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The Trial of Nehor

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CHAPTER SEVEN

THE TRIAL OF NEHOR



About sixty years after the trial of Abinadi in the city of Nephi, several major political changes and legal reforms occurred in the land of Zarahemla. During that sixty-year interim, Alma the Elder, the righteous judge who had voiced his opinion that the charges against Abinadi should be dropped, had gathered a group of 450 followers and had led them northward from the land of Nephi to the capital city of Zarahemla, where Alma soon earned the trust and cooperation of Mosiah, the king of Zarahemla. Soon afterward, a man named Nehor had become popular in Zarahemla as a countercultural figure. When none of the four sons of King Mosiah were willing to be groomed as his successor, Mosiah (with the concurrence of the populace) replaced the kingship with “the reign of the judges”; and Alma’s son, Alma the Younger, was installed as the first chief judge in about 92 BC. Within a year, King Mosiah (at the age of sixty-three) and Alma the Elder (aged eighty-two) both died.

Against the backdrop of these complicated and significant developments, the trial of Nehor occurred in the very first year of the new regime in Zarahemla with Alma, the new head of state, sitting as a sole judge. The trial of Nehor is a classic case of a newly installed judge having to make a decision that, either way, was certain to offend and be unpopular with one group or another within his community. Courageously, Alma issued a verdict that took a strong stand against any personal use of violence in trying to engineer social change or resolve intersectional differences within the Nephite capital.

Political and Religious Pluralism in Zarahemla

The trial of Nehor must be understood against its historical and social contexts. At this time, the land of Zarahemla had become a very diverse place because of several major demographic changes. This development presented the Nephite leaders with a number of political and religious

challenges. King Mosiah's reign, from about 124 to 91 BC, was marked by an influx of several groups of people into his territories in the land of Zarahemla. These new arrivals of political and religious refugees, most of whom were not assimilated or did not blend easily into the established community, resulted in increased cultural pluralism and heightened political instability in Zarahemla. The Nephites, although they were the rulers, had always been and would continue to be in the minority. There were "not so many . . . who were descendants of Nephi, as there were of the people of Zarahemla, who was a descendant of Mulek, and those who came with him" (Mosiah 25:2). Furthermore, the fact that the Nephites kept track of their lineages and tribal group identities (as Nephites, Jacobites, Josephites, and Zoramites,¹ as well as descendants of Nephi and Zarahemla) indicates that the Nephites and the Mulekites had not merged completely into one undifferentiated society. For three generations under Kings Mosiah the first, Benjamin, and Mosiah the second, most of the descendants of Zarahemla (generally called Mulekites by modern readers) had been willing hosts to the Nephites; evidently, the superior Nephite language skills, impressive law codes, altruistic ideals, and long-standing spiritual traditions made them attractive and effective rulers.

Some of the Mulekites, however, must have soon come to the realization that their own ancestors had come not only from the tribe of Judah but also from the royal line of David, through Zedekiah, the king of Jerusalem. One may suspect that, before too long, some of those Mulekites began asserting their inherited rights of kingship, if only in private. People of this persuasion may eventually have associated with those who wanted to install Amlici as king (Alma 2:2) and who, under him, would take up arms in civil revolt against Alma in the fifth year of the reign of the judges in Zarahemla, soon after the abandonment of the kingship by Mosiah. These Mulekitish people may also have surfaced again, a few years later, in the form of the persistent royalist undercurrent of the so-called king-men (51:5). Interestingly, the root letters *m-l-k* in the Hebrew word for king, *melek*, may linguistically or at least phonetically have linked together these three groups (Mulekites, Amlicites, and king-men, and probably others)²

1. Lehi divided his clan into seven groups or tribes. "Seven Tribes: An Aspect of Lehi's Legacy," in *Reexploring the Book of Mormon*, ed. John W. Welch (Salt Lake City: Deseret Book, 1990), 93–95. This tribal organization persisted in Nephite society from the time of Lehi and his son Jacob in the sixth century BC even until the final generation of Mormon in the fourth century after Christ (2 Nephi 1:28–2:1; 3:1; Jacob 1:13; 4 Nephi 1:36; Mormon 1:8).

2. The Amalekites—also variously spelled as *Amelicites* (Alma 24:1), *Amaleckites* (43:6), *Amelekites* (43:6), *Amalickites* (43:13), and *Amelickites* (43:20) in the original manuscript of the Book of Mormon—and Amalickiah may also be associated with one or more of these groups. See

socially and politically. The strength of the Mulekite undercurrent is openly evident two generations later when a Mulekite named Coriantumr, who was of royal blood, being “a descendant of [King] Zarahemla” (Helaman 1:15), opportunistically seized a moment of great weakness in the land of Zarahemla upon the execution of the conspirator Paanchi³ and the ensuing assassination of the ruling Nephite chief judge Pahoran. Coriantumr, the would-be heir, marched straight into the heart of the land of Zarahemla with a numerous host, took over the city, and smashed the new Nephite chief judge Pacumeni “against the wall,” killing him (vv. 17–21).

Unlike the Mulekites, who descended from the royal house of David, the Nephites came from the tribe of Manasseh (Alma 10:3) and had no obvious precedents to reinforce any claim to the throne they may have wanted to assert. Their strongest claim to the kingship devolved through their patriarchal ancestor Nephi (1 Nephi 2:22; Jacob 1:9–11), and yet he himself had become a king reluctantly, opposing the ideology of kingship (2 Nephi 5:18–19); and his traditional royal lands had been abandoned by his successors and retaken by Kings Zeniff, Noah, and Limhi. Nevertheless, the Nephites in Zarahemla continued to assert that “the kingdom had been conferred upon none but those who were descendants of Nephi” (Mosiah 25:13).

Adding to the demographic complexity, the people of Limhi had made a dramatic escape from the city of Nephi and arrived in the land of Zarahemla shortly after Mosiah began his reign as king (Mosiah 22:13). The Limhites became Mosiah’s subjects, but these righteous, quiet people seem to have settled and remained separate from the city of Zarahemla. They lived in the valley of Gideon, mentioned in Alma 6:7, which appears to have been named after the Limhite warrior named Gideon. If normal social conditions prevailed among the diverse populations in the land of Zarahemla, it is unlikely that many of these newcomers or refugees were fully assimilated as equal citizens into the upper levels of Nephite society. Although Limhi had earlier been named king by his people (Mosiah 19:26), he and his family and followers apparently voluntarily surrendered

J. Christopher Conkling, “Alma’s Enemies: The Case of the Lamanites, Amlicites, and Mysterious Amalekites,” *Journal of Book of Mormon Studies* 14, no. 1 (2005): 108–17. The textual history of the variant spellings of *Amalekites*, which Royal Skousen argues is a misspelling of *Amlicites*, is found in his *The Original Manuscript of the Book of Mormon* (Provo, UT: FARMS, 2001) under the passages cited and in his *Analysis of Variants of the Book of Mormon, Part Three: Mosiah 17–Alma 20* (Provo, UT: FARMS, 2006) under Alma 2:11–12, pp. 1606–9. Just as the name *Gadianton* was used to refer to several similar robber groups under different leaders, the name *Amlicites* seems to have been used to identify several dissident king groups.

