The Originalist Hermeneutic in Biblical and Constitutional Context: Comparison and Contrast

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The second element of Charles Ryrie's well-worn *sine qua non* of dispensationalism is a "literal" hermeneutic.[1] This adjective has proven less than satisfactory over the years. The term regularly earns snickers from critics as connoting wooden interpretation that eschews figures of speech (and, to be honest, some dispensationalists have given credence to this criticism by being slow to admit to obvious figures in the Bible). Certain dispensationalists have also abused the principle of literalism variously by minimizing context, discovering meaning chiefly in etymology or strict dictionary definitions, by developing other, rogue hermeneutical principles (e.g., the "law of first mention"), or by being overly skeptical about the evolutionary nature of language.[2]

Because of these abuses, careful dispensationalists have for decades sought diligently for a better label for their hermeneutical approach, but no clear winner has emerged. Some have added adjectives (a *consistently* literal approach); others have multiplied qualifiers such as "normal," "plain," or "ordinary," but these beg the question, and often pejoratively. Others have opted for the more broadly accepted "grammatical-historical" rubric, but since a vastly diverse field of scholars uses this rubric, value of this phrase for identifying a distinctively dispensational approach is limited.

Others still have conceded the elusiveness of a trim label and have instead offered a series of descriptive principles that clarify what "literalism" means for them. John Feinberg and Michael Vlach are exemplary in this regard: Both argue that (1) the OT must be permitted to speak on its own terms without reinterpretation by the NT; that (2) promises made to ethnic Israel must be fulfilled by ethnic Israel (and that no amount of typologism can alter this conclusion); and that (3) while there exist multiple senses of key terms such as "seed" and "Israel," no one sense swallows up the others.[3] Rolland McCune has offered, more abstractly, a series of four "received laws of language" that he defends transcendentally in defining what he means by *literalism*:

- The Univocal Nature of Language Meaning
- The Jurisdiction of Authorial Intent
- The Unitary Authorship of Scripture
- The Textually Based Locus of Meaning[4]

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[1]Charles C. Ryrie, *Dispensationalism* (Chicago: Moody Press, 1995), 40.

[2]During my first year of seminary, one of my professors, a dispensationalist, encouraged me to read Vern Poythress's *Understanding Dispensationalists*, 2nd ed. (Phillipsburg, NJ: Presbyterian & Reformed, 1994). Nestled among some of Poythress's less-than-fully-convincing criticisms of dispensationalism, my professor told me, were some valid criticisms of hermeneutical fallacies occasionally committed by dispensationalists under the banner of "literalism." This volume, together with D. A. Carson's iconic *Exegetical Fallacies* (Grand Rapids: Baker, 1984), supplied me with correctives that refined my conception of *literalism* away from some of its historical abuses.

[3]John S. Feinberg, "Systems of Continuity," in *Continuity and Discontinuity: Perspectives on the Relationship Between the Old and New Testaments*, ed. John S. Feinberg (Wheaton: Crossway, 1988), 67–85; Michael J. Vlach, *Dispensationalism: Essential Beliefs and Common Myths*, rev. and upd. ed. (Los Angeles: Theological Studies Press, 2017), 30–50.

[4]Rolland D. McCune, "The Hermeneutics of Dispensationalism, or, What Is Literal Interpretation?"

Each of these helps to clarify the idea of literalism and allays at least some misunderstanding; still, one longs for a more nimble label to precisely capture the traditional dispensational approach to hermeneutics. Other competing biblical theologies sport concise hermeneutical labels—labels like *mythological*, *anagogical*, *typological*, *Christological* (or *Christotelic*), *complementary*, and *sensus plenior* come to mind—but traditional dispensationalists have been stymied in this regard.

Thankfully, the discipline of secular jurisprudence has recently come through with a more carefully defined and more publicly accepted term that is positioned to compete for the elusive label that dispensationalists are seeking, namely, *originalism*. But is are biblical literalism and constitutional originalism synonymous concepts? This presentation explores the development of constitutional originalism, then compares and contrasts originalism with the kinds of "literalism" that dispensationalists have long pursued. It is a preliminary study.

