

Father Richard P. McBrien

Essays in Theology



Lessons of 'original intent'

"Original intent" is a legal term referring to the intentions of those who originally gave us the U.S. Constitution. Attorney General Meese has argued that the U.S. Supreme Court must be guided always by the "original intent" of the Constitution's authors. According to Meese, the justices must not place their own policy preferences above the intentions of the Founding Fathers.

Mr. Meese's argument sounds reasonable at first hearing, but his opponents both on the bench and in the law schools first point out that the Constitution is a living document that has to be interpreted in the light of ever-changing circumstances.

Secondly, they note, it is impossible to identify the "original intent" of the authors, because the founders left so few records of their deliberations.

And, thirdly, we don't even know whose "original intent" we are supposed to follow — the drafters of the document; the members of the Constitutional Convention that debated, amended, and finally approved it; the members of the various state legislatures that ratified it after similar debate; or some combination thereof?

"Original intent," therefore, isn't so easy a concept to define as might first appear.

If it is difficult to determine what "original intent" might mean in constitutional law, which, after all, encompasses a period of only 200 years, how much more difficult is it to determine the "original intent" of the authors of the Bible and of the earliest teachings of the Church. These documents go back many centuries.

And yet Catholic and Protestant fundamentalists act as if one simply has to take in hand an English translation of the Bible or a centuries-old teaching of a council or pope to discover its meaning. It's as plain as the (English) words on the page.

Those who have done graduate-level studies in Scripture, theology, or church history know that it isn't as simple as it looks. For starters, these scholars know that the Bible wasn't written originally in English, and, furthermore, that there isn't even a single, unanimously accepted English translation of the Hebrew and Greek texts.

How are Christian fundamentalists so certain, then, that their interpretation of the Bible (or of official church teachings) is correct?

The current congressional investigations into the so-called Iran-Contra affair ought to be a lesson for all of us on this matter of interpretation and, more specifically, on the matter of trying to determine "original intent."

Congressman Edward Boland (D-Mass.)

is a member of the joint Senate-House committee. He is also the author of the famous Boland Amendment which is at the heart of the current controversy.

When people ask if President Reagan's men broke the law in diverting funds to the Nicaraguan Contras, the law in question is the Boland Amendment.

Defenders of the administration say that North, Poindexter, Secord, Casey and company did not break the law because the Boland Amendment covered only the CIA and agencies involved in intelligence activities. Since the National Security Council is not an intelligence agency, it was not covered by the Boland Amendment.

Other defenders of the administration say that, even if the Boland Amendment applied to the National Security Council, there were so many changes in the law and so many different versions that it is difficult, if not impossible, to say exactly what the law prohibited and when it prohibited it.

Enter Congressman Boland himself. He wrote the law. And there he is on the joint Senate-House committee that is investigating the whole sorry business.

Mr. Boland insists that his law was clear, that it *did* apply to the National Security Council, and that the activities in question were certainly illegal.

Did the administration's defenders at that point back off? Did they concede that Congressman Boland must know what he's talking about, given the fact that *he* wrote the law? After all, if anyone should know what the Boland Amendment meant, its author should.

No? Then so much for "original intent!"

The lesson is obvious. More is required for the interpretation of a document than the determination of the author's original intent.

One also has to study the entire process by which the document came into being, the context in which it was formulated, and the sequence of interpretations by many different people at many different times in many different circumstances.

Political conservatives have now implicitly conceded the point. It's never possible simply to pick up a document like the Constitution or the Boland Amendment and say, "This is what it means because the authors' original intent is clear and binding."

Religious conservatives have to concede the same point. There is more to reading the Bible than simply reading it — and in translation at that. And there is more to reading church doctrines than simply reading *them* — in translation.

Father Paul J. Cuddy

On the Right Side



The 'Trumansburg apostolate'

Q: Weren't you recently covering at the Trumansburg parish?

A.: Yes. It's 10 miles north of Ithaca, where I was stationed 50 years ago. Father Kanka invited me to care for the parish for several days while he spent a week with Fathers Miller, Schmidt and Egan at Duck Lake, near South Butler.