3. The case of Paanchi is discussed in chapter 11 below.

their claim to kingship; after all, they knew from their own firsthand experiences the kinds of problems that had been foisted upon them by the manipulative and overreaching administration of King Noah (Mosiah 11:3–4). Accordingly, they would not likely have been among those who were agitating for the reinstatement of the kingship after the law reforms of Mosiah.

To compound matters further, the arrival of another group of people led by Alma the Elder added to the growing political diversity in Zarahemla, and their piety introduced new religious dimensions into the situation. The covenantal people of Alma had been miraculously delivered from bondage and were readily accepted in Zarahemla by the Nephites (Mosiah 24:25). Almost immediately, the young King Mosiah invited Alma to go “from one body to another” preaching and baptizing (25:15). Many converts entered into Alma’s order, and soon Mosiah granted Alma the extraordinary privilege of “establish[ing] churches throughout all the land of Zarahemla . . . and gave him power to ordain priests and teachers over every church” (v. 19), though little is known about the relationship between these church units and the larger organization of the kingdom ruled by Mosiah. While Mosiah righteously desired to encourage Alma’s old and new converts to keep the covenant or vow they had made with God,⁴ the king created several political problems by permitting them this exceptional status. Since the temple of Zarahemla was still functioning, Mosiah weakened his own interests and those of his temple priests by allowing Alma to ordain other priests, especially when they taught that priests should not be supported by the people but “should labor with their own hands for their support” (18:24). Economically, Mosiah encouraged social fragmentation by permitting Alma to create separate enclaves of religious covenanters, especially when they shared their property principally among themselves according to their respective needs and abilities (v. 29), which practice differed in several ways from the requirement imposed by King Benjamin that all people under his jurisdiction should share of their substance with the beggar in dire need who petitions for help (4:16). King Mosiah’s privileging of Alma’s enclave must have set a powerful and somewhat awkward precedent when less desirable religious,

4. On the importance of religious vows among ancient Israelites, see Numbers 30:1–15. The law required that “if a man vow a vow unto the Lord, or swear an oath to bind his soul with a bond; he shall not break his word, he shall do according to all that proceedeth out of his mouth” (v. 2). The potency of oaths, vows, or covenants among the Nephites is well evidenced in the Book of Mormon in the oath of Nephi to Zoram (1 Nephi 4:33), in the covenant of the Ammonites (Alma 24:18–22), in the exchange between Moroni and Zerahemnah (Alma 44:8–15), and elsewhere.

hereditary, or political groups, such as Nehor's followers, began to seek or assert the right to equal privileges and circumstances.

During the next twenty years, from about 115 to 95 BC, strong social undercurrents began to divide the people in Zarahemla very deeply. Already, powerful political factions were forming. For a time, the four sons of Mosiah and Alma the Younger joined forces with those who sought to destroy Alma the Elder's church (Mosiah 27:8). This group of dissenters rejected the Nephite traditions, did not believe in the resurrection, denied the coming of Christ, refused to be baptized by Alma, and would not pray (26:1–4). It seems likely that Nehor would have been a rising leader among the agitators who militated against the church founded by Alma, the members of which had become "a separate people as to their faith, and remained so ever after" (v. 4). This was a precarious time for the Nephite rulers and for Alma the Elder. Their political, social, and religious positions must have hung in the balance literally from day to day.

From Kingship to Judgeship

When none of his four sons were willing to step into his shoes, King Mosiah responded to the political problems at hand by abandoning the formal designation of kingship and by convincing the people to adopt a new style of government led by a chief judge who was confirmed by the voice of the people (Mosiah 29). Mosiah's solution was the most sweeping judicial reform in Nephite history.⁵ His new system for the administration of justice contained features that would have made it appealing to every interest group in the land of Zarahemla.

For one thing, dropping the title of king would have appealed readily to Limhi's group and to Alma's followers, who remembered vividly the consequences of the perversions and excesses of kingship under Noah. Even if this change would prove to be more nominal and cosmetic than substantive, it would have immediately neutralized any arguments between Nephites and Mulekites over kingship claims.

Significant innovations at the lower court level would have appealed to those who favored dramatic change, while those who were happy with the status quo would have recognized that the chief judgeship was truly not much different than the kingship had been. The chief judge continued to serve as the governing administrator, as the commander in chief of the army, and as the high priest; accordingly, Alma retained the royal insignia of the ball, the sword, and the sacred books, as the Nephite kings had done since the time they began to rule in Zarahemla a century earlier (Mosiah 1:16).

5. See generally "The Law of Mosiah," in Welch, *Reexploring the Book of Mormon*, 158–61.

The reforms of Mosiah changed the administration of justice procedurally and organizationally but not substantively, for the judges under the new system were required to continue to judge “according to the law which has been given” (Mosiah 29:28), presumably meaning “the laws which have been given you by our fathers, which are correct, and which were given them by the hand of the Lord” (v. 25). This differentiation would have appealed to the people in the land who considered themselves substantively bound by their former oaths and vows, such as the covenants made by the people thirty-three years earlier under King Benjamin (5:6; 6:3; 26:1; 29:46) or by the followers of Alma the Elder.

Moreover, Mosiah’s proposal appeared to have adequate checks to ensure that the lower judges would judge according to the traditional law. The lower judges could be sanctioned by a higher judge for judicial misconduct (e.g., violating any of the judicial requirements articulated in Exodus 23:1–9), and the higher judges could be subjected to judgment by some of the lower judges at the behest of the people (Mosiah 29:28–29). This feature would have been attractive to all groups, each of whom would have had concerns about appearing before judges who were not accountable to higher authority in one way or another to judge righteously. Nothing in Nephite history indicates, however, that the higher judges had the authority to overrule a decision of a lower judge on substantive grounds through a process of appellate review, although it would seem likely that an aberrant ruling would be vacated if the judge involved was unseated for judicial irregularities or unethical behavior.

