The Sermon’s Copy: Pulpit Plagiarism and the Ownership of Divine Knowledge

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2014 article in Christianity Today asked a simple but provocative question that—after centuries of Christian worship—had yet to be answered: “Who Owns the Pastor’s Sermons?” This article suggested that the sermon, as a complex genre of religious communication, might pose an unusual challenge for American intellectual property law. Could ownership be attributed to the pastor who crafted and performed the sermon? Or was it the church that provided the pastor’s employment as well as the doctrine shaping the sermon’s content? The answer to these questions would likely revolve around technical matters regarding the institutional structure of the church, the degree of authority it grants to pastors, and other bureaucratic concerns. Yet, the article belied a deeper anxiety about the very nature of property in the sermonic text. Might the sermon escape ownership altogether, considering its indebtedness to the divine as a source of inspiration, guidance, and truth?

The sermon is a mode of discourse designed to take a scriptural text—in which is expressed the infinite, often inscrutable wisdom of divine knowledge—and explicate it for the purpose of religious
instruction. It has played a central role in the history of Western Protestantism, featuring as a tool to vivify the divine word and make it accessible to a wider lay audience. Even Martin Luther—who famously introduced the doctrine of sola scriptura—emphasized the importance of preaching in order to breathe life into biblical text. In a sermon in 1534, Luther said, “The Kingdom of Christ is founded on the Word that cannot be seized or comprehended without the two organs of the ear and the tongue.” Similarly, Calvin described the Bible as a loaf of bread with a thick crust. He claimed that God wishes “that the bread be sliced for us, that the pieces be put in our mouths, and that they be chewed for us. . . . It is not enough that we read [scripture] privately, but that we must have our ears beaten by the doctrine extracted from it and must be preached to so that we can be instructed.”

As the sermon developed from a predominantly oral genre into an important and lucrative textual genre for the print industry, the spiritual logics governing its function and circulation sometimes stood in tension with emerging systems of legal regulation. This is because—as copyright developed in order to secure the economic rights of commercial publishers—the nature of sermon production, its mode of address, its performance, and its circulation are all inextricably bound to its varied spiritual functions growing, nurturing, and guiding the Christian church. Further, the sheer quantity of sermons produced—generated week after week by pastors and delivered to churches and denominations large and small—requires a level of sustained labor and craft with little parallel in the creative industries. Subsequent transformations in mass media production have turned the sermon from an ephemeral oral performance into a hybrid genre that can take the form of printed text, audio recording, and video. As a result, the sermon has become subject to copyright even as its mode of operation has remained irreducibly spiritual and thus incongruous with
the language of incentive, economy, authorship, and ownership embedded in intellectual property law.

In what follows, I interrogate the sermon within the context of intellectual property law. I do so in order to understand how the complexities of sermon authorship fit unevenly within the proprietarian logics of contemporary copyright law. How have pastors across denominations struggled to reconcile secular-legal understandings of the sermon as an object of property with theologically nuanced approaches to the sermon as a unique genre of religious media designed to capture and mediate divine knowledge? In this process, these pastors—all similarly constrained by a legal system designed to elide religious motivations and rationales—elicit uniquely spiritual conceptions of ownership. These debates are not solely matters of homiletics but leave traces in the legal record, as twentieth-century courts—in a series of cases involving Jehovah’s Witnesses—considered how they might analogize the printed circulation of sermons to their oral delivery, thereby protecting the public distribution of spiritual literature as religious expression. Subsequent claims to sermon ownership have thus been articulated as a religious right in the sermon copy that is continuously balanced against a countervailing religious right to copy the sermon.

If the distribution of religious media—understood as a divine mandate to disseminate divine knowledge—has been considered by law to be of paramount importance for some religious organizations, it has made copyright in sermons appear all the more incongruous with spiritual publication and distribution strategies, a form of monopolistic control ill suited to the Christian missionary impulse. As a result, recent debates about sermon stealing, or pulpit plagiarism, have generated unique defenses of sermonic ownership grounded not in legal entitlement but rather in theological arguments focused on authors’ labor to understand biblical text coupled with a recognition of their
unique and inalienable relationship to the divine. These debates occurring within homiletics circles and occasionally in the wider public sphere have generated a defense of sermonic authorship that parallels yet reconfigures the concept of authorship encoded in copyright law. Through it, a vision of religious ownership is generated that simultaneously reflects and distorts the governing logics of secular law, recognizing and refracting divine entitlements through the prism of human legal logics, spiritual law as seen “through a glass, darkly” (1 Cor. 13:12).