Filling in for absent priests often means adapting. Two Immaculate Heart of Mary Sisters, George and James, came from Philadelphia and conducted a summer vacation school. They had possession of the rectory, since it was available to the church and hall for the program. The first week I stayed at the Capuchin Friary of Interlaken, where Father Nelson Ruppert, a model Capuchin, and the energetic Brother Lawrence welcomed me. The second week I moved to Trumansburg, to the home of Dr. Paul and Eileen Van Demark, who were at their cottage at the lake. I taught young Paul in high school religious instructions 45 years ago. Now he is a distinguished professor of science at Cornell. His wife, Eileen, the solicitous mother hen, anxious that I be comfortable, had jammed the refrigerator with food. It was a kind of gypsy existence, but it keeps me adaptable.

Old friends from former years — secretary Pat Bowers, Rita Lawrence, Sheila Bassett and many others — saw to it that I was well taken care of. The routine work — Communion calls and hospital visitations — was easily taken care of. No meetings, no weddings, no instructions. And the people were welcoming.

Q: Any highlights?

A.: The school children had a special Mass Sunday at 10:30 a.m., with a procession preceding. They carried pots of smoking incense, candles, Mass vessels and banners. A gifted folk group furnished music for the hymns. Saturday, before evening Mass, a lady with a challenge in her eyes said: "Father, when it's hot Father Kanka gives a very short homily?" This was a low blow for a priest who was bursting to talk about God and His Mother, the Eucharist and the Church; about sin and virtue and purgatory. It was boiling hot, however, so the homily was brief. Instead, I distributed copies of an *On the Right Side* column on Medjugorje for each family. Since the Gospel was on sowing the seed, this seemed applicable. Now the whole parish knows something about the

happenings at Medjugorje in Yugoslavia.

A spin-off on the Medjugorje article was this: Monday afternoon the phone rang. A voice said: "You would hardly remember me, but I was a 21-year-old student at Sampson College when you were chaplain there in 1947. I did not realize it was you in church yesterday. This morning I picked up that article you passed out and realized that it was you. Could we have lunch Wednesday noon?" Then the caller reminded me of some things I am alleged to have said during my days at Sampson College. They greatly delighted the caller, but horrified my soul. I was more brash in those days than I am today.

Father Kress came Tuesday for an overnight and joined us for lunch at Wagner's Vineyard, near Valois, overlooking Seneca Lake. My caller friend, W.R. Teeter, caught me up with a resume of his past 40 years. He had left Sampson and continued studies for several years, specializing in German, which he teaches at Ithaca High School. He has strong familial ties in Germany. He is also deeply involved in real estate in the Ithaca area. Among other properties, he owns the former Cornell Newman House on Stewart Avenue, which was originally purchased by Father Don Cleary, the first full-time chaplain at Cornell. The Newman Center was abandoned later, during one of those swirling periods of the Cornell Catholic chaplaincy.

Since Father Kress had been to Germany several times, he and Mr. Teeter compared notes on places and historic events. I suggested that Teeter meet the current Newman chaplain, Father Michael Mahler, whose grandmother, Kunigunda Piehler, I knew when she resided at the beautiful Heritage at St. Ann's, Rochester. Mrs. Piehler was a majestic German dowager of deep religious faith who died not long ago at the age of 98. I held her in awe. And I am supposing that much of her Teutonic heritage resides in the person of Father Mahler.

Forty years is a long time, yet how quickly the bonds of friendship were forged in my few hours' meeting with Mr. Teeter. The conclusion of St. John's Gospel — "There are many other things which are not written" — applies to my Trumansburg apostolate. Many good things happened and were done. And the people appreciate the goodness and service of their pastor, Father Kanka.

Two bishops plan to preside at regional Marian Masses

Bishop Dennis W. Hickey and Bishop Matthew H. Clark will preside at two diocesan Marian Year celebrations scheduled to occur simultaneously in Auburn and Rochester on Saturday, August 15, the Feast of the Assumption of Mary.

Bishop Clark will celebrate the Eucharist at St. Mary's Church in Auburn, beginning at 1 p.m. Sacred Heart Cathedral will be the

site of a second Mass, which Bishop Hickey will celebrate beginning at 12:30 p.m.

People from both areas are invited to gather as pilgrims to share the Eucharist and honor the Mother of God in response to Pope John Paul II's invitation to pilgrimage during the Marian Year as expressed in his encyclical, "Mother of the Redeemer."

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