The law of Mosiah also involved the people to some extent in the installation of these judges (Mosiah 29:25). Although it is not clear who was entitled to vote (probably only adult males, as was universally the case in ancient and premodern societies), the voice of the people was somehow heard. It is also unclear whether the judges were elected and empowered to serve only by and in local neighborhoods or if they held citywide or landwide offices, for the record is silent about the procedures followed in any actual elections and installations of these judges. In the case of the chief judge, it appears that he was named or nominated with some kind of presumptive claim of power and then was given power by the high priest or outgoing chief judge after having been acknowledged by the voice of the people. For example, in the case of Nephihah, who became the second chief judge, Alma selected him as “a wise man who was among the elders of the church, and gave him power according to the voice of the people” (Alma 4:16).

Nevertheless, to those in Zarahemla who favored the idea of democratization, Mosiah’s reform not only offered continuity with the theological

values and covenant laid down by King Benjamin, but it also took strong practical steps in the direction of popular reform. In many ways, Benjamin's speech had paved the way theologically, a generation earlier, for Mosiah's democratizing reform, as Benjamin had created within the land of Zarahemla a profound sense of equality among all his people, a universal humiliation of all of them before God, an opportunity for all to participate in the royal covenant with God, and a popular sharing of blessings and responsibilities that were usually reserved only to the king.⁶

Additionally, Mosiah's system appeared to be fair by making every person individually (not tribally or collectively) accountable for his actions (Mosiah 29:31), and every man was given "an equal chance throughout all the land; yea, and every man expressed a willingness to answer for his own sins" (v. 38), whatever that entailed.

His program also appeared to be practicable in the sense that it provided for judges and legal assistants to receive payment for their services (Alma 11:1), even though this compensatory system would quickly be abused in the city of Ammonihah (v. 20).

Finally, and most significantly, establishing a free sphere for beliefs (Alma 1:17; 30:7) would have appealed to parties across the spectrum. The rule that "the law could have no power on any man for his belief" (1:17) would have appealed just as much to Alma the Elder and his observant followers as to Nehor and the dissidents who followed him. For all of these reasons, Mosiah's reform was embraced readily by a strong majority of the people in his land.

Before the approval of Mosiah's reforms by the voice of the people, however, the political situation in Zarahemla must have been very tense. The four sons of Mosiah had each chosen to leave the land of Zarahemla (for fourteen years, as it turned out) rather than stay and become king. Besides sincerely desiring to preach the gospel to the Lamanites, these four apparent heirs to the throne may have wanted to put distance between themselves and any political factions that might have tried to pressure them to become king. They also may have wanted to get themselves out of harm's way, for they did not go out as royal ambassadors but preferred to remain anonymous, in Ammon's case even assuming the role of servant in the household of a Lamanite king (Alma 17:25). The undercurrents of political unrest in Zarahemla abated for a short time after the reforms of

6. John W. Welch, "Democratizing Forces in King Benjamin's Speech," in *Pressing Forward with the Book of Mormon*, ed. John W. Welch and Melvin J. Thorne (Provo, UT: FARMS, 1999), 110–26; and "Benjamin's Speech: A Masterful Oration," in *King Benjamin's Speech: "That Ye May Learn Wisdom,"* ed. John W. Welch and Stephen D. Ricks (Provo, UT: FARMS, 1998), 58–59.

Mosiah, but by the beginning of only the fifth year of the new regime, a full-scale civil war had erupted (2:1); such a massive revolution probably could not have broken out so suddenly had troubles not been brewing for several years.

In the face of these tensions and potentials for discord, Alma the Younger was confirmed or approved by the voice of the people as “the first and chief judge” (Mosiah 29:44; see the ancient heading at the beginning of the book of Alma). Alma the Younger was undoubtedly well qualified for the job, but he was also what we might call an ideal compromise candidate. When he became a member of his father’s group, he effectively positioned himself outside of any disputes over vested interests that may have existed between the main body of Nephites and the majority Mulekite population; his father’s service as a priest in the city of Nephi gave him religious and political ties to the Limhites; and Alma the Younger’s prior efforts to destroy the churches established by his father may have given the Nehorites hope that Alma would still be subtly influenced by, or at least compromised by, his youthful predilections.

Very shortly after Alma the Younger was appointed, Alma the Elder died (Mosiah 29:45). His death at age eighty-two was probably not unexpected, but the timing would certainly have been unsettling. King Mosiah, the son of Benjamin, also died in that same year, at the age of sixty-three (v. 46), further weakening the nascent regime. Suddenly, the freshman chief judge, himself still a relatively young man (probably in his mid-thirties), found himself without the authoritative support of his father; without the experienced advice of Mosiah, his former regent; and without the active association of his four closest and most influential friends, the four sons of Mosiah.

The Rise of Nehor

Sensing an opportunity under the equality promised by the new legal regime, and perhaps also seizing a moment of political shakiness as the reign of the judges was in its infancy, Nehor took advantage of the situation. This provocative leader of a rapidly growing countercultural movement “began to establish” a new religious group (Alma 1:6), one openly opposed to the covenantal communities organized by Alma. Rooted and standing principally in opposition to Alma’s ecclesiastical program, the Nehorite movement apparently began by drawing together those who wanted to separate themselves forever as a distinct people, who refused to pray, and who rejected the practice of baptism for the cleansing of sins and the adoption of a personal covenant of righteous living (Mosiah 26:4).

It should be noted, however, that unlike Korihor (Alma 30),⁷ Nehor was neither an agnostic nor an atheist; and unlike Sherem,⁸ he was not a proponent of the law of Moses. Nehor accepted the existence of God: he believed that God had created the world, and he termed his teachings “the word of God” (1:3), to be used for the worship of God (11:24; 21:6).

Working openly and publicly, Nehor came out in direct opposition to some of Alma’s teachings, especially by arguing that priests “ought not to labor with their hands” (Alma 1:3; compare 30:53), possibly citing the Israelite practice of supporting the Levites in defense of his position (Numbers 35:2–8). It seems logical to assume that he also argued that the reforms of Mosiah, which provided wages for judges, had not gone far enough in compensating judicial officers but should also have provided support for religious leaders, much as the system under the kingship would have financed the operation of the temple by priests in the city. One can only wonder what happened to the “holy prophets” and temple officials, who assisted King Benjamin and were perhaps even supported by him only a generation earlier (Words of Mormon 1:16), once the king was eliminated from the political and religious landscape. But the fact that Nehor adamantly rejected Alma’s high priesthood after the holy order of the Son of God seems clear from Alma’s otherwise odd, last-ditch effort to expound the doctrine of the priesthood to his Nehorite accusers in the city of Ammonihah a few years later (Alma 12–13).