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Because copyright only applies to works as they are “fixed in a tangible medium of expression,” sermons were configured as objects of intellectual property when they were turned from oral performances into textual embodiments. In the process, modern copyright law, which was designed to rationalize the burgeoning publication market, rendered complex denominational, stylistic, and theological differences about sermons—particularly the nature of their authorship, performance, and function—irrelevant to their status as something to be owned. Yet, sermons’ reduction to textual properties in circuits of market exchange has always been incomplete, subject to disruption by alternative spiritual logics for the production, distribution, and reception of religious media. We might look to these alternative logics in order to uncover the historically subsumed theological dimensions of intellectual property law itself.

Following the invention of the printing press during the Reformation, sermons became a popular and widely distributed source of content for an emergent reading public. Reformers simultaneously preached, wrote letters, and published religious tracts for circulation among a lay audience and imagined that all these practices were linked. The publication and distribution of sermons were similarly meant to instruct, to shape interpretation, and to bolster lay piety.
The fact that the printed sermon increasingly featured in religious life has led some to recognize that it accomplished a unique kind of spiritual work that differed from and even enhanced oral performance. Unlike the sermon as delivered from the pulpit—addressed to a particular congregation at a particular time and place—the sermonic text has been identified by Michael Warner as one that produced a unique kind of audience: one that was both indefinite and impersonal (addressed to all as potential converts) while at the same time individualized for a unique reader situated in a particular place at a particular time. As such, it was simultaneously transcendent in meaning yet immanent in feeling; operating—in the language of John Durham Peters—as both dissemination and dialogue. And just as the addressee was marked as both uniquely individual and expansively universal, so too the preacher acted as a uniquely individual author who at the same time transcended his or her individuality and spoke with the universal authority of God. The sermon’s capacity to harmonize human expression and divine knowledge became only more apparent as the medium changed from live performance to printed text.

While sermon text might effectively capture the unique grammar, turns of phrase, vocabulary, and other stylistic markers of a successful preacher (the properties of a text that mark it as original and therefore protectable by copyright), it cannot replicate speech itself nor the traces of the authorial body that spoke the text. Brian Rotman has explored this effacement of (human) individuality as fundamental to the medium of printed text. The sermonic text exchanges unique tone (which Rotman calls the presence of the body in speech) for “a voice neutral in tone—flat, expressionless, lacking all rhythm, having zero affect. . . . Short of invoking a plurality of indistinguishable and interchangeable speakers . . . a toneless voice can only invoke a singularity, a one-and-only, self-identical entity comparable to nothing outside itself; a monobeing who is not merely one of a kind, but is its kind.”

Rotman speaks of none other than the God of monotheism, a ghostly
effect of the medium of text. But Rotman also indicates that the singular voice of the text, in its lack of affect, is also the voice of a plurality: for Christians, that plurality is the universal church united within and as the body of Christ. This transmutation of the individual pastor’s authorial voice into the universal language of God spoken simultaneously to and in the name of the universal church of Christ constitutes the sermon’s powerful “shamanistic” qualities, which are shared by both their oral and textual performance. Whatever the printed text lost by effacing the preacher’s spoken voice was compensated for by the added circulatory capacity of the written text, its global outreach, and its permanence.

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As these theorists demonstrate, the sermon might be transformed as it is differently mediated (through voice, print, recording) but it is certainly not diminished. Nonetheless, the mediation of religious expression via print does subject it to new forms of circulation and control. These media transformations then elicit a question even broader than the one posed by Christianity Today: Can any form of religious expression be owned? Or put differently, how does intellectual property law—and copyright in particular—apply to the material expression of sacred, prophetic, and divine knowledge? This question has rarely been asked, but it is one that can be uniquely generative, prompting reflection about the nature of authorship, ownership, and epistemology in both Western religious traditions and the law. Historians of the book have only recently come to realize that the centrality of print production in Euro-American religion requires a reckoning with the form and application of copyright law to religious texts.11 Further, a focus specifically on the legal status of religious texts draws renewed attention to the fact that, from the early eighteenth century on, copyright has featured not just as a legal mechanism for recognizing
authorial rights but also as a critical tool allocating to property owners unilateral control over the circulation and distribution of media.

By seriously considering the suitability of copyright for divine expression, we might come to two equally obvious and yet entirely incommensurate answers. On one hand, many would be inclined to say that copyright obviously and unequivocally should not be applied to the divine expression of spiritual knowledge. The traditional history of intellectual property in the West would appear to verify this line of thinking as copyright has historically been linked to human expression, and its development can be understood as a predominantly economic endeavor. The intellectual property clause of the US Constitution secured “for limited times to authors and inventors the exclusive right to their respective writings and discoveries” specifically in order “to promote the progress of science and useful arts” (art. I, sec. 8, cl. 8). This incentivist logic makes no sense in the context of divine or prophetic expression, which would be motivated not by laws designed to reward the inspired author but rather by a sacred imperative to communicate divine knowledge to the world. From this perspective, Meredith McGill has written, “Who, after all, can lay claim to property in the word of God, and why limit the circulation of texts such as hymns, sermons, tracts, prayer books, and catechisms, when their purpose is to knit together and to expand the community of believers?”