The Idea of Constitutional Originalism

Saying that *originalism* is a better-defined and more publicly accepted idea than *literalism* may be a case of faint praise. Originalism (and the subsidiary idea of *textualism*) has been widely misunderstood in modern literature and in the court of public opinion. The newness of this notion[5] and swift evolution of the concept even among proponents has also rendered settled definition elusive. The idea of originalism may be ancient, but the quest to define the term in modern jurisprudence has proven turbulent.

When Brest defined *originalism* in 1980, he precipitated debate in his definition: "By 'originalism' I mean the familiar approach to constitutional adjudication that accords binding authority to the text of the Constitution or the intention of its adopters." He then moves swiftly to identify two distinct forms of originalism, viz., *strict textualism* (a.k.a., so Brest opines, *strict constructionism*) and *strict intentionalism.*[6] In so doing, Brest confused, I believe, on three counts: (1) he bifurcated the originalist community into competing camps—strict textualists and strict intentionalists; then misrepresented (2) the intentionalist camp as operating on the absurd assumption that the whole collective of the framers and ratifiers of the Constitution sported a singular intention whenever they spoke[7] and (3) the textualist camp as arguing nothing more than wooden reconstructionists of the Constitution according to its very most basic linguistic units: *words*.

The Specter of Competing Originalisms

The very earliest originalists used as part of their vocabulary the idea of "original intent," a label familiar to biblical hermeneuts.[8] By this phrase they they spoke not of an elusive, shared

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presentation at the Mid-America Conference on Preaching held at Inter-City Baptist Church, Allen Park, MI (March 11, 1994), 39–44.

[5]The term *originalism* first appears, pejoratively, in Paul Brest's critique of the conservative impulse then threatening the long-standing liberal control of the Supreme Court ("The Misconceived Quest for the Original Understanding," *Boston University Law Review* 60 [1980]: 204–38).

[6]Ibid., 204.

[7]Ibid. He reiterates that strict originalists imagine that there is a single intention shared by all of "the [Constitution's] framers and the people who adopted it." This, he suggests in a laughably impossible idea.

[8]Robert Bork speaks of the "framers' intent" in his early work, "Neutral Principles and Some First Amendment Problems," *Indiana Law Journal* 47 (Fall, 1971): 13. This article is sometimes regarded as the earliest formal

intention of all the framers and ratifiers, but the *individual* intentions of *specific* framers and ratifiers—intentions that frequently were held in common. Edwin Meese is exemplary of this understanding, arguing that the originalist impulse looks, when possible, for "demonstrable consensus among the framers and ratifiers," but in the absence of such consensus settles on an interpretation that "does not contradict the text of the Constitution itself."[9] Scalia, likewise, argued that originalism is, at its heart, the discovery of the "objectivized intent" of the framers,[10] noting that "if we are really looking for the subjective intent of the enacting legislature we would more likely find it by paying attention to the text of the statute in isolation."[11] Both men agreed that "intention" is discovered principally in texts, but allowed that when a given text is less than perfectly clear, consensus among the framers may be sought. "Intentionalism" and "Textualism" were not, at least early on, sparring partners, but friends.

As time has passed, however, a gradual diminution of the "original intent" emphasis has occurred. In part this is because of the misunderstanding and scorn propagated by Brest and others of his ilk, but the driving concern, it seems, was the insidious abuse of "intent" language to reconcile originalism and living constitutionalism. One H. Jefferson Powell, for instance, in a 1985 article, "The Original Understanding of Original Intent," cleverly argued, using originalist principles, that it was not the intent of the framers for moderns to interpret the Constitution according to the principles of originalism.[12] Eventually, originalism itself was threatened by the idea that "We are all Originalists." The idea of original intent needed to be tempered.