Other Nehorite doctrines can be culled from the book of Alma, sometimes from the text and other times by reading between the lines. Nehorite threads run through the stated and unstated assumptions of Alma’s opponents in Ammonihah (Alma 9–16); in several of the teachings of Korihor (Alma 30); and in the false ideas that Alma’s wayward son, Corianton, had for a time adopted (Alma 39). In particular, Alma 1:4 states that Nehor (or those who appear to have been influenced by him) taught that all mankind would be saved, that God had “redeemed all men,” and that people should not fear and tremble but should lift up their heads and rejoice, for “all men should have eternal life.” Nehor and his followers denied the existence of sin and punishment (1:4; 11:43–45; 39:4), rejected prophecy and the Nephite traditions (8:11; 21:8; 30:13, 24; 39:17), and disavowed the resurrection and final judgment (11:41–43; 21:9; 30:18; 40:1), arguing that God had created all people and would therefore equally restore them all through his redemption (1:4; 30:25; 41:1).

7. See the discussion in chapter 9 below.

8. Discussed in chapter 5 above.

Legal Issues Raised by the Slaying of Gideon

One day, still in the inaugural year of the reign of judges, while Nehor was going to preach to his followers, he encountered the elderly Limhite warrior named Gideon, who had become one of the officers (a teacher) in Alma's church (Alma 1:7) in addition to being a respected former military leader who had personally fought against the wicked King Noah. A dispute arose between Gideon and Nehor concerning the teachings of Nehor, a fight ensued, and the aged Gideon was killed. Nehor "began to contend with him sharply, that he might lead away the people of the church; but [Gideon] withstood him, admonishing him with the words of God. . . . [Nehor] was wroth with Gideon, and drew his sword and began to smite him. Now Gideon being stricken with many years, therefore he was not able to withstand his blows, therefore he was slain by the sword" (vv. 7, 9).

When Nehor was brought before Alma to be judged, his trial was a major test of Alma's political and judicial power in the fledgling reign of the judges. How would the new system of judges work? What would the power of the chief judge be? Would Alma be able to enforce his verdicts? Did the lower judges or the voice of the people (Mosiah 29:28–29) have jurisdiction over a landmark case such as this, or did the chief judge have authority to hear this case entirely on his own? How would the recently enunciated principle of equality (v. 38) and the rubric that a person could not be punished for his beliefs (Alma 1:17) be interpreted and applied in actual practice? Did members of one church in the land of Zarahemla still have the duty (as Israelites had under the law of Moses; Leviticus 5:1) to prevent other people in the land from trespassing the laws of God or of the state, or had the reforms of Mosiah relieved them of this duty in the interests of allowing each person to be accountable only to God for his iniquities or sins? All these were open questions that would be tested and settled, intentionally or unintentionally, by the precedent-setting trial of Nehor. Thus this important trial, which arose in the first year of the reign of judges, stands prominently at the head of the book of Alma, which book we may well call "the book of the reign of the righteous judges." This crucial proceeding and decision, like *Marbury v. Madison*,⁹ defined and established the scope of the judicial powers of the Nephite chief judgeship.

9. United States Supreme Court, 1 Cranch 137 (1803); this was the first case to hold an act of Congress invalid, thereby establishing the power of the Supreme Court to declare unconstitutional any action of government that exceeded the limits established by the Constitution. Few cases ever decided by the United States Supreme Court have had greater impact than this landmark case, for it defined the powers of the respective branches of the federal government itself.

Gideon's Admonition of Nehor

The fray began when Gideon “admonish[ed Nehor] with the words of God” (Alma 1:7). Gideon’s words may or may not have had any legal significance at the time they were spoken. On the one hand, the sharp words between Nehor and Gideon may have simply been a heated theological debate. On the other hand, these words may have served a legal function. The law of Jehoshaphat, for example, required “judges in all the land” to warn “your brethren that dwell in their cities . . . that they trespass not against the Lord” (2 Chronicles 19:5, 10).¹⁰ This principle, that potential offenders should be warned, remained a powerful element in Jewish law down through the ages, and it certainly could have found its way into Nephite law as well. The warning requirement survived and developed to such an extent under Jewish law that no person could be convicted of a crime unless the witnesses could testify that they had warned the offender that he was breaking the law and had put him on notice of what the punishment would be.¹¹ Thus Gideon’s admonition may have constituted a formal legal warning or a threat to commence litigation, calling upon God to manifest his displeasure with Nehor. In addition, it is possible that Gideon warned Nehor against leading people into the worship of false gods (Deuteronomy 13:6) or accused him of violating some other traditional religious law. In any event, something about Gideon’s words was upsetting enough to Nehor that Nehor resorted to violence.

If Gideon’s words were in fact some kind of legal warning coming from an officer of Alma’s church, this would explain why Nehor found those words to be so offensive. Perhaps he saw Gideon’s bold declarations as a threat to the “equal chance” that had been promised to all people in the land by the reform of Mosiah (Mosiah 29:38). Even if Gideon did not intend his words to be a formal legal warning, Alma had good reason to mention this detail in his account of the trial of Nehor, for this factor shows that Nehor was legally warned and adequately admonished before he grew angry. Therefore, Nehor could have been legally expected to control himself more than he did.

10. For more information on warnings, see Elias J. Bickerman, “The Warning Inscriptions of Herod’s Temple,” *Jewish Quarterly Review* 37, no. 4 (1947): 387–405; and Peretz Segal, “The Penalty of the Warning Inscription from the Temple of Jerusalem,” *Israel Exploration Journal* 39, nos. 1–2 (1989): 79–84.

11. Haim H. Cohn, “Penal Law,” in *The Principles of Jewish Law*, ed. Menachem Elon (Jerusalem: Keter, 1975), 473–74. Babylonian Talmud (hereafter TB) *Sanhedrin* 8b.

Arrest by the People of the Church

The text does not say how or where, but sometime soon after the slaying of Gideon, Nehor was apprehended “by the people of the church” (Alma 1:10), who were carrying out a normal civilian right and duty.¹² Had the captors been present when Gideon spoke out against Nehor? There seem to have been plenty of witnesses to the killing. If several men were already present at that time, then it would seem that Gideon’s verbal confrontation with Nehor was planned. Gideon’s delegation may have been formally sent by someone to oppose or moderate Nehor as he went about preaching. Or it may have been an accidental private encounter.

Apparently Nehor did not resist the arrest, for Alma does not say that Nehor was “bound” according to the normal practice seen in other cases (e.g., the apprehending of Ammon and his embassy in Mosiah 7:7 and the arrests of Alma and Amulek in Alma 14:4, of Ammon in Alma 17:20, and of Nephi in Helaman 9:19). Nor does it seem that Nehor’s followers objected to the arrest. Apparently, Nehor was fairly confident in his legal and influential position, and thus he submitted to the trial without resistance.