On the other hand, why shouldn’t copyright apply to sacred, prophetic, and sermonic texts? If American law truly adhered to the principles of the “religious question” doctrine whereby courts avoided adjudicating matters of religious practice and belief, then divinely revealed texts should be considered the same as any other text. Further, if one were to look for instances in which intellectual property law appeared to acknowledge religious rationales for legally controlling sacred texts, one might find important and evocative historical
support. The sixteenth- and seventeenth-century printing privileges that preceded copyright were necessitated as much by the Crown’s interest in censoring and repressing political and religious heterodox publications (and holding printers accountable for those productions) as they were in granting economic rights. Subsequently, copyright—first introduced by the Statute of Anne in 1710—continued to apply to sacred texts because it provided the necessary mechanisms by which texts, sermons, and Bibles could be authorized and controlled by church and state. This line of thinking does not demand that the law formally recognize a divine author but rather emphasizes that churches or spiritual trustees should be allowed to use copyright to enforce their divinely granted authority to circulate orthodoxy and repress heterodox sermons, pamphlets, and commentaries. Contemporary advocates for copyright in religious texts have called on these historically subsumed logics to argue that legal ownership is suitable as a means to control the circulation of divine text, repress unauthorized critique, and manage interpretation.

However, this binary approach—asking “does or does not copyright apply to sacred texts?”—might conceal crucial distinctions between divine knowledge on one hand and its human expression on the other. We could instead posit that copyright does apply to religious texts but for a slightly different reason: because the nature of sacred truth makes it ontologically resistant to capture by human law. Copyright might apply to spiritual works only as they cover the human expression or mediation of divine truth (even if the human is simply an amanuensis) while leaving divine knowledge itself untouched by law and thus ostensibly accessible to everyone.

This approach resonates with copyright law’s firm distinction between ideas and expression; the former being permitted to circulate unowned, the latter subjected to carefully circumscribed control. Because of the idea/expression divide, it was unowned and unownable ideas that were the province of divine knowledge. Intellectual property
rights were only produced as ideas were removed from their pristine, natural, and divine state and mixed with human expression. Thus, as knowledge of the divine could freely spread without the imposition of legal limits, the expression of that divine knowledge—fixed in a material medium like print—could be harnessed temporarily for material, economic, or individual gain. The same idea-expression divide was apparent in early discussions about copyright wherein philosophers and jurists asserted that authors’ ownership claims in the unique expression of their ideas would not necessarily hinder the quasi-theological dream of free communication and ideational exchange. The theological dimensions of nonproperty are evident, for instance, in Thomas Jefferson’s oft-quoted letter to Isaac McPherson:

If nature has made any one thing less susceptible than all others of exclusive property, it is the action of the thinking power called an idea, which an individual may exclusively possess as long as he keeps it to himself; but the moment it is divulged, it forces itself into the possession of everyone, and the receiver cannot dispossess himself of it. Its peculiar character, too, is that no one possesses the less, because every other possesses the whole of it. He who receives an idea from me, receives instruction himself without lessening mine; as he who lites his taper at mine, receives light without darkening me. That ideas should freely spread from one to another over the globe, for the moral and mutual instruction of man, and improvement of his condition, seems to have been peculiarly and benevolently designed by nature.

Taking into account Jefferson’s Deist orientation, this account can be read theologically, appropriating the image of the divine spark and turning it to Commonwealth ideals of knowledge cultivation in the emergent republic.

Later, by comparing the movement of ideas to fire and water and describing them as “incapable of confinement, or exclusive appropriation.”
Jefferson also harkened back to the Roman *res communis*, as well as seventeen-century ideas about collective rights in natural resources delineated by Hugo Grotius in *Mare Liberum* in which the innate qualities of certain things—air, water, ideas—made them naturally resistant to individual appropriation. For these resources that, by their nature, necessitated alternatives to traditional private property regimes, they often were considered gifts of God’s creation bestowed unto humans collectively but none particularly and thus participated in the unbounded nature of the sacred. Further, like Grotius, who argued that the sea resists exclusive ownership because it is fluid and ever changing, ideas similarly could not be owned because, by moving from person to person, they too continually changed depending on each new mind that they entered.19

In other words, absent the direct agency of God materializing divine knowledge (as in the tablets delivered to Moses), knowledge of the divine is always mediated by a human actor and only in that individualized process of mediation does divine knowledge become subject to human law. However, this argument leads one inexorably to the observation that divine knowledge in its unfixed, immaterial form may be unowned but so too, by that same measure, is it inaccessible. For divine knowledge to become available as a resource for human guidance, it must inexorably pass through a human medium and thus become apprehensible, if only as “through a glass, darkly.” In doing so, it inevitably becomes subject to legal control.

