly said to them, “Who are you? When and whence do you come? As you are none of mine, what are you doing with my property? ... Why are you sowing and pasturing here at your pleasure? This is my property. I have long possessed it; I possessed it before you. I hold sure title-deeds from the original owners themselves, to whom the estate belonged. I am the heir of the apostles. Just as they disposed of it by their will, and committed it to a trust, and adjured the trustees, even so do I hold it.”<sup>35</sup>

Sounding like one of the bickering brothers in *A Tale of a Tub*, Tertullian belabours his rivals much as a local politician once haplessly belaboured on camera a television reporter whose apt and dogged questioning infuriated him.<sup>36</sup> The reporter, gossip personified, simply represents voters and those who seek to inform and influence them, as much the “original owners” of the politician’s policy and identity as are Christ’s seaside audience of his message, overwhelming a very small boatload of apostles. Tertullian does not acknowledge that claims on intellectual property, unlike many claims on real property, need not be rivalrous, and only by taking refuge in a myth of autochthony can he distinguish the trustees he represents from others neither more alien nor less legitimate.

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<sup>32</sup> Kingsbury, *The Parables of Jesus*, p. 62. Kingsbury anachronistically distinguishes Christians from Jews even though the disciples are both and understand Christ as little as the crowds they are culled from. Edward Gibbon censures even Tacitus for a similar slip, in *The Decline and Fall of the Roman Empire*, introd. Hugh Trevor-Roper (London: Everyman’s Library), vol. 2, ch. 16, pp. 20-23.

<sup>33</sup> Matthew 18:20 misquoted.

<sup>34</sup> George Eliot, *Daniel Deronda*, ed. Barbara Hardy (Harmondsworth: Penguin, 1967 [1876]), bk 4, ch. 32, p. 419.

<sup>35</sup> 2 Peter 1:20; Tertullian, *De Praescriptione Haereticorum*, from *A New Eusebius: Documents Illustrating the History of the Church to AD 337*, ed. J. Stevenson, rev. W. Frend (London: SPCK, 1987), p. 169. This passage includes the lines quoted above in note 4.

<sup>36</sup> Bruce McDonald, briefly leader of the New South Wales State Liberal Party in 1981.

## *Parable of the Sower*

Refreshingly, Andrew Parker relishes Christ's parables as common gossip, finding that "there is something of a throw-away style about Jesus as parable-maker."<sup>37</sup> Yet if Christ's parable of the sower is indeed a throwaway line about throwaway lines, it is quite deliberately so.<sup>38</sup> Parker alleges that the "parables arise spontaneously in the cut and thrust of everyday exchanges rather than in studied teaching relationships" and so the "uneducated" understand them better than Bible scholars.<sup>39</sup>

But Parker seriously underestimates the accuracy and stability of oral transmission even as he exempts the parables uniquely from the wear and tear of its Chinese whispers:

Why did the Gospel-writers treat Jesus' parables so badly? Before these had even come into their possession a natural process of disintegration would have already commenced. At best, memory of the parables' backgrounds, incidents and consequences would have become blurred (or more likely lost) and inevitably a certain amount of explanatory allegorization would have been laid over them. So not all the blame can be attributed to the evangelists...

I believe that because parables, alone among speech-forms, contain in their phenomenal natural integrity and sparseness an inbuilt resistance to editorial manipulation, we are presented with a quite unique opportunity to do what is generally impossible: to go behind the evangelists and encounter to a degree the way in which the historical Jesus actually operated.<sup>40</sup>

The disintegration, blurring, and manipulation that Parker regrets are as much a part of the immediate circumstances of Christ's speech as of its later transmission, and Christ not only forbids his speech against them, as does every speaker as a matter of course, but also takes them as his theme. The recalcitrant integrity that Parker cherishes and the liability to disintegrate (and reintegrate) that he laments define the tension between verbatim repetition and paraphrase, the refitting of word and meaning from one enunciation to the next that ensures the continuity and intelligibility of verbal communication. Were Parker correct, Christ's parables could

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<sup>37</sup> Andrew Parker, *Painfully Clear: The Parables of Jesus* (Sheffield: Sheffield Academic, 1996), p. 21.

<sup>38</sup> Exceptionally among novels, James Joyce's *Ulysses* frees messages from exclusive service as personal identification tags and follows them as gossip tossed among all and sundry, most obviously in the form of a casual remark, an advertising flyer, and a racehorse each dubbed "throwaway".

<sup>39</sup> Parker, *Painfully Clear*, p. 65, note 15 (following A. Wilder); pp. 95-6, 102.