Supreme Court Justice Scalia took the lead in proposing changes to originalist vocabulary, pleading in a 1986 address before the Attorney General's Conference of Economic Liberties for his fellow-originalists to "change the label from the *Doctrine of Original Intent* to the *Doctrine of Original Meaning*."[13] Justices Thomas, Alito, Barrett, and Gorsuch all eventually followed Scalia in turning against "original intent." The Constitution, they observed, was (1) cobbled together by men with doctrinal differences, was (2) certainly not inerrant, and (3) surely was not free from internal contradiction (which is to say, *The Constitution is not the Bible!*). Further, the pursuit of original intent apart from the text opened doors to selective originalism. In Keith Whittington's words, "The language of original intent too often encouraged the pursuit down false trails in an effort to locate the preferences of political actors, or buried ideas, or value systems."[14] The idea of "authorial intent," in retrospect, turned out to be a much less helpful category in constitutional studies than it is in biblical studies. The result was a simpler

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expression of modern originalism. See also Raoul Berger, *Government by the Judiciary* (Cambridge, MA: Harvard University Press, 1977), *passim.*

[9]"Interpreting the Constitution," in *Interpreting the Constitution*, ed. Jack Rakove (Boston: Northeastern University Press, 1990), 17.

[10]*A Matter of Interpretation: Federal Courts and the Law*, ed. Amy Guttmann (Princeton, NJ: Princeton University Press, 1997), 23.

[11]Ibid., 17.

[12]*Harvard Law Review* 98 (1984): 885–948. See also and especially Jack Balkin's concept of "Framework Originalism," a syncretistic notion idea that the framers established a "framework" that to be filled in not only by legislators, but also by judges who would need to "engage in considerable constitutional construction as well as the elaboration and application of previous constructions" ("Framework Originalism and the Living Constitution," *Northwestern University Law Review* 102 [2009]: 549).

[13]In *Original Meaning Jurisprudence: A Sourcebook* (Office if Legal Policy, US Dept. of Justice, 1987).

[14]"Originalism: A Critical Introduction," *Fordham Law Review* (1982): 381.

conception of constitutional originalism that operated on two principles: (1) that a text's meaning is *fixed*, and (2) that the locus of that fixed meaning is in the *original public meaning* of that text.

Most modern originalists now see "original intent" as having become a hostage of *purposivism*, the principal early sparring partner of originalism. Purposivism argues that modern interpreters should seek the "purpose," "spirit," and "intention" of a given text, then extrapolate from these to updated understandings consistent with the original author's *trajectory of thought*, offering suggestions about what the original author might say today had he survived to see the world as it has become.[15] As time has passed, however, purposivism has proved fleeting—a clever stepping stone for progressive interpreters to achieve their real goal: discovering, by any means possible, "whatever they currently think it desirable for [the text] to mean."[16]

Originalism, Textualism, and Constructionism

We must now take up the question whether Originalism, Textualism, and Constructionism are synonymous or incongruent ideas. We have noted above that critics of Originalism have tended to (1) distinguish originalism from textualism, but to (2) equate textualism and constructionism. I would suggest that the opposite is closer to truth: Originalism and textualism are very nearly synonymous, and the supposed identity of textualism with constructionism is much more strained.

It is commonly believed that textualism is a rogue extrapolation of originalism, an extreme form of originalism that is in many ways incompatible with it. This is not the case. The term originalism is instead a broad category of which textualism is a part. *Originalism* is an approach to hermeneutics that can accommodate successfully any genre, figure of speech, rhetorical device, etc. What matters in originalism is the original public meaning that intelligent readers would have deduced, at the time of legislation, by means of a shared body of syntax/devices/figures/genres.[17] *Textualism*, more narrowly, reflects the application of originalist principles to statutory law—a literary genre that is extremely precise and legally binding, and which allows almost no wiggle-room—not only in interpretation, but even in application.