Of course, Nehor would have to defend himself in this trial. Indeed, Alma’s account states that Nehor “pleaded for himself” (Alma 1:11). As was the case in most ancient criminal trials, defendants had to appear on their own behalf and had no attorneys to represent them.¹³

Nehor’s Defenses

The most important information for understanding the substantive issues and legal dynamics of this trial was, unfortunately, either unreported by Alma in his personal records or omitted by the compiler or abridger of the book of Alma. While the record states that Nehor’s arguments were presented “with much boldness” (Alma 1:11), it tells nothing about the content of his forceful arguments. One is left to wonder what sorts of defenses he could have raised. Here was a public figure who had killed an old man with a sword, yet he mounted a courageous and vigorous defense for himself. What could he have said? Several viable possibilities present themselves:

1. Nehor may have raised a jurisdictional issue, arguing that he had been taken to the wrong court. The law of Mosiah provided specifically

12. See above on the arrest of Abinadi. See also Pietro Bovati, *Re-Establishing Justice: Legal Terms, Concepts and Procedures in the Hebrew Bible* (Sheffield, England: JSOT Press, 1994), 217–22.

13. See sources cited above in connection with the trial of Abinadi. As discussed below, the role of the lawyers and officials in the city of Ammonihah is somewhat unclear; in any event, their corrupt conduct was not contemplated, let alone authorized, by the law of Mosiah.

that there should be *lower* judges and that *they* would judge the people (Mosiah 29:25, 28). The only stated role of the higher judges was to see that the lower judges judged “according to the law” (v. 28). Accordingly, Nehor may have taken the position that he should have been tried by lower judges, possibly in a district friendly to him, especially if he had been “taken” some distance to appear before Alma (Alma 1:10). Such novel jurisdictional and procedural questions, however, were probably still open to interpretation as a case of first impression under the new legal system established by Mosiah, for the text goes out of its way to point out that this was “the first time” that such a case had arisen (v. 12). Thus it set an important precedent when Alma, the chief judge, took original jurisdiction over Nehor. This action claimed or expanded the power of the highest judge beyond anything stated explicitly in the reforms of Mosiah 29. His verdict stood as a ruling of the chief judge, without the involvement of any other judges and without any appeal to the voice of the people at large. Under such circumstances, certainly Nehor could have questioned the fairness or “equity” (Alma 10:21; Helaman 3:20; 3:37; 3 Nephi 6:4) of this treatment, especially since his accusers were “members of the church” who had selected their own leader to be Nehor’s judge.

2. Similarly, Nehor may have argued that he was at least entitled to be tried by more than one judge. Jethro cautioned Moses strongly against serving as a sole judge and advised him to delegate judicial duties to many others: “Thou shalt provide out of all the people able men . . . and let them judge the people at all seasons” (Exodus 18:21–22). Multiple judges, therefore, became normally expected, if not required, under Israelite and Jewish law (three, twenty-three, seventy-one) to hear, debate, and decide cases—as with the elders at the gate in the action of Boaz purchasing the estate of Elimelech before “the elders” (Ruth 4:9), as in the trial of Naboth before “the elders and the nobles” at Megiddo (1 Kings 21:11), or in the trial of Jeremiah before the “princes . . . and priests” at Jerusalem (Jeremiah 26:16).¹⁴ In the Book of Mormon, a council of priests had earlier served as judges in the trial of Abinadi (Mosiah 12:17), but as far as we know, the fledgling law of Mosiah had spoken only of *judges* who would judge (29:25, 28). Initially, nothing in the law of Mosiah seems to have expressly addressed the question of whether the chief judge could decide a case sitting as a sole justice. Thus when Alma proceeded to rule in Nehor’s

14. Local courts may “have consisted of a single judge, sitting perhaps together with the elders,” but “the court at the central sanctuary” utilized “a number of judges.” Zeev W. Falk, *Hebrew Law in Biblical Times*, 2nd ed. (Provo, UT: Brigham Young University Press; Winona Lake, IN: Eisenbrauns, 2001), 49.

case by himself, he set a powerful precedent regarding the supreme office of the chief judge—a precedent that was apparently followed throughout the reign of the judges.¹⁵ Indeed, Alma had the precedents of Numbers 25:1–5 and Deuteronomy 25:1–3 on his side: in those criminal cases, the judge acted alone.¹⁶ Perhaps ironically, Alma and Amulek would later be brought to stand “before the [single] chief judge of the [Nehorite] land” of Ammonihah (Alma 14:4).

3. Although self-defense was an excuse for killing an attacker,¹⁷ it is unlikely that Nehor argued that he killed the elderly Gideon in self-defense, even though Gideon may have been armed¹⁸ and was certainly well known as a strong and aggressive warrior (Mosiah 19:5, 18, 22). Alma’s statement of the facts in this case leaves no doubt that Nehor was the aggressor and that the aged Gideon posed no serious physical threat to Nehor, who was “large, and was noted for his much strength” (Alma 1:2, 9).

Perhaps, however, Nehor attempted to assert other mitigating circumstances. He had become very angry (Alma 1:9). Could he have argued that his action was “unintentional,” in the heat of passion? Probably not. While Jewish law recognized a broad range of exemptions from criminal responsibility, “much wider in Jewish than in other systems of law,”¹⁹ little support can be found in Israelite law for the idea that anger ever constituted duress, excusing conduct that is otherwise criminal. Indeed, Numbers 35:20–22 mentions “hatred” and “enmity” as culpable states of mind in cases of capital homicide, but anger is never contemplated under the rubric of killing any person “at unawares” (v. 11). That in Nephite culture anger was presumptively reprehensible and punishable is reflected in Ammon’s admonition to Lamoni’s father: “If thou shouldst fall at this time, in thine anger, thy soul could not be saved” (Alma 20:17).

15. See the appearance of Korihor before a single chief judge in the cities of Jershon, Gideon, and Zarahemla, although in those cities these chief judges were sometimes assisted by a high priest.

16. Falk, *Hebrew Law in Biblical Times*, 49.

17. Cohn, “Penal Law,” 474.

18. It seems that he was armed or at least was wearing some kind of protective armor, since he withstood several blows before he was killed (Alma 1:9). His disadvantage was likely due to his advanced age, which would explain why his age is mentioned. However, Gideon’s armor or weapons, assuming he had some, goes unnoted, and the absence of any mention of his being armed strengthens the case that Gideon was seen by Alma as having been completely innocent.

19. Cohn, “Penal Law,” 471. For further information on intent, see Gary A. Anderson, “Intentional and Unintentional Sin in the Dead Sea Scrolls,” in *Pomegranates and Golden Bells*, ed. David P. Wright, David Noel Freedman, and Avi Hurvitz (Winona Lake, IN: Eisenbrauns, 1995), 49–64; and David Daube, *Sin, Ignorance and Forgiveness in the Bible* (London: Liberal Jewish Synagogue, 1960).