Nowhere is this foundational role of mediation more apparent—and more apparently complex—than in the sermon. Sermons—and debates around sermon ownership and sermon stealing—uniquely expose the inextricable tensions between the imperative to circulate religious or divine knowledge and the legal structures that dictate ownership of their textual expressions. Paradoxically, this is because the sermon’s copyright status has not yet been the subject of litigation. In other words, while sacred texts, hymnal books, contemporary
Christian music, films, and other religious media have, at times become subject to intellectual property law and thus at least somewhat subsumed within the proprietarian logics of copyright, the sermon continues to be uniquely resistant to straightforward propertization.

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Just as Reformation-era preachers utilized print as they expanded their spiritual reach, so too did American revivalists embrace increasingly aggressive modes of religious publication and distribution for sermons and other religious texts. National associations like the American Tract Society along with a diverse range of local Bible societies worked to spread religious media especially in areas not sufficiently serviced by local ministers. As quoted in Edwin Gaustad and Leigh Schmidt’s *The Religious History of America*, the American Tract Society claimed, “Next to the Bible and the living Ministry, nothing else could be so useful as the pervasive sprinkling of the land with booklets expressing some of great and glorious truths of the Gospel.”20 While the goal was the universal circulation of texts, this could not be achieved simply by saturating the commercial marketplace with materials. Rather, these texts had to be “pressed into the hands of readers” by a new professional class of evangelical: the colporteur. As the itinerant preacher went from town to town orally delivering the Gospel to strangers, the colporteur moved door-to-door delivering religious materials to the American public.21

If the medium of delivery had changed from pastor’s sermon to colporteur’s tract and from oral performance to textual distribution, these two practices were dealt with in analogous ways in a court of law as demonstrated by a series of cases defining the legal rights of Jehovah’s Witnesses. In 1941, a Witness named Thomas Meredith was convicted of violating a South Carolina statute that prohibited people from selling any goods, wares, or merchandise without having first obtained a license. Meredith went door-to-door with books
and pamphlets on religious subjects and a portable phonograph on
which he asked permission to play a record of a Bible lecture or ser-
mon. If the solicited party was interested, Meredith offered for sale
one or more of the pamphlets he carried. In his defense, Meredith
claimed that the sale of books was merely “collateral to the main
purpose in which he was engaged, which was to preach and teach
the tenets of his religion.” The South Carolina Supreme Court sided
with Meredith, agreeing that “the act of distributing said printed
matter was a part of the exercise of his duties as a minister and a
part of his sincere worship of Almighty God, and was not for profit
or gain, and was solely for the purpose of promoting the spread of
the Gospel of the Kingdom of Jehovah God under Christ Jesus.”
This ruling thus depended on defining the distribution and sale of a reli-
gious book as itself analogous to the practice of delivering a sermon,
which was understood to be central to the ministerial profession.

This logic was reinforced by Meredith’s actual practice, which in-
volved initiating each interaction with a performance of a sermon
on a phonograph that referred to the books and pamphlets on sale.
Since the person solicited voluntarily conceded to the recording, they
were transformed from a customer targeted by a peddler into a mem-
ber of the sermon audience interpolated into the Witnesses’ religious
address. After that point, any subsequent transactions could not be
classified as the mundane commercial sale of a peddler’s wares but
instead should be considered an extension of the initial sermon (in
a differently mediated form but with the same religious force) and a
sign of the listener’s accession into a growing religious community.