In the run-up to the Neil Gorsuch confirmation, one skocking example of the textualist approach circulated widely. In the case *TransAm Trucking v. Administrative Review Board*, for which Gorsuch wrote a minority dissent, a trucker, Alphonse Maddin, lost the function of both his cabin heat and his trailer brakes (though not the brakes on his cab) on a bitterly cold night. Bound by contract to stay with his load, he called his supervisor and requested assistance, but the response was slow. After additional calls and fearing for his life, Maddin unhitched the trailer, abandoned his cargo, and drove his cab to safety—an offense for which he was fired. A majority of judges ruled in favor of Maddin, arguing that he had obeyed the "spirit" of his contract (though not the letter), and that he had assumed reasonably and in good faith that his employer

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[15]Amy Coney Barrett, "Assorted Canards of Contemporary Legal Analysis: Redux," *Case Western Reserve Law Review* 70 (2020): 856–57.

[16]Antonin Scalia, "Originalism: The Lesser Evil," address delivered at the William Howard Taft Constitutional Law Lecture, Cincinnati, OH (September 16, 1988).

[17]Note that by involving the reader in the process, I am not suggesting that originalism partakes in some sort of reader-response approach to interpretation. I am simply suggesting that the meaning of texts is known to the reader because words have precise meanings that are necessarily shared if real communication to occur. To use McCune's categories, above, originalism elevates the "Textually Based Locus of Meaning" very nearly to the exclusion of the "Jurisdiction of Authorial Intent."

would view his circumstances as extraordinary, releasing him from the stringent demands of the contract between them. Gorsuch demurred, arguing that contracts, being precise legal instruments, are to be read exactly—the trucker had violated his contract and could be fired. Gorsuch's concern was *precedent*: if one trucker was free to impose his own personal ethical standards on, and invent exceptions in, the discharge of a contract, then *any* party to *any* contract might potentially do the same, eventually destroying the very concept of a legal contract entirely.[18] This "textualist" approach to statutory law specifically, while shocking to many, is essential to the successful perpetuation of the rule of law generally.

While textualism does not threaten originalism, however, there *is* a rogue expression of originalism, however, that does threaten the model: *strict constructionism*. A textualist, Scalia notes, construes a text neither "strictly" nor "leniently," but "reasonably."[19] The lenient constructionist, he argues, is a "nihilist"—one for whom words have no meaning at all and may be assigned whatever meaning the interpreter wishes.[20] What interests us more is Scalia's assessment of the strict constructionist, whom he also holds is very low regard. Scalia's specific example of strict constructionist abuse is a case in which a criminal was liable to a statutory increased jail term for "using a firearm" in the commission of a crime. The criminal being tried had offered a handgun as trade for illegal drugs. The majority opined that the criminal deserved the longer sentence, but Scalia demurred. Why? Because while the criminal technically "used a firearm," he did not "use a firearm" in the sense obviously meant by the statute (i.e., he didn't use it *as a weapon*).[21] Words have a range of meaning, but can never mean all of those meanings in any one context;[22] nor may an interpreter select from that range of meanings a particular meaning that serves his own ends. To do so is to "degrade textualism" and "bring the whole philosophy into disrepute."[23]

Both Scalia and Barrett reject, incidentally, a favorable comparison of constitutional originalism and biblical literalism based on their understanding that strict constructionism is the cardinal crime of biblical literalism: biblical literalism "strip[s] language of its context" and understands language by "mechanistically consulting dictionary definitions" apart from shared figures of speech and all the lively nuance that make up the social construct of linguistic communication.[24] The question is whether this assessment is correct. We thus turn the corner in our presentation to search for potential points of comparison and contrast between constitutional originalism and biblical literalism.

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[18]For further detail, see "TransAm Trucking, Inc. v. Administrative Review Board, United States Department of Labor," case 15-9504, 10th Circuit Court of Appeals, filed August 8, 2016, available at https://law.justia.com/cases/federal/appellate-courts/ca10/15-9504/15-9504-2016-07-15-0.html.

[19]*A Matter of Interpretation*, 23.

[20]See *supra*, n. 16.

[21]*A Matter of Interpretation*, 23.

[22]Such would be an instance of what James Barr named the "illegitimate totality transfer fallacy" (*The Semantics of Biblical Language* [Oxford University Press, 1961], 218).

[23]Ibid.