<sup>40</sup> Parker, *Painfully Clear*, pp. 90, 98.

survive only anachronistically by way of the high-fidelity parroting to which the mechanics and materials of verbal communication purportedly predispose us, chilling Plato and cheering memeticists equally.<sup>41</sup>

That we credit Christ with the parable makes it no more his than another's. As gossip, it belongs to whoever cares enough about it to transmit it, in whatever form its self-selected custodians think best suits it to its new circumstance. Aptly we encounter the parable in different gospels, each suiting it to different circumstances. Each adopts a somewhat different attitude to the rights and responsibilities the parable confers on different recipients, indicating that the sharing or withholding of intellectual property rights in gossip is itself the stuff of gossip. Parker's supposition that Christ secures a direct line of communication to his neediest, acutest audience despite the historical static of material and institutional degradation amounts to a theory of the Real Presence of Christ in his words. But we never hear Christ alone. All those who contribute to the parable's transmission to us, and all those who contribute to our receptivity to it, speak Christ's words with him, with whatever descant and dissonance. The Real Presence in a message of its crowd of intermediaries gives us a very plausible idea of gossip.

### **Part III**

Christ's parable of intellectual property rights squarely contradicts Robert Nozick's analogous parable in *Anarchy, State, and Utopia*. Although Nozick gives no hint that Christ's words cross his mind, we must suppose they do, because Nozick's sound so pointed a riposte to them. Nozick imagines a preposterous person first thrusting books onto recipients unsolicited and then asking them for payment:

You may not decide to give me something, for example a book, and then grab money from me to pay for it, even if I have nothing better to spend the money on. ... [S]uppose that your best way of getting exercise is by throwing books into people's houses, or that some other activity of yours thrusts books into people's houses as an unavoidable side effect. ... One cannot, whatever one's purposes, just act so as to give people benefits and then demand (or seize) payment. Nor can a group of persons do this. If you may not charge and collect for benefits you

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<sup>41</sup> Though Parker does not mention memetics, Daniel Dennett's influential redaction of the theory appeared a year earlier in his book, *Darwin's Dangerous Idea* (New York: Simon & Schuster, 1995).

## *Parable of the Sower*

bestow without prior agreement ... most certainly people need not repay you for costless-to-provide benefits which yet others provided them. So the fact that we partially are “social products” in that we benefit from current patterns and forms created by the multitudinous actions of a long string of long-forgotten people, forms which include institutions, ways of doing things, and language (whose social nature may involve our current use depending upon Wittgensteinian matching of the speech of others), does not create in us a general floating debt which the current society can collect and use as it will.<sup>42</sup>

To lob books is to gossip. The benefits bestowed on the be-lobbed without prior agreement include membership of a shared world of gossip that not only informs them as they gossip but also forms them so that they can do so, a double task for which Nozick’s scheme of express private contracts, inevitably and impractically innumerable, is patently unfitted. One lobber evokes a world of lobbers, overwhelming Nozick as broom and bucket overwhelm sorcerer’s apprentice. Nozick’s scandalised protest is that which Kierkegaard hears from all who insist on their sovereign autonomy:

Why was I not asked about it, why was I not informed of the rules and regulations but just thrust into the ranks as if I had been bought from a peddling shanghai of human beings?<sup>43</sup>

I reply to Nozick first by way of personal anecdote. For several months, an unknown newsagent threw into my yard every Saturday night a Sunday newspaper. I ascertained that it was not destined for my neighbours, but I did not contact the dozens of newsagencies within walking distance of my home. I began to read the paper and pass news from it to others rather than leave it out in the yard unread. Words having been thrown my way, I acknowledged them as a call to gossip, and gleaned matters from them because I sensed I might thereby benefit myself or someone else, either someone I already knew or someone I did not yet know or the someone whom I had not yet become. I heeded some parts of the paper rather than others, presuming that other readers would heed different parts. Gossip does not merely let us appropriate words that others leave in our way but demands that we do so lest they disappear. Intellectual property rights in gossip are held by some, however many or few, in trust for all because any

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<sup>42</sup> Robert Nozick, *Anarchy, State, and Utopia* (Malden MA: Blackwell, 2005 [1974]), p. 95. Quoting this passage, Adam Moore argues that no “strings are attached” to such unsolicited services, in Moore, ‘A Lockean Theory of Intellectual Property’, *Hamline Law Review*, vol. 21 (1997-1998), pp. 106-7.

<sup>43</sup> Søren Kierkegaard, ‘Repetition’ (1843), in Howard and Edna Hong (trans), *Fear and Trembling/Repetition* (Princeton: Princeton University Press, 1983), p. 200.

particular item of gossip arouses in only some a sense of obligation to cherish it. When a newsagency finally identified itself as the source of my Sunday gossip and demanded I pay for it, in reply I explained their mistake, thanked them profusely, and paid them nothing, hoping my casuistry was not Nozick's because I had acted as their advertiser, passing on their careless largesse to so many potential subscribers.