Meredith was the first of a series of similarly adjudicated cases fo-
cused on Jehovah’s Witnesses’ door-to-door “sermonizing.” They all
similarly linked the movement of religious texts with oral preaching
in order to bring religious print distribution into the ambit of constitu-
tional religious protection. The subsequent Pennsylvania case of
*Murdock v. Pennsylvania* in 1943 involved a Supreme Court ruling that
favorably cited Paul’s mandate to “Go ye into all the world, and preach the gospel to every creature” (Mark 16:15) as a means of defending the Witnesses’ religious imperative to spread their beliefs through the distribution of literature. The judgment continued:

The hand distribution of religious tracts is an age-old form of missionary evangelism—as old as the history of printing presses. It has been a potent force in various religious movements down through the years. This form of evangelism is utilized today on a large scale by various religious sects whose colporteurs carry the Gospel to thousands upon thousands of homes and seek through personal visitations to win adherents to their faith. It is more than preaching; it is more than distribution of religious literature. It is a combination of both. Its purpose is as evangelical as the revival meeting. This form of religious activity occupies the same high estate under the First Amendment as do worship in the churches and preaching from the pulpits.23

The opinions in these cases point to the fluidity of sermonizing as a practice operating through distribution of the word in both oral and written form. Thus, despite the fact that printed pamphlets and circulars fixed religious ideation—in the language of copyright—in a “medium of expression,” that did not lessen their status as protected religious speech operating within a nonproprietary logic of religious circulation. As such, this case law granted sermonic texts an unusual legal standing: one that resisted reduction to the status of commodity with an assignable economic value protected by copyright yet at the same time was not fully excluded from that regime as a form of protected religious practice.

The sermon was further transformed by the arrival of new forms of mass media broadcasting in the twentieth century.24 Radio and television were understood by many as enabling a missionary enterprise “that would have astonished the old-time Apostles of our lord.”25 In
his article, “The Radio Cathedral,” Warren Rogers exemplified the euphoria of the time, writing, “By [radio] we have been able to reach and help many thousands of non-churchgoers, and it has, therefore, opened the way for the greatest missionary achievements since the time of Christ.”26 These mass media evangelists saw in broadcasting the technological fulfilment of Jesus’s vision of communication that was, according to John Durham Peters, “invariant and open dissemination, addressed to whom it may concern. . . . In the synoptic Gospels . . . the Word is scattered uniformly, addressed to no one in particular, and open in its destiny.”27

But the consequent success of sermons as entertainment set alongside commercial fare in radio, film, and television also brought them further into the circulatory systems of the commercial media marketplace. The growth of mass media, with its promise of indefinite and universal extension, at the same time generated an increasing propertization of the sermon as a valuable market commodity. Now that even the oral sermon could be recorded and circulated in fixed form, it was treated more frequently as intellectual property than ephemeral performance. Early practitioners of radio and television might have started sermon broadcasting as a form of outreach akin to giving away religious tracts, but the multiplication of recorded sermons as properties also meant that the sermon could now be stolen.

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As mass communication technologies increasingly transformed the religious media landscape, some commentators expressed concern about the effect these changes might have on sermonic authorship. In 1972, the Wall Street Journal investigated a growing number of firms selling “canned” sermons for pastors to deliver to their congregations rather than writing their own. This report sketched the outlines of an emerging sermon market that was, in turn, linked to anxieties around new media technologies such as audio cassettes and photocopiers:
devices perceived to be facilitating increasing instances of plagiarism across divinity schools and churches in the United States. Similarly, in 1974, homiletics professor Hunter Beckelhymer—citing increasingly easy access to sermon volumes, minister manuals, and pulpit digests—wrote about a “nonmalignant strain of plagiarism” both in divinity schools and among professional preachers. In current decades, plagiarism accusations—whose occurrence has often been explicitly linked to digital transformations—have resulted in resignations from ministers in Missouri, Michigan, New Hampshire, and Washington, DC, and in Presbyterian, Unitarian, Episcopal, and Baptist churches. These emerging twentieth- and twenty-first-century anxieties about sermon stealing—or pulpit plagiarism, as it is also called—demonstrate that even outside the courtroom religious practitioners struggled to make sense of the sermon as it fit unevenly within the logics of creativity, authorship, and ownership embedded in American intellectual property law.

Early commentaries on sermon stealing creatively reconfigured questions about legal ownership in sermons into a religious framework that could justify the importance of authorial control over sermonic texts without necessarily capitulating to the traditional economic/incentivist logics present in copyright law. While these responses varied according to the nature of the plagiarism scandal to which they were responding and the denominational and theological orientations on which they drew insight, they nonetheless shared some commonalities. They worked to reconfigure sermon stealing as a matter of intellectual property “theft” to a moral failing; one whose central sin was a violation of the sermonic pact assumed to hold between speaker and listener. This pact emphasized the importance of the preacher speaking from his or her own experience struggling with (the word of) God in order to effectively counsel others. To preach another person’s words would then be to give oneself up to another’s voice, to ventriloquize, to deceive the audience, and thus to fabricate both
the relationship the preacher had to the congregation and to God. In the words of theologian Hunter Beckelhymer, to be “only a purveyor of other men’s experience with the Eternal, or a synthesizer of the second-hand,” breaks the minister’s capacity to act as a conduit between God and congregation. In fact, Beckelhymer characterized the minister’s role precisely as a medium of its own, describing sermons as exemplars of Marshall McLuhan’s famous dictum, “The medium is the message”: “Let [the preacher] bring to his words the witness of his own struggle with the Scriptures, his own contention with God in prayer, his own vulnerable love for his people. . . . Then medium and message become not only single but singular. The rhetorical quality may drop, but the spiritual power increases.”