[24]Ibid., 24; cf. also Barrett, "Assorted Canards," 857; Their concern is also reflected in Elizabeth-Jane McGuire and Steven F. McQuire, "Originalism Isn't the Judicial Version of Biblical Fundamentalism," *Church Life Journal* (12 October 2020), available at https://churchlifejournal.nd.edu/articles/originalism-isnt-the-judicial-version-of-biblical-fundamentalism/.

Contrasts Between Constitutional Originalism and Dispensational Literalism

We have demonstrated in the foregoing that several self-described originalists disclaim association with biblical literalism because the latter engages **firstly**, in "illegitimate totality transfer fallacy" and other, **similar semantic fallacies**, many of which are captured in the first chapter of Carson's *Exegetical Fallacies*. Scalia and Barret specifically identify Carson's "root fallacy," "semantic anachronism," "semantic obsolescence," and "selective/prejudicial use of unlikely meanings" as endemic to biblical literalism.[25] But here's the thing: the fact that biblical literalists agree with Scalia and Barrett that these are *fallacies* undermines their criticisms. I submit that Barrett, Scalia, and others tend to extend censorious derogation toward biblical literalism all the while complaining that others do to them the very same thing! In the last analysis, this contrast between constitutional originalism and biblical literalism is not so very great, and might perhaps be turned into a favorable comparison—constitutional originalists and biblical literalists are persistently and uncharitably accused of identical errors by their critics.

But semantic concerns are not the only differences between constitutional originalism and biblical literalism. We have noted above that constitutional originalists, **secondly,** increasingly **hold "original/authorial intent" at arm's length**. Modern constitutional originalists understand authorial intent to be not only elusive and distilled (since there are many independent voices), but also irrelevant (since we already have their intent "objectivized" in texts[26]) and destructive (since the individual framers and ratifiers possessed intentions that differed not only from each another, but even from their own writings). The authors may even have inadvertently written something other than they intended. All of these factors have led constitutional originalists to focus on the "original public meaning" of the texts and to abandon their quest for original intent except in the very rarest of instances. This may seem at first blush an insuperable barrier to adopting the term *originalist* to describe dispensational literalism.

I am not sure, however, that this is the case. The reason that constitutional originalism holds "original/authorial intent" at arm's length is not a difference of hermeneutical method, but a difference between their respective literary bodies: the Constitution and the Bible. *Very simply, the Bible is inspired, but the U.S. Constitution is not.* Because of the miracle of inspiration, original intent and original public meaning are rendered synonymous in a way that is true of no other literary corpus ever conceived. Inspiration, by its very definition, assures us that "there is an identity between [the authors'] words and [God's]," [27] and, further, that there is an identity between the authors' *intentions* and God's. Even more than this, the miracle of inspiration, conducted over fifteen centuries, ascertains that there is no discrepancy between *any* of the words/intentions of dozens of human authors. This extended miracle eliminates nearly all of the constitutional originalist's concerns about original intent: Each biblical text has a single meaning; no errors of transmission occurred in the communication of the Bible; and perfect harmony exists between all of its authors. These facts mean that, unlike the constitutional originalist, the biblical literalist has at his disposal robust access to the *analogia scriptura*, whereby he may freely compare Scripture with Scripture to discover additional clues about original *intent* in his quest for original *meaning*. In the last analysis, however, the difference between biblical literalism and constitutional originalism, is not one of method, but one of

[25]Carson, *Exegetical Fallacies*, 26–40, 54–55.

[26]Scalia, *A Matter of Interpretation*, 23.

[27]John M. Frame, *Systematic Theology: An Introduction to Christian Belief* (Phillipsburg, NJ: P&R, 2013), 562.

literary corpus. Methodological harmony between the two hermeneutical approaches is not disrupted.