Unlike Nozick, Christ realises that a few must appoint themselves trustees of unsolicited intellectual property on behalf of all and sundry for all and sundry to benefit from it. As a matter of course we all incur and discharge freely, partially, and selectively the general floating intellectual debt under which Nozick chafes. All and sundry are not compelled to discharge the debt because self-appointed trustees manage it for them. So many senders throw so many unsolicited messages in the way of so many recipients that everyone is mutually obliged for the unsolicited matter that fills everyone's mind. Every day we each engender and encounter thousands of messages, actual, remembered, and imagined, taking some to heart and keeping others in mind. Whatever shared, endlessly renegotiable debt we thereby accrue is the engine of our freedom to manage others' investment of their ideas in us and others' freedom to manage our investment of our ideas in them. Our verbal experience is not a supermarket in which we alone choose everything we put into our trolley. Others also incessantly put things into our trolley, having first helped put together the trolley itself long before we realised that it was a trolley and was ours. We owe to "unrequested intervention" so very much more than we can ever "freely choose" that our interests in each other's interests are thoroughly, inextricably entangled.<sup>44</sup>

Nozick's parable ignores the experience of being mesmerised by others' unsolicited words:

He holds him with his glittering eye –  
The Wedding-Guest stood still,  
And listens like a three years' child:  
The Mariner hath his will.

The Wedding-Guest sat on a stone:

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<sup>44</sup> Phrases from John McCamus, 'Necessitous Intervention: The Altruistic Intermeddler and the Law of Restitution', *Ottawa Law Review*, vol. 11 (1979), p. 300.

## *Parable of the Sower*

He cannot choose but hear.<sup>45</sup>

Intending to witness another pair's presumably voluntary coupling, the guest finds himself involuntarily coupled with a gossip through an eye whose fascination fixes him "on a stone" in astonishment, confirming his infantile immersion in a world of stories as much his own as anyone's.

Nozick's own writing is merely a mode of book lobbying because we cannot know what we have supposedly solicited by opening his book until we read it and are perhaps so entranced by it that it transforms our thinking in ways we certainly did not choose in advance. Nozick admits this happened to him when he first read libertarian literature, and recalls, oddly for someone who denies that obligations arise from unsolicited words, that "arguments read perhaps at first in curious fascination may come to convince and even to seem natural and intuitive."<sup>46</sup> Opening his book, we accept the hazard of encountering what we have not specifically agreed to, as when we open a letter or switch on a television. Like augurs, we put ourselves in the way of winged words every day, preferring according to custom and whim some vectors to others.

Nozick's forerunner Robert Frost tells a parable in "Mending Wall" that explains how Nozick's parable contradicts Christ's. The poet in effect imagines throwing a book at his neighbour, musing that even if "If I could put a notion in his head," nevertheless "I'd rather / He said it for himself," an alien idea effectually striking its target only if it appears autochthonous.<sup>47</sup> The notion at issue is "to know / What I was walling in or walling out" by interpreting my communicative prerogative more or less restrictively. The poet privately hopes "the mischief in me" will not infect his neighbour but, like a vaccine, inoculate him against demolishing the wall between them, to reassure himself that neither he nor his neighbour intends to impugn each other's right to self-possession. The tranquil measure of the poem's mostly end-stopped blank verse suggests such a therapeutic end, as does the initiative the poet takes in inviting his neighbour once again "to walk the line" marking the proper division of

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<sup>45</sup> Samuel Taylor Coleridge, 'The Rime of the Ancient Mariner' (1798, rev. 1800), part 1, stanza 3 and first half of stanza 4 (originally stanza 4 and first half of stanza 5), in *Poetical Works*, ed. Ernest Hartley Coleridge (London: Oxford University Press, 1967 [1912]), p. 187.

<sup>46</sup> Nozick, *Anarchy, State, and Utopia*, pp. ix-xi.

<sup>47</sup> Robert Frost, 'Mending Wall' (1914), in Edward Lathem (ed.), *The Poetry of Robert Frost* (London: Jonathan Cape, 1972), pp. 33-4.

poetry and of property. The unidiomatic omission of the article from the title suggests that the participle is adjectival, the wall actively amending the pair's neighbourliness. The poet's ostensible objection that "There where it is we do not need a wall" confines him to the here and now, patently begging the question of past and future neighbours less favourably circumstanced. The wall builds the past and the future into the present, securing the human estate by obeying an Adamic mandate that protects neighbours from themselves and the vagaries of their everyday relations, in a variation on the parable of the prodigal son and his pious brother, now trustees of neighbouring jointly entailed estates. Each pious son fears his brother's prodigality and presumes his own privilege is inherently his own rather than another's gift or an accident. Frost and Nozick both conflate Christ's parables of the prodigal son and the no less prodigal sower, Nozick's book lobster their obnoxious avatar.