For the genre of the sermon, wherein the relationship between speaker and listener is also that between pastor and congregant—thereby including a unique set of occupational duties of care, stewardship, and communion—plagiarism introduced even further distortions to the social relationships involved. For the listeners of pulpit plagiarism, the assumed connection between pastor and congregant was not simply a meeting of minds but rather a divine union in which the pastor operated as a conduit to God. Even if the pastor did not act as a direct medium, as a prophet might, his job was nonetheless to guide congregants toward God and to find ways to make divine knowledge resonate with listeners. To learn that a pastor was not simply mimicking another’s words but also that person’s unique relationship with God was perceived as doubly deceptive. As one pastor noted, using a preacher’s material and passing it off as their own commits two sins: “If you do not give credit, you intentionally deceive the congregation. . . . This is clearly plagiarism. It is stealing and bearing false witness at the same time.”

While the moral violation of plagiarism was foregrounded in these critiques, this approach did not preclude religious commentators from considering matters of legal ownership in the sermonic text.
As debates about sermon stealing continued through the late 1990s and early 2000s, commentary gravitated from condemnation of individuals to concerns about the changing landscape of sermon writing. Some drew attention to the increasing prominence of online sermon databases and proprietary Bible software that provided vast libraries of texts from a range of denominational perspectives as “pastoral tools” to aid weekly sermon writing. After a pastor in Missouri resigned for plagiarizing famous New York City pastor Tim Keller, a journalist wrote, “Preacher plagiarism problems are not new—or on the wane. In a profession known for its high attrition rates and tough time demands, online sermon archives and Web sites such as desperatepreacher.com make it easy for pastors to cut corners on originality.”

As was also evident in the Jehovah’s Witnesses cases in which oral performance and textual circulation were understood to be related practices, the arguments developed in the context of pulpit plagiarism could apply with equal force to the material (or digital) circulation of sermonic texts subject to copyright law. This continuity allowed sermon authors to reconfigure ownership as simultaneously an economic category as well as a form of responsibility that bears with it the duty to care for the message being delivered. This rhetorical strategy allowed for the assertion of a level of authorial control over the sermon that, at the same time, acknowledged its fundamentally religious function. In other words, it was not just the specificity of the author that warranted claims to ownership of the sermon but also the specificity of the audience to whom it was to be delivered.

At the same time, a countervailing defense of online sermonic materials argued that a sermonic “commons” was necessary as a religious foundation on which to construct new works. In a profession that does not highly value originality in theological argument, a cheap market in sermons or a public domain sermon repository could be considered a pragmatic solution to basic institutional pressures. The
pastoral demand to produce a weekly sermon that was expected to hold the attention of church attendees required writing as a form of craftsmanship and labor rather than momentary insights and singular genius. As early as 1892, John Merritte Driver wrote in the Methodist Review that the preacher should draw on the “bank of the world’s thought” and assimilate into new sermons not through “creative originality” but instead through “combinative originality.” Like Christ, who appropriated popular adages, proverbs, and aphorisms to convey his original message in the clothing of familiar idiom, a preacher could utilize the insights of others and turn them to unique ends: “If you would preach like Tillotson, South, or Taylor . . . devour and digest and assimilate their thought and style and vocabulary until they are woven into the warp and woof—into the very texture—of your being, and thus becomes yours. And when your own, you have a right to use them at pleasure.”32

More to the point, some considered the objectives of evangelical religious outreach more important than any claims of ownership over individual texts. Pastors such as Steve Sjogren and celebrity evangelist Rick Warren often claimed that their words could be freely used by others even without attribution, since appropriation was in the service of convincing listeners to enter into the faith. Sjogren wrote, “If my bullet fits your gun, then shoot it.”33 For these commentators, the value of a sermon came not from their originality but rather from their ability to draw from common insights and connect to a wide range of listeners. For example, journalist Verlyn Klinkenborg wrote, “There is . . . the recognition that even the most literary of sermons consist mainly of commonplaces, phrases that ring true in a spirit of consolation or celebration. Even the greatest sermonizers draw on the simple truths and on the common repository of the Bible. . . . A congregation doesn’t come to church on Sunday morning needing to believe that what they hear will be authentically delivered from the original pen of their minister. They need to believe that whatever
he or she has to say to them will be true and full of solace.”  