4. More persuasively, Nehor may have argued before Alma's court that he had not committed the crime of intentional homicide. Paradigmatically speaking, the crime of murder under the law of Moses required a high degree of intent.²⁰ Preplanning or some form of "lying in wait" (Exodus 21:13; Numbers 35:20) or "hatred" against an enemy (Numbers 35:20–22) was a typical element of this crime (note the word *deliberately*, i.e., "with deliberation," in 2 Nephi 9:35). These legal elements, set forth especially in Numbers 35:22–25, would at least have given Nehor something powerful to argue about. Specifically concerning a case like Nehor's, who had smitten another "with an instrument of iron" (Numbers 35:16), the text in Numbers 35:22–25 reads: "But if he thrust him suddenly without enmity, or have cast upon him any thing without laying of wait, . . . the congregation shall deliver the slayer . . . to the city of his refuge." It seems that Nehor could have argued forcefully that he had not harbored the requisite hatred or preplanned desire to do Gideon harm.²¹ Certainly Nehor did not plan or preconceive the confrontation (Alma 1:7). Moreover, biblical law seems to have recognized the element of fighting as a mitigating factor in settling the liabilities of men who had been parties to a brawl. For example, the case of the blasphemer in Leviticus 24 may well have been made a hard case because the name of God had been uttered as two men "strove together in the camp" (Leviticus 24:10); and if "men str[o]ve and hurt a woman with child," the act of causing a miscarriage was not considered a capital offense (Exodus 21:22). Presumably, some leniency was normally shown in cases where people acted improperly but under the heat of an altercation, or if injury was caused inadvertently as a consequence of a scuffle.²² Nehor may have argued for clemency along these lines. Indeed, it is significant that Nehor was not convicted of murder *per se* (Alma 1:12), indicating that his argument, if made in this regard, may have been partially successful, even if it was ultimately inconsequential.

20. See sources cited in John W. Welch, "Legal Perspectives on the Slaying of Laban," *Journal of Book of Mormon Studies* 1 (1992): 119–41. See also Bernard S. Jackson, *Wisdom-Laws: A Study of the Mishpatim of Exodus 21:1–22:16* (Oxford: Oxford University Press, 2006), 122–30; Peter Haas, "Die He Shall Surely Die': The Structure of Homicide in Biblical Law," in *Thinking Biblical Law*, ed. Dale Patrick (Atlanta: Scholars Press, 1989), 122–30; and Hermann Schulz, *Das Todesrecht im Alten Testament: Studien zur Rechtsform der Mot-Jumat-Sätze*, Beiheft zur Zeitschrift für die alttestamentliche Wissenschaft 114 (Berlin: Töpelmann, 1969).

21. Thus Nehor could have overcome the presumption of intent that normally arises when the use of a sword is involved; Haim H. Cohn, "Homicide," in Elon, *Principles of Jewish Law*, 475–76.

22. See Jackson, *Wisdom-Laws*, 172, 175, 179–81; Jonathan R. Ziskind, "When Two Men Fight: Legal Implication of Brawling in the Ancient Near East," *Revue Internationale des Droites de l'Antiquité* 44 (1997): 13–42.

5. Since this case arose in the context of commotion over religious freedom, the issue of equality may also have figured in Nehor's defense. The law of Mosiah provided that "every man should have an equal chance" (Mosiah 29:38) and that "the law could have no power on any man for his belief" (Alma 1:17). It seems clear that Nehor was trying to "lead away the people of the church" when Gideon began remonstrating against him (v. 7), and thus Nehor's right to say what he wanted and to go where he wanted may have been one of the issues at stake. Nehor may have become enraged because he thought his rights or privileges were being abridged, and he may have argued that he was entitled to use force to assert his rights against Gideon's encroachments.

While we do not know what arguments Nehor may or may not have raised in his own defense, we can well imagine that the record is correct when it states that he pleaded for himself "with much boldness" (Alma 1:11). Nehor made arguments of some kind, and it appears that they had some substance behind them, as the foregoing possibilities suggest. With these types of legal arguments in mind, we can easily appreciate the challenge that Alma was up against in judging this formidable case.

Nehor Held Guilty of Enforcing Priestcraft

In spite of his bold defense, Nehor was convicted. Alma's verdict began by stating, "Behold, this is the first time that priestcraft has been introduced among this people. And behold, thou art . . . guilty of priestcraft" (Alma 1:12). Priestcraft was specifically defined in Nephite writings as preaching for self-aggrandizement and to get gain (2 Nephi 26:29), something Nehor had clearly done (Alma 1:3). Priestcraft, however, was not against the law, strictly speaking; it was tolerated openly during the reign of judges (e.g., v. 16), although it was condemned as immoral and evil. Since God was the one who had forbidden priestcraft in a prophetic text that made no mention of any human penalty (2 Nephi 26:29–30), and since the public law of Mosiah guaranteed freedom of belief and an "equal chance," it seems clear enough that divine justice was all that could touch a person who was guilty of priestcraft alone.

But Nehor was found guilty of more than simple priestcraft. In the final analysis, Nehor was executed not for murder, and not for priestcraft, but for a composite offense of endeavoring to enforce priestcraft by the sword (Alma 1:12). Alma's judicial brilliance is evident in the way he fashioned this ruling. As suggested above, a simple charge of murder was problematic (if not precluded) under Numbers 35, and as far as we know, no human punishment was prescribed for priestcraft alone in any specific text.

By innovatively combining these two offenses, however, Alma was able to convict Nehor of killing for the culpable purpose of enforcing priestcraft. Whereas proof of a culpable homicide under ancient Israelite law required the showing of an evil motive of hatred or premeditation (the presumption of which was provided if the slaying occurred with a weapon “of iron,” Numbers 35:16), Alma found evidence of a conscious and presumptuous motive in Nehor’s use of a sword to enforce his economic interests as a religious leader, which intended outcome Alma subsumed under the evil of priestcraft. In other words, I would see Mosiah’s law against murder as supplying the element of the *actus reus*²³ necessary for Nehor’s conviction, while the moral and religious turpitude of priestcraft can be seen as providing the required *mens rea*²⁴ sufficient to support a verdict requiring capital punishment.

That Alma’s decision was innovative is borne out by the fact that he gave a rationale for his verdict. He said, “Were priestcraft to be enforced among this people it would prove their entire destruction” (Alma 1:12). Normally, a verdict in a criminal case under ancient or Jewish law would not be given a rationale; indeed, in Jewish legal practice generally “the sentence pronounces the accused guilty and specifies the punishment to be inflicted on him; it is not reasoned.”²⁵ The fact that the accused had been found in violation of the normal law was sufficient justification for the judgment. It would appear, however, that Alma gave a reason for his ruling, since (as he says) this fact presented an exceptional case of first impression not only involving a new situation (v. 12) but also interpreting the new application of the law of Mosiah.