Nozick's disbelief that an involuntary depositary such as the recipient of an unsolicited book incurs an obligation to the book's sender ignores longstanding common law advice that it does. Anyone by any means burdened with the custody of unsolicited goods is an involuntary bailee whose duty of care, inversely proportional to the carelessness of the bailor, may be modest but not null. As William Laidlaw remarks, "If the bailee has peculiar facilities for protecting a bailed chattel, he must use them; if he has peculiar personal ability, he must use it; if the chattel is of a peculiar nature, he must not disregard it."<sup>48</sup> It is impossible not to hear echoes of Christ's parable in his advice. Although legal scholars characteristically consider the finding of unsolicited goods as an instance of involuntary deposit, the responsibility Christ confers on his listeners is more an instance of involuntary mandate, an unsought commission to communicate an unexpected and initially alien message. As accustomed as we are to politicians brandishing mandates, it is surprising that intellectual property is not generally considered in such terms. As we solicit specifically so little of what we hear and read, even in the speeches and books we choose to heed, our hearing and reading must by and large comprise a congeries of involuntary mandates that appeal competitively to our duty of care as trustees by default of others' intellectual estates.

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<sup>48</sup> William Laidlaw, 'Principles of Bailment', *Cornell Law Quarterly*, vol. 16 (1930-1931), pp. 308-9. Compare Charles Cullen, 'The Definition of Bailment', *St. Louis Law Review*, vol. 11 (1925-1926), pp. 260-3.

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Alice Tay argues persuasively that bailment is a tort rather than a contract:

a contractual duty is one which is owed to a specific person in consequence of an agreement entered into with that person; a tortious duty is one owed impartially to the whole world in consequence of entering into a specific situation, though it can be claimed upon only by those who have become linked with the duty-bearer through that situation. On this view, the primary duty of the bailee . . . is a tortious duty: the duty of the bailee requires neither his agreement with, nor his knowledge of, the bailor.

But I quibble with her finding that

It is by entering into a relationship with a thing, and not by entering into a relationship with a person, that the defendant becomes subject to duties. It is thus that the finder has the same primary duty as the consensual bailee.<sup>49</sup>

The “thing” or intellectual property betokens “the whole world” of human beings with whom we as the thing’s custodian enter into relation by its means. As we can construe little of our everyday communication as contractual, however crucial that little may be, we must instead conceive of our dealings in intellectual property generally as governed by a tortious duty of care for all with whom we communicate. Our delegation to others of our responsibility to attend to a particular call and our assumption of such responsibility on behalf of others are so inveterate and inevitable as to have become invisible, as has our versatility in relaxing and tightening our hold on most messages as either bailee or trustee as occasion allows or demands.

### **Part IV**

One need not understand a message in order to cherish it enough to pass it on to someone else. Indeed, not understanding a message may and even should prompt one to keep it in mind in order to understand it, and it may have to be borne far beyond any one bearer’s ken before anyone else does understand it. John Stuart Mill regards the sustained transmission of the no longer and not yet understood as the duty of whoever is most conveniently placed to fulfil it:

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<sup>49</sup> Alice Tay, ‘The Essence of a Bailment: Contract, Agreement or Possession?’, *Sydney Law Review*, vol. 5 (1965-1966), pp. 245, 244. I follow Immanuel Kant in quibbling about relationships with things in ‘The Metaphysics of Morals’ (1797), §11, in Kant, *Practical Philosophy*, p. 413.

Language is the depository of the accumulated body of experience to which all former ages have contributed their part, and which is the inheritance of all yet to come. We have no right to prevent ourselves from transmitting to posterity a larger portion of this inheritance than we may ourselves have profited by.<sup>50</sup>

Mill's call that we take responsibility for the very messages we think doubtful and deceptive charters a trade in discursive rubbish, which we can hardly avoid collecting, whether casually or systematically, as a hedge against future redeterminations of its value. Picking through this garbage, we meet the severest challenge concerning intellectual property with which the Talmud confronts us: to identify and retrieve whatever truly valuable item a neighbour may accidentally or injudiciously have tossed out with the trash. Yosef Babad maintains that a person's well being is just such lost property, and that if others discover they possess the key to that person's well being then they must act to restore it to him or her.<sup>51</sup>

Charles Dickens proposes in *Bleak House* just such a prudential regard for the paperwork of the everyday, not only the "walls of words" behind which the chancery suit immures all those party to it, epitomising "the forensic wisdom of ages [that] has interposed a million of obstacles to the transactions of the commonest business of life," but also the verbal flotsam and jetsam from that suit and from elsewhere that ends up in Krook's "RAG AND BOTTLE WAREHOUSE," a "general emporium of much disregarded merchandise" that includes "a good deal of Magpie property" pertaining to "all the Smallweedy affairs of life," the very birds that pilfer and weeds that stifle the seed in Christ's parable.<sup>52</sup> Within this Bermuda Triangle of trash hoarded by Krook, who cannot read it but who can certainly read those who do, lies the treasure that ignites the story (and

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<sup>50</sup> John Stuart Mill, *A System of Logic*, 8<sup>th</sup> edition (New York: Harper and Brothers, 1874), p. 479.