34 By using diverse theological resources—grounded in varied denominational histories and identities—to make claims for or against ownership, these commentators attempted to situate spiritually informed arguments about the nature and responsibilities of pastors into a debate about the sermon as intellectual property. Their comments creatively linked arguments about the religious nature of sermon authorship and ownership to the proprietarian logic of American copyright law and, in doing so, identified the ways that intellectual property law failed to fully capture the religious value of sermonic texts.

Even for those who justified borrowing in sermon writing, they acknowledged the sermonic author if not as copyright owner then as someone who produced unique value (both economic and spiritual) through individual style and performance. As a result, some commentators located religio-economic value not on the sermons being circulated online but rather on the unique performative capacities of pastors who could transform “canned sermons” into lively services. One journalist wrote that charismatic celebrity preachers encountered success based as much on their stagecraft as on the texts they produced. “Only a preacher with a golden tongue has authority to preach the gospel. It conveys the unspoken belief that no one in the satellite congregation [of multiple-site megachurches led by a celebrity pastor] has the authority to speak to their context because preaching requires unique talents that only a few actually possess.”  

35 The argument that performative capacity was valued more than the written sermon creatively inverted the media economy imagined in intellectual property. Here, copyrighted texts might circulate indiscriminately online while the ephemeral sermonic performance is singular and therefore operates as the true locus of authorship/ownership.

Of course, these arguments were not presented to justify plagiarism outright but rather to highlight the unique pressures that pastors experienced as they reimagined the sermon not as a locally bounded
and commonplace communicative event to their congregation but rather as a type of hybrid media form alternately circulating as theatrical performance, individual text, or datum in a spiritual database. Further, these broader media transformations made evident the complex ways that sermons “worked” to generate religious response. For instance, advocates of the “sermonic commons,” even as they attempted to assuage fears that sermon databases spelled the end of pastoral ethics, highlighted the degree to which copying another person’s sermon as text could simply fail in its religious objectives. This was because, in practice, it was impossible to disentangle the individual style of expression in the sermonic text and the performative style of the pastor. The stylistic traces of the original author in the text—their personal expression of divine truths—might be considered the precise aspects of the sermon that made them uniquely engaging and valuable. By the same token, the aspects of the sermon that the plagiarizing pastor most wanted to replicate—the unique signatures of a successful sermon writer—were precisely those dimensions of the sermon that could not be adequately copied.

For these reasons, some claimed that success in sermon delivery could only come from speaking from personal experience. Responding to a recent plagiarism controversy in a Unitarian church, one preacher commented, “The sermon is not a college lecture where the goal is to communicate facts. It’s persuasive speech where you’re trying to change attitudes. And you can do that best when you are giving a part of yourself.”36 Another reverend whose sermon was plagiarized similarly noted that minister’s sermons, particularly in Unitarianism, were supposed to be personal statements of faith. “We are a non-creedal faith, so our sermons are very personal. It’s not some interpretation of dogma [that’s] important, it’s what comes from the heart. It’s supposed to be a personal dialogue between the pastor and the pew.”37

These pastors chose not to summarily condemn any practice of borrowing in sermons, and even less threaten other ministers with
legal action, but they did demand at a minimum clear attribution. Given the time demands placed on pastors to craft high-quality, engaging sermons, one writer claimed, “Most of us will settle for secondhand inspiration over no inspiration at all,” suggesting that the delivery of another person’s sermon with full attribution would constitute, in the words of Christian Century editor John Buchanan, “faithful plagiarism”: plagiarism performed for the greater religious good of the congregation. Noting the difficulty of “oral footnotes,” Hunter Beckelhymer also wrote, “Acknowledgment is the sovereign preventive and cure of plagiarism. The stylistic issue may be a bit complicated, but the ethical and technical issues are not.” An article by Thomas Long, “Stolen Goods: Tempted to Plagiarize,” also provides an analysis of attribution as a key aspect of ethical borrowing: “Giving credit to others is not merely a matter of keeping our ethical noses clean; it is a part of bearing witness to the gospel. No sermon stands alone, but instead takes its place in a ‘cloud of witnesses.’... To borrow words from others and to show that one’s sermon dips into the deep well of shared wisdom is itself part of Christian testimony, a fresh expression of Paul’s confession, ‘I handed on to you as of first importance what I in turn had received.’”

