Herod grilles these two groups to find out the Messiah's location. The verb that relates to his query is the imperfect active indicative of **πυνθάνομαι, *punthanomai***. This imperfect tense can be interpreted in two but quite similar ways:

imperfect:

Inceptive: stresses beginning, but implies that the action continues. Herod began to question the priests and scribes with the idea that he continued to do so.

Iterative: describes an action as recurring at successive intervals in past time by the same agent. This would indicate that Herod asked the priests and scribes repeatedly where the Messiah was.[1]

Herod is anxious to find out where this child is because he is intent on taking quick action to root him out while, at the same time, not tip his hand to the Magi.

The chief priests were numerous. Because of paranoia regarding anyone who possessed any office of power other than himself, Herod constantly changed high priests so they could not gain a following. They were allowed to hold a position of spiritual influence but not long enough to acquire political power.

The scribes were the PhDs of theology with their knowledge of Old Testament Law, its prophets, and the oral law that later became the Talmud. Between these two groups of men Herod intended to get the answer to his question.

> **Matthew 2:4 -** Assembling together all the chief priests, who were Sadducees, and scribes, who were Pharisees, of the Jews, Herod grilled them about where the Christ was to be born. (CTL)
>
> **v. 5 -** They said to him, "In Bethlehem of Judea; for this is what has been written by the prophet:
>
> **v. 6 -** 'And you, Bethlehem, land of Judah, are by no means least among the leaders of Judah; for out of you shall come forth a Ruler Who will shepherd My people Israel.'" (NASB)

This group of religious leaders, the geniuses of Judaism, the Pooh-Bahs[2] of biblical prophecy, gets the answer right. They quote Micah 5:2 which nails the location, a piece of information that had been in the canon from the 700s B.C. which, combined with Daniel's prophecy in Daniel 9:24-26a, and Isaiah 7:14, should have alerted them to the proximity of the Savior's birth.

But they were ignorant because they were involved in a practice much like that made by the Supreme Court of the United States (SCOTUS) over the past century. This study note by C. I. Scofield illustrates the point:

[1] Daniel B. Wallace, *Greek Grammar: Beyond the Basics* (Grand Rapids: Zondervan, 1996), 544; 546.

[2] "Pooh-Bah, character in Gilbert and Sullivan's opera *The Mikado* (1885) bearing the title Lord-High-Everything-Else. A person in high position or of great influence" (*Merriam-Webster's Collegiate Dictionary*, 11th ed., s.v.: "pooh-bah").

> **The "scribes" were so called because it was their office to make copies of the Scriptures, to classify and teach the precepts of the oral law and to keep careful count of every letter in the Old Testament writings. To this legitimate work the teachers added a record of rabbinical decisions on questions of ritual (*Halachoth*); the new code resulting from those decisions (*Mishna*); the Hebrew sacred legends (*Gemara*, forming with the *Mishna*, the *Talmud*); commentaries on the Old Testament (*Midrashim*); reasonings upon these (*Hagada*); and, finally, mystical interpretations which found in Scripture meanings other than the grammatical, lexical, and obvious ones (the *Kabbala*), not unlike the allegorical method of Origen. In our Lord's time, the Pharisees considered it orthodox to receive this mass of writing which had been superimposed upon and had obscured the Scriptures.**[3]

The Israelites' Constitution was the Old Testament to which they were to remain loyal. The additions of all these extraneous "decisions," "codes," "legends," "commentaries," "reasonings," and "mystical interpretations and meanings," drowned out the clear testimony of the Word.

Blinded by legalistic analysis and allegorical interpretations, they were unable to perceive the revelations of the prophets who announced in precise terms the arrival of the true King of the Jews.

Whenever principles are based on writings outside of Scripture, then works replace grace since the original meaning of the biblical passage is made subservient to human interpretation.

Here's what I mean by this: words have meaning. The Holy Spirit inspired the writers of Scripture to convey divine revelation in precise terms drawn from each person's vocabulary and recorded through his own literary style. Under the guidance of the Spirit the words chosen presented the divine meaning. Understanding the meaning of the words used at the time the document was written results in the clear presentation of divine policy.

With this in mind, I contend that the Pharisees, Sadducees, and scribes were like modern activist justices: they ignored Scripture in favor of interpretations developed by human authorities, i.e., commentary trumped the original manuscripts.

SCOTUS has over the past century drifted into this approach in its decision making. The Constitution has been ignored as an "inconvenient truth" in favor of the "opinions" based on reference not to the text of the Constitution but rather to previous decisions rendered by other justices.

Therefore, case law has become the Talmud which establishes precedent while the Constitution is not even consulted. The principle of *stare decisis* anoints case law as an absolute standard that trumps all future arguments to the contrary, even the plain reading of the Constitution.