<sup>51</sup> 'Tractate Bava Metziah', vol.1, 25b, instancing lost kitchenware, or whatever else mere subsistence requires, in Rabbi Hersh Goldwurm et al (eds), *Talmud Bavli: The Gemara* (Brooklyn: Mesorah, 1990-2002); Yosef ben Moses Babad, 'Minhat Hinuch' (c. 1870), Commandment 339, cited in Michael Broyde and Michael Hecht, 'The Return of Lost Property according to Jewish and Common Law: A Comparison', *Journal of Law and Religion*, vol. 12, no. 1 (1995-1996), p. 237, note 48. Deuteronomy 22:1-4 lays down the basic law.

<sup>52</sup> Charles Dickens, *Bleak House*, George Ford and Sylvère Monod (eds) (New York: Norton, 1977 [1853]), pp. 6, 123, 48, 123, 736, 422. For another assessment of Krook's stock, see Patrick Chappell, 'Paper Routes: *Bleak House*, Rubbish Theory, and the Character Economy of Realism', *English Literary History*, vol. 80, no. 3 (2013), pp. 783-810.

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also Krook, burnt to a cinder), a page written in a hand that startles Lady Dedlock into unguardedly asking Mr Tulkinghorn, “Who copied that?” Likewise, in Ezra Pound’s “Portrait d’une Femme,” the poet finds himself in the same warehouse of old words – “ Ideas, old gossip, oddments of all things, / Strange spars of knowledge and dimmed wares of price” – but is too modern and myopic to realise its value or follow Mill’s counsel to wait until it “finds its hour on the loom of days.”<sup>53</sup> As the unwitting bearer of a redemptive message, Krook demonstrates the good sense of Mill’s plea, which mandates the very parroting of words one does not understand that Leibniz and Locke less discerningly regret.<sup>54</sup>

Messieurs Tulkinghorn, Guppy, Bucket, and Smallweed, all trying to waylay Nemo’s message before it can confer its benediction on Lady Dedlock, personify obstructions to communication that Mark and Matthew differently characterise, and should we judge Tulkinghorn and Smallweed according to Mark’s severer judgement, we might judge Guppy and Bucket according to Matthew’s more lenient one. Matthew and Mark’s difference of opinion about the culpability of obtuse, careless, and diffident recipients of a momentous message proves indispensable whenever we encounter what seems an incomprehensible and inexcusable failure to understand one. For instance, a young man, employed in the late 1940s by Israel’s National Library in Jerusalem to catalogue books retrieved from homes in West Jerusalem abandoned by Palestinians, reminisced some fifty years later:

It wasn’t us who stole the books. We worked there to make a living. At the time politics didn’t bother me. Humans are more important than books. If human beings have been exiled and scattered over the wide world, what good will books do them?<sup>55</sup>

How judge this man’s deafness to another Diaspora or scattering of seed, and to others’ no less unassuageable need for written covenants? In this case, Mark’s verdict seems none too harsh.

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<sup>53</sup> Dickens, *Bleak House*, p. 16; Ezra Pound, ‘Portrait d’une Femme’ (1912), in *Collected Shorter Poems* (London: Faber, 1968), p. 73.

<sup>54</sup> Leibniz surmises that we bear others’ messages more frequently and effectively than our own, in *New Essays on Human Understanding*, Peter Remnant and Jonathan Bennett (trans) (Cambridge: Cambridge University Press, 1996), p. 286, replying to John Locke, *An Essay Concerning Human Understanding*, bk 2, ch. 2, para. 2.

<sup>55</sup> Admission in an interview with Gish Amit, quoted in his ‘Salvage or Plunder? Israel’s “Collection” of Private Palestinian Libraries in West Jerusalem’, *Journal of Palestine Studies*, vol. 44, no. 4 (2011), pp. 19, 23.