Peter J. Smith and Robert W. Tuttle, whose article "Biblical Literalism and Constitutional Originalism" is currently the most careful comparison/contrast of the two approaches,[28] identify **another pair of contrasts** between biblical literalism and constitutional originalism. Unlike constitutional originalism, they observe, biblical literalism reads the Bible **(1) as an act of faith** in **(2) a God with universal jurisdiction**—God must be obeyed as a matter of absolute moral ought because he is always good, true, and right.[29] Constitutional originalists, no matter how assertive, have never gone so far as this. Smith and Tuttle's observations are unobjectionable and true so far as they go, but do not rise (and I borrow from E. D. Hirsch's overused and sometimes abused categories) to methodological differences in *discovering meaning*, but only in *making application*. The diverse scope of the authority of the Bible vs. the Constitution demands no substantive change to the method for the discovery of meaning in either document. In other words, he difference is again not one of hermeneutical method but of the nature of the literary corpus with which each party deals.

I conclude, preliminarily, that none of the most commonly observed differences between constitutional originalism and dispensational literalism amount to substantive differences of method.

Favorable Comparisons Between Constitutional Originalism and Dispensational Literalism

In addition to the contrasts detailed above, Smith and Tuttle also identify four key similarities between biblical literalism and constitutional originalism: "commitment to the text," "reading as restoration," a "populist impulse" i.e., the idea that ordinary people can understand ancient texts), and the "idea of a faithful interpreter."[30]

The **first** of these comparisons (commitment to the text) is notable, but ultimately irrelevant, I would argue, to our study. Constitutional originalists and biblical literalists are both deeply committed to their respective documents, but this says little about their quest for *meaning*. It simply says that, once meaning is discovered, both parties hold their discoveries in high regard.

The **second comparison** (reading as restoration), however, is a key point of comparison. Both constitutional originalists and dispensational literalists are committed to "construing" meaning principally from an analysis of the text itself. Both groups are disinclined to impose upon the plain meaning of the text anachronisms such as new cultural norms, new legislative factions (creeds?), the assured results of science, later revelation, new definitions of words, and hermeneutical devices unknown to the original readers. And while it is surely true that some dispensationalists have erred in making constructions that are too strict, damaging the credibility of the biblical literalism (much as Scalia lamented, above, the degradation of constitutional

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[28]*Notre Dame Law Review* 86 (2011): 693–763. Another incisive set of comparisons/contrasts may be discovered in Frank S. Ravitch's "Interpreting Scripture/Interpreting Law," *Michigan State Law Review* (2009): 377–85. The latter is quite favorable to synonymy between constitutional and biblical literalism, but treats both rather negatively.

[29]Smith and Tuttle denominate these as differences of (1) "the scope of and jurisdiction of the text" and of (2) "the duty of the interpreter" (ibid., 750–54).

[30]Ibid., 721–50.

originalism in the hands of strict constructionists[31]), this does not give credence to what Scalia calls "lenient constructions." The task of the interpreter is to reconstrue *original* meaning using principally the text in hand.

Smith and Tuttle's **third comparison** (a populist impulse) is also crucial to both approaches. The development of technical hermeneutical approaches that render meaning the property principally of scholars—those who have insights that exceed that of the common reader—is a concern for both. I speak here of the proliferation of critical hermeneutics (e.g., **literary** approaches such as rhetorical criticism, form criticism, genre criticism, source/redaction criticism, canonical criticism; **paleo-orthodox/denominational/theological** approaches; and **provincial/cultural** approaches such as feminist criticism, post-colonial criticism, liberation criticism, etc.), and closer at hand, the evangelical explosion of what Mike Horton has incisively denominated "type-aholism."[32] This is not to say that all of these approaches are equally troubling (indeed, several of these offer helpful insights for the hermeneutical task); still, to the degree that any of these approaches place the plain meaning of a text hopelessly out of reach for the ordinary reader, their value is overwrought. The constitutional originalist and the dispensational literalist agree that if the plain sense makes sense, we should seek no other sense.

The **fourth** concern (the idea of a faithful interpreter) is also a key similarity between constitutional originalism and biblical literalism. Both approaches agree that there is a fixed meaning in every text that does not evolve with the many progressive "movements" that dot our age. It is the task of the faithful interpreter to discover and to hold tenaciously to the original meaning of their respective documents if their cherished ideas (Western Civilization and Christianity, respectively) are to survive.