In stating his rationale, Alma followed the rubric of ancient Israelite law that is embodied in the principle that it is better for one to perish than for the entire people to be destroyed.²⁶ Alma offered a type of “slippery slope” argument in support of his verdict: if Nehor were acquitted and his conduct condoned, such a result would lead to national disaster. In fact, it “would prove their entire destruction” (Alma 1:12). As evidenced not only

23. “Guilty action.” Alma 1:17–18 makes it clear that a person under Nephite law could not be convicted of a crime under the law of Mosiah without committing some overt guilty action.

24. “Guilty mind.” Exodus 21:13–14 and Numbers 35:20–21 show that an evil motive or state of mind was required.

25. Haim H. Cohn, “Practice and Procedure,” in Elon, *Principles of Jewish Law*, 583. Cohn explains that no reasons were given in criminal cases because the defendant had been present throughout the deliberations. See also Falk, *Hebrew Law in Biblical Times*, 60–61: “Judges . . . were not bound to give reasons for their decisions.”

26. John W. Welch and Heidi Harkness Parker, “Better That One Man Perish,” in *Pressing Forward with the Book of Mormon*, 17–19. Compare 1 Nephi 4:13.

here, but also by the angel's justification for Nephi's slaying of Laban (1 Nephi 4:13) and in Alma's self-exoneration in smiting Korihor (Alma 30:47), Nephite jurisprudence in hard cases favored the collective well-being of the righteous community over the unrestrained rights of individuals who actively impeded goodness or promoted wickedness.²⁷ The same was true under the law of Deuteronomy 13:1–11, where preserving the faithfulness of Israel to God outweighed the right to life of any person—even when the offender was one's wife, “which is thine own soul,” who tried to entice or deceive others into worshipping other gods.²⁸ Thus in several ways Alma's reasoning is at home in the world of ancient Israelite law where “legal and moral norms are not distinguished by any definitional criteria”²⁹ and where righteous judgments are issued “courageously” and “in the fear of the Lord, faithfully, and with a perfect heart” (2 Chronicles 19:9, 11). Alma's logic, justified by the fact that he not only sat as chief judge but also served concurrently as high priest, is further paralleled in later Jewish law that used morality to “expand the scope of enforcement” under the rubric of doing so “for the benefit of society.”³⁰

Nehor Sentenced to Die

Having held Nehor guilty of a culpable slaying, Alma was compelled by several forces to impose the death penalty. One was his concern about the blood guilt that he and his people would suffer if the blood of Gideon was not avenged by the death of Nehor. “Were we to spare thee, his blood would come upon us for vengeance” (Alma 1:13), Alma explained. The practice requiring a next of kin to act as the “avenger of blood” (Deuteronomy 19:12) dates from the earliest periods of biblical law (Genesis 9:5–6),³¹

27. The legal principles and problems behind the concept that it is better for one man to die than for an entire community to perish is discussed by R. David Aus, “The Death of One for All in John 11:45–54 in Light of Judaic Traditions,” in *Barabbas and Esther and Other Studies in the Judaic Illumination of Earliest Christianity*, ed. Jacob Neusner et al. (Atlanta: Scholars Press, 1992); and Nahum Rakover, “The One vs. the Many in Life and Death Situations,” in *Jewish Law Association Studies VIII: The Jerusalem 1994 Conference Volume*, ed. E. A. Goldman (Atlanta: Scholars Press, 1996), 129–53. I will discuss this concept further in a forthcoming publication about Nephi's slaying of Laban (1 Nephi 4:13).

28. Haim H. Cohn, “Rebellious Son,” in Elon, *Principles of Jewish Law*, 492, explaining that the rebellious son, according to the Talmud, was to be killed before he committed a serious crime, since “God considered it better for him to die innocent than to die guilty.” See TB *Sanhedrin* 8:5, 71b–72a.

29. Saul Berman, “Law and Morality,” in Elon, *Principles of Jewish Law*, 153.

30. “*mi-penei tikkun ha-olam*.” Berman, “Law and Morality,” 154, explains that the Jewish law was expanded, mostly in societal laws, “to encompass as broad as possible a range of morally desirable behavior.”

31. James L. Rasmussen, “Blood Vengeance in the Old Testament and Book of Mormon” (FARMS Preliminary Report, 1981). See also Wayne T. Pitard, “Vengeance,” in *The Anchor Bible*

but the need for one of Gideon's next of kin to avenge his death had long been superseded by such rules as Exodus 21:12–14, Numbers 35:1–34, and Deuteronomy 21:1–9, which took the matter out of the hands of individuals and made it a mandatory duty of the “congregation” or the “elders” to slay the killer: “Ye shall take no satisfaction [i.e., money] for the life of a murderer, which is guilty of death: but he shall be surely put to death” (Numbers 35:31; emphasis added). If the judges did not prevent or punish the shedding of “innocent blood,” the guilt of blood attached to all their people.³² Alma reflected his awareness of this public duty in his concern that Gideon's blood would come upon himself and all his people if Nehor were not executed: “His blood would come upon us” (Alma 1:13).

Another factor at work here was the newly promulgated law of Mosiah. In homicide cases after Mosiah's reign, Nephite law clearly continued to require “the life of him who hath murdered” (Alma 34:12; see 1:18; 30:10). Convicted of a culpable slaying, Nehor was thus “condemned to die, according to the law which has been given us by Mosiah, our last king” (1:14).

Alma went on, however, to state that the newly adopted law of Mosiah “has been acknowledged by this people; therefore this people must abide by the law” (Alma 1:14). One may wonder why Alma appended this additional justification for the sentence he imposed. Alma's reminder may have been designed to quell the protests from Nehor's followers that surely were to follow. Alma's resort to popular authority may also have served to reinforce the power of the newly arranged system of judges to impose the death penalty. The power to judge that had been expressly granted to these judges (Mosiah 29:11) would seem to include the implied power to sentence and carry out punishments, but such a conclusion was not necessarily a given. Toward the end of the era of the Nephite judges, for example, it was technically the case that all death sentences had to be approved by the governor of the land (3 Nephi 6:22–23), demonstrating that the power to execute death sentences was a subject of tight control in Nephite society. It seems that Alma was the first to claim for the new judges under the law of Mosiah the power not only to judge but also to execute; he justified doing so on the ground that since the people themselves had no

Dictionary, ed. David Noel Freedman et al., 6 vols. (New York: Doubleday, 1992), 6:786–87; M. Athidiyah, “Scapegoat” (in Hebrew), *Beit Mikra* 6 (1961): 80; and Klaus Koch, “Der Spruch ‘Sein Blut bleibe auf seinem Haupt’ und die israelitische Auffassung vom vergossenen Blut,” *Vetus Testamentum* 12, no. 4 (1962): 346–416.