Whether or not we hear something in a message that others do not, and whether or not we think its sender intend we rather than others do so, involves determining what is “in” a message and who its sender or bearer has “in” mind as its privileged recipient: the insider ushered in, the outsider shut out. A particular case of bailment in the reign of Edward II strikes me as suggesting what is at stake in determining what is “in” a message. In Bonion’s Case, as reported by Sir William Jones,

An action of detinue was brought for *seals, plate, and jewels*, and the defendant pleaded, “that the plaintiff had bailed to him a chest *to be kept*, which chest was *locked*; that the bailor himself took away the key, *without informing the bailee of the contents*; that robbers came in the NIGHT, *broke open the defendant’s chamber*, and carried off the chest into the fields, where they forced the lock, took out the *contents*; that the defendant was robbed at the same time of his own goods.” The plaintiff replied, “that the jewels were delivered, in a chest *not locked*, to be restored at the pleasure of the bailor,” and *on this*, it is said, *issue was joined*.<sup>56</sup>

The chest’s protean import puts one in mind of the Zulfiqar-like sabres in William Beckford’s *Vathek*, the inscriptions on each changing daily as word and world co-evolve.<sup>57</sup> Like this chest, a message contains jewels that are at once in it and not in it, suspected and not, retrievable and not, and varying in value not only as but also because the message passes from person to person, happily so often and for so long that all possible judgments of its actual and potential contents and value may be entertained. Considering how many disparate interpretations and evaluations Christ’s parable has prompted, the analogy does not seem fanciful at all. Modern historicist and medieval allegorist each treasure features that the other insists are not even in it. The parable’s self-consistency impresses some, its self-contradiction others. Some readers aver that sower and seed are more salient than the soil, others the reverse, a dispute epitomised by the contemporaneous illustrations of the parable by Jean-François Millet and John Everett Millais.<sup>58</sup> Long may such gossip continue to pick at whatever

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<sup>56</sup> Sir William Jones, *An Essay on the Law of Bailments* (New York: Garland, 1978 [1781]), p. 37, Bonion being the plaintiff.

<sup>57</sup> William Beckford, *Vathek*, Beckford and Samuel Henley (trans), Roger Lonsdale (ed.) (London: Oxford University Press, 1970), pp. 9-12.

<sup>58</sup> Saint John Chrysostom, Homily 44 on Matthew, Kevin Knight et al (trans), at <http://www.newadvent.org/fathers/200144.htm>. Accessed 19 January 2018. See also Theodore Weeden, Sr., ‘Recovering the Parabolic Intent in the Parable of the Sower’, *Journal of the American Academy of Religion*, vol. 47, no. 1 (1979), pp. 99, 117,

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lock thwarts it, long enough to understand that every instance of it secretes within itself a whole world of gossip, not only recalling Leibniz's monad but also helping to clarify Kermode's reading of Christ's parable in *The Genesis of Secrecy*.

Kermode contends that all sacred and secular texts sort their readers into those in the know, by way of circumstantial privilege or procedural expertise, and those not:

The belief that a text might be an open proclamation, available to all, coexisted comfortably with the belief that it was a repository of secrets. And this quality of sacred books is inherited by their counterparts in the secular canon. Shakespeare is an inexhaustible store of occult readings – even, to cite the most vulgar instance, of ciphered senses; yet at the same time he is believed to speak plainly, about most of human life, to any literate laymen.

Kermode concedes after examining Mark's gospel that

there are many knots; they occur in the riddling parables, in the frequent collocation of perceptive demons and imperceptive saints, in the delight and gratitude of the outsider who is cured, and the astonishment, fear, and dismay of the insiders.<sup>59</sup>

Kermode's distinction between the expert and the inexpert here recalls Parker's Pauline distinction between the wisdom of uneducated need and the foolishness of educated presumption.<sup>60</sup>

Robert Frost shares Kermode's qualm about the grace and favour lavished on insiders. Recalling that Sparta did not share its wisdom as Athens did, Frost complains, "How like Mark's saying Christians in their exclusiveness must talk in parable so the wrong people won't understand and so get saved."<sup>61</sup> But Frost, Kermode, and Parker miss the crucial turn in Christ's argument discerned by others such as Marie Sabin, for whom

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discounting first the seed, then the sower; *versus* Juel, 'Encountering the Sower', p. 278; Birger Gerhardsson, 'The Parable of the Sower and its Interpretation', John Toy (trans), *New Testament Studies*, vol. 14, no. 2 (1968), p. 175, discounting the soil. Millet painted his pictures of the sower in the 1850s and 1860s; Millais published his wood engraving of the sower in 1864.

<sup>59</sup> Kermode, *The Genesis of Secrecy*, pp. 144, 141.

<sup>60</sup> 1 Corinthians 1:17-3:23.