Conclusion

While it is surely impossible to posit strict synonymy between constitutional originalism and dispensational literalism, I believe that the *methods* employed both by constitutional originalists and by dispensationalist literalists have significant continuity. The label *originalist* as a descriptor of the traditional dispensational hermeneutical approach may not be a perfect one, but it brings us much closer to an accurately descriptive label for the dispensational hermeneutic than any other label has managed to do.

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[31] *A Matter of Interpretation*, 23.

[32] "A Covenant Theology Response" in *Covenantal and Dispensational Theologies: Four Views on the Continuity of Scripture*, ed. Brent E. Parker and Richard J. Lucas (Downers Grove, IL: InterVarsity Press, 2022), 183.

Appendix: Strict Textualism and Statutory Law in Biblical Hermeneutics

Since very little of the Bible falls under the category of statutory law (and most of what does is not a matter of serious hermeneutical debate), it might reasonably be concluded that strict textualism (which I have described as a subset of originalist hermeneutics suited to statutory law) has little to do with biblical hermeneutics. However, there is one important exception to this conclusion: *the biblical covenants*. Covenants are precise legal contracts to which parties are bound by oath, and which countenance no changes to their terms or beneficiaries apart from formal emendation (or even a total replacement), complete with new certifications. Unlike a casual promise to which changes and additions might be made, a covenant is extremely rigid—much like a marriage covenant or a "testamentary" will today.

In a course I teach on the topic I argue, were I to make a casual arrangement to watch a ballgame on TV with my younger son, that I could later include my elder son and make it a family event. I could even improve the plan by buying tickets and physically taking both boys to the game. Neither son would complain that I had violated any hermeneutical standards. The genre is a relaxed one that renders its application somewhat malleable (though, to be sure, there *are* limits: no appeal to genre will let me take my older son to the game and leave my younger son home).

But if the genre was a "last will and covenant," things would be different. If I leave everything to my older son in a duly signed and notarized will, a judge cannot decide after my demise to share my estate with another "referent" of his choosing, based on his beliefs about my unstated intentions. The only way he could make such a determination legally is to find either a formal amendment or a dissolution of the old covenant and creation of a new legal instrument, duly signed and notarized.

Even more seriously, if I sign a marriage contract of exclusive fidelity to one woman "until death us to part," I cannot later add another "referent." To do so would not be viewed as a matter of "complementary" magnanimity or valid *sensus plenior*, but a terrible miscarriage of justice and a crime (not to mention an act of evil).

Traditional dispensationalists argue that God's exclusive covenants with ethnic Israel operate the same way—and, furthermore, that there is no legal provision in the divine legal system *ever* to amend these covenants, because the original terms of the covenants include language of eternal and inalterable import.

This rigidity is established, I believe, in the literature, and is crucial to the traditional dispensational approach. As Roy Beacham notes, "Only the stated, contracting parties partook directly of the covenant responsibilities and benefits. To be named in the legal instrument as an enacting party to the instrument was to incur, legally, its responsibilities, advantages, and/or penalties. By nature and design, covenants were exclusive: they established an absolute and unique relationship of fealty between the contracting parties."[33] Moshe Weinfeld draws further attention to the marital language incorporated into the new covenant as uniquely designed to emphasize *exclusivity*. Both parties (the Suzerain and his vassals) are narrowly and deliberately named so as to prohibit expansion and emendation.[34]

While more work is in order to flesh out the suggestions made in this appendix, I believe it is a fruitful field for further research.

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[33]"The Church Has No Legal Relationship to or Participation in the New Covenant," update of paper presented at the Council on Dispensational Hermeneutics, Baptist Bible Seminary, Clarks Summit, PA (September 23, 2009), available at https://dispensationalcouncil.org/wp-content/uploads/2018/07/09_Roy_Beacham_ANE-Covenants-and-NC.pdf 11.

[34]*TDOT,* s.v. "בְּרִית, *b^{e}rîth*," 2:278.