> **STARE DECISIS. Latin: to stand by that which was decided. Rule by which common law courts are reluctant to interfere with principles announced in former decisions and therefore rely upon judicial precedent as a compelling guide to decision of cases raising issues similar to those in previous cases.**[4]

---

[3] C. I. Scofield, ed. "The Role of the Scribes," in *The Scofield Study Bible: NASB* (New York: Oxford University Press, 2005), 1308n2:4.

[4] Steven H. Gifis, *Dictionary of Legal Terms: A Simplified Guide to the Language of Law*, 3d ed. (Hauppauge, NY: Barron's, 1998), 468.

The drift of SCOTUS into majority opinions wrought with legal mumbo jumbo[5] has made our legal system the enemy of the Constitution. However, some progress away from this problem is occurring but much work lies ahead if judicial activism is to be arrested. This excerpt from an article by Robert VerBruggen in the current issue of *The American Spectator* addresses these issues.

> **(W)hen observers call a judge "conservative," they typically mean that he is to some degree an *originalist*. That is, he believes that laws have reasonably definite meanings, set by the words within them, and that these meanings do not change over time. Originalists do not believe that the Constitution is "living," and most originalists agree that judges should avoid looking beyond the text of enacted laws, except to learn the context and meaning of the laws themselves.**
>
> **Originalism has come a long way in a very short time. During a speech at an *American Spectator* dinner last year, Justice Samuel Alito noted that there has been an explosion of judges citing dictionary definitions from the eras when laws passed. This reflects a desire to understand what laws meant when the people, through their representatives, consented to them.**
>
> **To understand originalism's rise, it helps to understand originalism's history. In the 18th century and most of the 19th, originalism was the only game in town. The Supreme Court almost never struck down the actions of the other branches of government. When the justices made decisions, the reasoning was typically grounded in the text of the Constitution, sometimes with extra evidence of the Founders' intentions from contemporary documents like the *Federalist Papers*.**
>
> **In the decades leading up to the New Deal, the Court increasingly struck down federal and state laws. Often its reasoning involved the dubious doctrine of "economic due process"—the idea that the Fourteenth Amendment's guarantee of "due process" guaranteed a right to freedom of contract, even though no such right is stated explicitly.**
>
> **In other cases, the Court … used the "due process" clause … to "incorporate"[6] the Bill of Rights to prevent the states, not just the federal government, from passing laws that curtail constitutional rights. This process … picked up steam in the 1940s. For example, 1947's *Everson v. Board of Education* prevented state-run schools from establishing religion.**
>
> **In addition to incorporating enumerated rights, justices protected, usually on due-process grounds, a slew of rights that weren't even mentioned in the Constitution. Starting in the 1960s, the Court found rights for birth control and abortion, and for criminals to be "Mirandized" before answering questions. The Court never became so bold as to admit it was making things up.** (p. 29)

[5] "Mumbo jumbo: 2b: complicated language usually intended to obscure and confuse. 3: unnecessarily involved and incomprehensible language. 4. Language, behavior, or beliefs based on superstition (*Merriam-Webster's Collegiate Dictionary*, 11th ed., s.v.: "mumbo jumbo").

[6] "Selective incorporation: the process by which certain of the guarantees expressed in the Bill of Rights become applicable to the states through the Fourteenth Amendment" (Gifis, *Dictionary of Legal Terms*, 448–49).

It was against this tide that originalism swam. The academy produced some critics of judicial activism, and even some mild successes. Professor Raoul Berger, a liberal, released *Government by Judiciary* in 1977, arguing that the Constitution requires judges to stick to the Framer's original intentions, and that the Warren Court's Fourteenth Amendment jurisprudence had strayed from those intentions. In 1982, the pro-originalism Federalist Society launched chapters at some of the nation's premier law schools.

It was tough going, though. "For many years the Constitution was hardly mentioned in constitutional law classes, let alone read," (Edwin) Meese, now chairman of the Center for Legal and Judicial Studies at the Heritage Foundation, remembers.

But political success led to academic recognition. With … Antonin Scalia fast becoming an influential member of the Supreme Court—and an increasingly public defender of originalism—the importance of understanding originalism was clear to anyone who wanted to practice constitutional law.

(O)riginalism's defenders refined the theory in response to its critics, moving originalism onto firmer ground. Princeton law professor Keith Whittington writes that these adjustments created a "New Originalism." (p. 30)

Adherents to the "Old Originalism," such as Berger, had often focused on original *intent*: what the writers of a given law meant to do. The obvious counterargument was that it is impossible for us to read the minds of the dead—and even if we could, we might find that different drafters wanted different things from the same laws. In response, many originalists, including Scalia, began emphasizing laws' original *public meaning* instead. The idea was that it didn't matter what the Framers subjectively wanted; they passed laws made up of words, and at that time, those words had specific, objective meanings. One can ascertain these meanings by consulting contemporary writings, particularly dictionaries.[7] (pp. 30–31)

[7] Robert VerBruggen, "Let's Get Original," *The American Spectator*, February 2010, 29–31.