<sup>61</sup> Robert Faggen, 'Frost and the Questions of Pastoral', in Robert Faggen (ed.), *The Cambridge Companion to Robert Frost* (Cambridge: Cambridge University Press, 2001), p. 70, quoting Robert Frost, *Prose Jottings*, Edward Latham and Hyde Cox (eds) (1982); quoted by Matthew Davis, 'The Laconic Response: Spartan and Athenian Mindsets in Robert Frost's "Mending Wall",' *Literary Imagination*, vol. 7, no. 3 (2005), p. 293, inadvertently omitting from the passage its second "so".

“being ‘those outside,’ or inside, the sphere of understanding is not a fixed matter, but a fluctuating and existential experience”; and Stephen Ahearne-Kroll, for whom “Mark differentiates insider and outsider, but the audience lies somewhere between outsider and insider because of the way Mark both includes and excludes the audience”; and Klyne Snodgrass, for whom “Rather than keeping people from hearing and thereby preventing God’s forgiveness, the illocutionary intent is just the opposite.”<sup>62</sup> So the outsider is to the insider as Dr Jekyll is to Mr Hyde: the same person.

Realising that we have misunderstood something, and presuming we understand something even though in truth we do not, are each hardly to be avoided by us in any conversation whatsoever, during which an interpretive fog may close in or lift at any time. Did it not, we could never understand that we understood anything, because prior misunderstanding is the precondition for all understanding. Although Kermode wonders why Christ when addressing a crowd, might be “telling stories in order to ensure that they would miss the point,” missing the point is itself the point, the message about misunderstanding a message.<sup>63</sup> We need to know what missing the point means before we can know what getting it would mean. Were misunderstanding not an ever present and all pervasive danger, we need never apply ourselves as ardently as we must and do to the task of understanding.

Our grip on intellectual property is not a matter of un-intermittent copyhold. We are all too prone to forget it, mistake it, and distort it, and its restoration often depends on another person reminding us of it, as all absent-minded teachers realise when reminded by their students of what they once taught them. We must not suppose, if the miracle of the incarnation is truly unqualified, that Christ himself did not forget truths of which only his disciples and others could remind him.<sup>64</sup> Losing our own

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<sup>62</sup> Marie Sabin, ‘Reading Mark 4 as Midrash’, *Journal for the Study of the New Testament*, vol. 45 (1992), p. 25; Stephen Ahearne-Kroll, ‘Audience Inclusion and Exclusion as Rhetorical Technique in the Gospel of Mark’, *Journal of Biblical Literature*, vol. 129, no. 4 (2010), p. 734; Klyne Snodgrass, ‘Between Text and Sermon: Mark 4:1-20’, *Interpretation*, vol. 67, no. 3 (2013), p. 285.

<sup>63</sup> Kermode, *The Genesis of Secrecy*, p. 30.

<sup>64</sup> In Mark 7:24-30 and Matthew 15:21-28 a woman of Syrian Phoenicia reminds Christ of an aspect of his message he may until then not have understood he had forgotten. Matthew shifts the evasive force of forgetting to Christ’s disciples whereas Mark isolates it in Christ

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intellectual property is an all too human failing; restoring another's is no less than a divine power that evinces the adequacy of our shared words to serve the needs of our spirit. In speaking indistinguishably as divine outsider and human insider, Christ promises us a like freedom, even without which we never fully suppress our sense of listening to our own most heartfelt and idiosyncratic asseverations with an outsider's abstraction and surprise.

### **Part V**

In his parable of the sower, Christ explains comprehensively the interdependence of gossip and testimony. But to complete his account of the intellectual property rights we each hold in public discourse, we need to adduce a third kind of right, or rather privilege, on which the other two kinds ultimately depend, and which pertains to the circumstance in which Christ tells his parable rather than to the parable itself.

The representative spreader of gossip and the singular deponent of testimony are not the only possible roles for the sender of a message. Consider a message from a sender to a recipient that refers to a third person by way of *imitation* or *commemoration*. Sender and recipient share an interest in the *associative privilege* that the sender claims to enjoy with that third person. As the sender's interest in the third person approaches that of any other sender, then the sender's associative privilege approaches the common intellectual property right of gossip. As the sender's interest in the third person grows less like anyone else's, then the sender's associative privilege approaches the exclusive intellectual property right of testimony. The message challenges its recipient to determine the claim its sender makes about the relative exclusiveness or inclusiveness of an association. We can resolve intellectual property claims of this kind only case by case, having incessantly to renegotiate our relative privilege with all fellow claimants. Associative privilege is the progenitive power of all discourse, and personality and authorial rights its inevitable formal limits and fulfilments, the non-negotiable bases for its negotiation.<sup>65</sup>

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himself. Orthodox exegetes often suffer discomfort about this episode, as does Harvey, *A Companion to the New Testament*, pp. 59-60, 140-1.

