ABSTRACT. The key issue of this paper is that Professor Jackson’s attempt to shed new light on the notion of literal meaning is both stimulating and unconvincing. On the one hand he is perfectly right when he tries to draw attention to the shortcomings which affect most of the longstanding theories about legal interpretation. In fact, his essay is based on the footing that interpretation is under-determined by semantic rules and conventions. From such a point of view, as both rule-scepticism and the semantic conception are old fashioned and unsound, we need a comprehensive theory of textual structures. On the other hand, however, Professor Jackson concedes too much to rule-scepticism with his narrative approach. Furthermore, his too sharp opposition between the modern Western model of law, mainly a written law where so-called “literal meaning” is of the greatest importance (at least on an ideological ground), and the model of early Biblical law, where the meaning stems from the social context, does not hold completely. It is easy to find legal systems, for instance the later rabbinic law, which neither of Jackson’s two models can explain, since the reality of law is far more complex than we believe.

Jackson’s paper\(^1\) strikes me as very stimulating; it certainly furnishes us with an excellent starting point to begin to think critically about the problem of legal interpretation. Anticipating the conclusion I am going to draw below, I would like to argue that Jackson meets an important theoretical requirement, that is the need to overcome the difficulties of old schemes in which the debate about legal interpretation is still entangled. However, the way he does it is not fully convincing. Although his points are worth closer analysis, I shall limit myself here to a few remarks. My exposition will follow the following sequence: first, I shall deal with some perplexities of mine concerning Jackson’s thesis, then I shall strive to make clear why the author touches a question we cannot afford to ignore.

Jackson’s essay is systematically based on the opposition between the modern Western model of law – mainly a written law, to which is
applied a set of linguistic (semantic) rules and whose text bears a “literal meaning” which normally can (or should, if this ideal is pursued) be available in advance – and, on the other hand, the model of early Biblical law, where “court adjudication does not necessarily involve the application of linguistic rules” and, whenever “linguistic rules are used, their application is not to be identified with the notion of “literal meaning”, but rather with their narrative, contextual sense.”

Such an opposition appears to be too drastic from both an historical and a theoretical point of view.

To begin with, I feel confident that Jackson is only trying to illustrate two situations which, according to him, are to be seen as mere examples, or prototypes, which cast a special light on the discussion of legal interpretation; he is not seeking to set forth an entire account of legal evolution. We cannot, however, overlook the fact that between the extremes of the two models skilfully sketched by Jackson there is a middle way, since the purely narrative approach seems to apply to face-to-face society alone. Indeed, as soon as social relations grow just a little more complex, we need models of law different from the approach discernible in the early Biblical texts. And when I say “just a little more complex”, I am not considering exclusively the large-scale society of today, which is deeply oriented, on ideological grounds, towards the rule of law and seeks to make available the possibility of forecasting the decisions of the courts (however much, in practice, this aspiration may be frustrated by the law in action). On the contrary, the development of postbiblical Jewish law itself leads us to a legal system that is quite different from the modern one, but where written rules do play an essential role.

The rabbinic tradition, which became established many centuries after the period described by Jackson, but which, like that period, is far from contemporary law, couples the highest respect for the content of written texts with an unfettered interpretative practice.

As Scholem puts it, such a tradition fosters “a conservative attitude towards the holy text together with the utmost freedom of exegesis”. In fact, according to Luria (though Luria is not the only thinker who subscribes to this idea) “every word of the Torah has six hundred thousand “faces”, layers of meaning or points of entry, one for each son of Israel standing at the foot of Mount Sinai. Every face uniquely addresses one of them, who can see it and decipher it. Every man has his own, sole and exclusive possibility to approach revelation. Authority resides no longer in the unambiguous and irreplaceable “sense” of God’s message, but in