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In these evolving debates about the nature and effects of sermon stealing, we witness a vertiginous oscillation between authorial right and audience demand, religious distribution and moral control, that temporarily stabilized only to be upended by changes in writing practice, media technology, and the law. In the process, sermons generated a complex and agonistic notion of religious ownership that struggled to resolve a foundational tension: sermons were simultaneously construed by law as objects of intellectual property while also being forms of religious expression better governed (if not solely governed) by ethical codes operating outside the secular American courtroom. This
tension was complicated by the fact that debates about the sermon also drew on the moral foundations of intellectual property law—its foundational distinctions between idea and expression, performance and fixation—in order to construct or challenge claims to sermon ownership. Further, as sermons circulated in different media forms (print, recordings, digital media), they inevitably became objects of economic value both for enterprising religious media companies and professional pastors. These evolving sermon markets thus acted as stressors testing the balance between legal and moral regulation governing sermon production and circulation and requiring constant, if always unsatisfactory, response from Christian pastors and commentators.

Considered as an object of intellectual property, the sermon is a form of individual authorial expression perpetually destabilized by its countervailing obligation to convey divine knowledge. This divine knowledge embedded within the sermonic text acts both as its foundational source of value and as an “irritant” displacing the sermon from its presumptive place in copyright law. Within this field of conflict the sermon’s copy might be considered both a violation of authorial rights and an extension of divine reach at the same time and sermon stealing simultaneously a violation and affirmation of religious obligation.
Notes

1. Bob Smietana, “Who Owns the Pastor’s Sermons?,” Christianity Today, January 8, 2014. Curiously, the print version has a different title—“Who Owns the Sermons?” Demonstrating this anxiety about the sermon as an object of intellectual property, the managing editor uncharacteristically added an editorial note quoting in-house legal counsel who reaffirmed—probably to no one’s satisfaction—that “churches and pastors were wading into legally unprecedented territory” and could provide no clear answers. Thus, the article was simply an “assessment on a legally thorny issue” and one that avoided definitively resolving the question posed by the article’s title.


3. The nature of the sermon—including its purpose, modes of composition, desired effects, style, and other characteristics—are incredibly varied and complex across Christian denominations and history. I make no claims to being able to summarize the literature on this subject in its entirety but rather—as specified later—aim to identify what dimensions of the sermon, conceptualized as a unique genre of religious media, might pose a challenge to regimes of ownership embodied in intellectual property law. Key sources that I found useful for thinking about the history of sermons as a media genre include Peter McCullough, Hugh Adlington, and Emma Rhatigan, eds., The Oxford Handbook of the Early Modern Sermon (New York: Oxford University Press, 2011); Lori Anne Ferrell and Peter McCullough, eds., The English Sermon Revised: Religion, Literature, and History, 1600–1750 (Manchester: Manchester University Press, 2000); and, in the American context, Harry Stout, The New England Soul: Preaching and Religious Culture in Colonial New England (New York: Oxford University Press, 1986).


15. In this framing, intellectual property’s foundational logic is a reconfiguration of Lockean property rights. John Locke, Two Treatises of Government (New York: Hafner, 1947). John Durham Peters explores Locke’s theory of communication and its link to property in Speaking into the Air, 80–89.


18. Quoted in Hyde, Common as Air, 91.

24. The literature on religion and its relationship to new media technologies is vast. Key figures in the field such as Stewart Hoover and Heidi Campbell have attended not just to the adoption of new media forms by religious organizations but have analyzed how that process of adoption fundamentally alters how religious meaning is expressed. Others such as Heather Hendershot and Courtney Bender have focused specifically on how the circulation of media including books, music, film, and objects of material culture play a crucial role in the formation of spiritual identity and community. While this literature provides a crucial backdrop for my reflections, few scholars in religious studies or media studies have interrogated how this robust religious media landscape is shaped and constrained by the legal infrastructure of intellectual property law and the proprietarian logics they produce. It is this latter issue that I focus on here. For key relevant literature in this field, see Courtney Bender, The New Metaphysicals: Spirituality and the American Religious Imagination (Chicago: University of Chicago Press, 2010); Heidi Campbell, When Religion Meets New Media (New York: Routledge, 2010); Heather Hendershot, Shaking the World for Jesus: Media and Conservative Evangelical Culture (Chicago: University of Chicago Press, 2004); and Stewart Hoover, Religion in the Media Age (New York: Routledge, 2006).
27. Peters, Speaking into the Air, 35.
30. Quote from Joel Snider, pastor of First Baptist Church in Rome, GA, quoted in Jodi Mathews, “Temptation to Plagiarize Great—Even for Preachers,” Ethics Daily,
-mdash-even-for-preachers-cms-325.

Tribune (Jefferson City, MO), November 11, 2001.


33. Quoted in Gibson, Should We Use Someone Else’s Sermon?, 77.


40. Beckelhymer, “No Posturing in Borrowed Plumes.”