<sup>65</sup> As with gossip and testimony, I derive my notion of imitation and commemoration from one of Aristotle's three basic kinds of rhetoric, in this case epideictic or demonstrative rhetoric. Again, my justification for doing so is matter for another occasion.

In terms of an associative privilege evoked by imitation and commemoration, Matthew's exploration of the circumstances in which Christ broadcasts his parable is the most revealing. Matthew frames the parable, along with its tail of kindred parables, with accounts of Christ renouncing all inherited and customary liens on his intellectual property and that of his associates. Christ dismisses his mother and brothers just before he tells the parable in Matthew and Mark and just after doing so in Luke.<sup>66</sup> Christ finds himself no longer at home in his hometown just after telling his seaside parables in Matthew but amid other matters in Mark and Luke.<sup>67</sup> Matthew's frame recalls the passage in Q in which Christ impugns the power of propinquity over the human spirit and instead extols its illocality, in Matthew and in Luke.<sup>68</sup> Propinquity governs imitation and commemoration; illocality gossip.

Matthew's frame in no way anticipates Nozick's repudiation of the claims of all and sundry who encumber us willy-nilly with the unsought intellectual property that sustains our personalities in gossip. Rather, Matthew denies that the associative privileges we inherit from our family and community are superior to privileges conferred by later, remoter, and unlikelier associates. Our imitation and commemoration of one set of associates should fit rather than unfit us for our imitation and commemoration of another unrelated set, so that our communicative history might free rather than constrain us, the attractive power of imitation and commemoration ideally evoking a repulsive power as their supplement, even their perfection.

The endless re-negotiability of associative privilege suggests we place less confidence in it than does Ahearne-Kroll when he claims that "Insider status comes from following after Jesus, from being 'around' Jesus ... from becoming the family of Jesus by doing the will of God ..."<sup>69</sup> The associative privilege enjoyed by each successive adoptive family of Christ faces the same risk that his birth family faced, a complacency of prior association that Christ decries. As associative privilege waxes and wanes, as it will, any presumption that one's hold on it remains proof against

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<sup>66</sup> Matthew 12:46-50; Mark 3:31-5; Luke 8:19-21.

<sup>67</sup> Matthew 13:54-8; Mark 6:1-6; Luke 4:22-30. Thomas does not associate the parable (in 9) with the dismissal (in 99) and does not mention the hometown incident.

<sup>68</sup> Matthew 8:18-22; Luke 9:57-62.

<sup>69</sup> Ahearne-Kroll, 'Audience Inclusion and Exclusion', p. 735.

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reassessment potentially renders familiarity as much a liability as an asset. The disciples must understand that, but for the grace of God, their privilege may slip away just as did that first enjoyed by Christ's birth family, a point we need hardly belabour in light of the endless supersession of rivalrous Christian communities.

Intellectual property rights in imitation and commemoration are much less amenable to general and stable determination than those in testimony and gossip, to which Christ restricts his parable. But to distinguish decisively between the individual and the communal while discounting the not quite solely individual and the not quite wholly communal is to reduce the rainbow to an altercation of violet and red.

Luke presses the question of relative associative privilege more forcefully than Matthew or Mark in his treatment of Christ's female disciples. First, Luke proposes that the group of female disciples including Mary Magdalene, Joanna, and Susanna supersedes Christ's mother and siblings in terms of their privilege of association with Christ.<sup>70</sup> Second, Luke insists that the same group of female disciples including Mary Magdalene, Joanna, and Mary mother of James robustly contests the privilege of association with Christ enjoyed by his male disciples, who dismiss the tidings that the women bring from the empty tomb even though they are Christ's very own words that the women bear in their memory, which Luke interprets as an epiphany.<sup>71</sup> In their complementary ways, Matthew and Luke prove equally acute in their expositions of the three kinds of intellectual property right that Christ evokes in his parable of all human communication, both secular and spiritual.<sup>72</sup>

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<sup>70</sup> Luke 8:1-3 (in neither Mark nor Matthew) *versus* Luke 8:19-21 (in both Mark and Matthew).

<sup>71</sup> Luke 24:1-12, elaborating the curt account in Mark 16:9-12, which involves Mary Magdalene alone. Christopher Bryan considers Christ's female disciples along with his parables in 'Did the First Christians Mean What They Said, and Did They Know What They Were Talking About?', *Sewanee Theological Review*, vol. 50, no. 2 (2007), pp. 247-63.

<sup>72</sup> I wish to thank all who offered me such excellent advice when I asked them for it, including Marita Merlene, Alex Houen, Linzy Brady, Barry Spurr, John Durham Peters, Marc Mierowsky, Marc van der Poel and an unnamed associate, and Rodney Taveira.