32. Cohn, “Homicide,” 475–76; Hyman E. Goldin, *Hebrew Criminal Law and Procedure* (New York: Twayne, 1952), 22; and Falk, *Hebrew Law in Biblical Times*, 73. See Numbers 35:33; Deuteronomy 19:10; 21:8.

option open to them but to execute the murderer (Alma 1:18; 30:10), the judge, empowered by the voice of the people, could and should carry out or supervise the execution of that eventuality himself. Here again, Alma's conduct conforms with biblical law: "The judge's duty also included the execution of the punishment."³³

Nehor's Confession

As was typically required,³⁴ "it came to pass that" Nehor was taken to a place of execution, where "he was caused, or rather did acknowledge, between the heavens and the earth, that what he had taught to the people was contrary to the word of God" (Alma 1:15). Ancient executions happened without delay (Leviticus 24:23; Numbers 15:36; 1 Kings 21:13). Notably, the Mishnah would later require specifically that the confession take place near the place of execution—only ten cubits away.³⁵ Similarly, Alma's record concisely states that "they carried him upon the top of the hill Manti, and *there* he was caused" to confess (Alma 1:15; emphasis added).

From the fact that Nehor "was caused" to confess (or at least was given occasion under pressures beyond his control to confess), one is tempted to conclude that Nehor did not offer his confession completely willingly. He would, of course, have been given the opportunity to confess that he had shed innocent blood by enforcing priestcraft with the sword. That would have been the normal confession, since that was the crime for which he was being executed. But the personal incentive for making such a confession was presumably to improve one's lot in the world to come before the judgment bar of God, and Nehor could not make any such confession without repudiating his own teaching that "all men should have eternal life," for he believed that God had unilaterally "redeemed all men" (Alma 1:4). Thus it seems that a confession more acceptable to Nehor had to be formulated, namely an admission that "what he had taught to the people was contrary to the word of God" (v. 15), which is all he ultimately confessed. In other words, we can see that Nehor confessed the minimum amount possible. Indeed, Nehor had "termed" his teachings "the word of God" (v. 3); in doing so, he must have known that his teachings were patently contrary to "the word of God" as Alma understood and used that term. Accordingly, Nehor could confess voluntarily that he had taught the people "contrary to [Alma's] word of God," even if making this confession

33. Falk, *Hebrew Law in Biblical Times*, 61.

34. See the analysis of Sherem's confession, discussed in chapter 5 above. See also Bovati, *Re-Establishing Justice*, 95–96.

35. TB *Sanhedrin* 6:3, 43b.

was not formulated from his point of view or stated entirely of his own volition. That his confession was obtained under duress seems confirmed by the fact that Nehor's followers did not abandon his doctrine as a consequence of his confession.

An Ignominious Death

Finally, Nehor was "carried . . . upon the top of the hill Manti" (Alma 1:15). Apparently he did not go willingly, for he had to be "carried" to the place where he was executed. That place was evidently outside of town, where places of execution were typically located.³⁶ The top of the hill Manti could have been selected as the place of execution for several reasons. First, Nehor made his confession "between the heavens and the earth" (v. 15); the top of a hill or mountain served as a meeting ground between heaven and earth, between God and man. There Nehor's confession could be made binding both in heaven and on earth, both for his own eternal benefit and for the sake of the city of Zarahemla. In a sense, the hilltop, representing a cosmic mountaintop, was also a no-man's-land, between sky and earth, where neither the heaven above nor the earth below needs to receive the vile offender.³⁷ The place between heaven and earth was also seen in the Hebrew Bible as a place of divine judgment: "And David lifted up his eyes, and saw the angel of the Lord stand between the earth and the heaven, having a drawn sword in his hand" (1 Chronicles 21:16). Thus, in this symbolic view of the universe, the location selected for Nehor's confession was a potent place for the final confirmation and execution of Alma's judgment.

Second, a hilltop would have been a likely place for a stoning, and Nehor was probably stoned, since that was the prescribed form of ordinary execution for a punishable homicide (e.g., Leviticus 24:23; Numbers 15:36; 1 Kings 21:13; 2 Chronicles 24:21).³⁸ According to rabbinic law, the person being stoned was usually pushed off a high place into a pit so that the impact of the fall would knock him unconscious or seriously injure him and so that the witnesses and the people standing above him could then cast their stones down on him more effectively;³⁹ perhaps for similar reasons, Nehor was taken to a high place for his execution. Still,

36. See the discussion of Abinadi's execution in chapter 6 above. See also 1 Kings 21:13; Deuteronomy 17:5; 21:19–21; and Goldin, *Hebrew Criminal Law*, 131n2.

37. Hugh W. Nibley, *The Prophetic Book of Mormon*, ed. John W. Welch (Salt Lake City: Deseret Book and FARMS, 1989), 250.

38. Haim H. Cohn, "Capital Punishment," in Elon, *Principles of Jewish Law*, 526.

39. TB *Sanhedrin* 6:5, 45a; and Haim H. Cohn, "Capital Punishment," in Elon, *Principles of Jewish Law*, 527.

the possibility that Nehor was executed by the sword cannot be ruled out since that mode of execution was reserved for apostates (Deuteronomy 13:15). Moreover, an execution in this manner would have followed the talionic principle of fashioning the punishment to mirror the crime, and Nehor had attempted to enforce priestcraft by the sword. It seems likely, however, that if he had been executed in this more remarkably symbolic manner, something would have been said to that effect.

Third, after the person was executed, his body was hung upon a tree to be conspicuously displayed: “If a man have committed a sin worthy of death, and he be to be put to death, and thou hang him on a tree: His body shall not remain all night upon the tree” (Deuteronomy 21:22–23).⁴⁰ The person so hung was “accursed of God” (v. 23), and thus his death was shameful and “ignominious” (Alma 1:15).⁴¹

Further insult and infamy could have been added if Nehor’s body was denied a burial or if his body, like the prophet Urijah’s, was cast into a common grave (Jeremiah 26:23). In Isaiah’s poetic prophecy of the fall of a tyrant, the king suffers the disgrace of not being buried: “Thou shalt not be joined with them in burial, because thou hast destroyed thy land, and slain thy people” (Isaiah 14:20). Thus, denying Nehor the dignity of a burial, which would have infuriated his followers, may also have been part of the ignominy of Nehor’s death, carried out so that the “land not be defiled” (Deuteronomy 21:23).

Aftermath

The trial of Nehor rightly stands at the beginning of the book of Alma. Undoubtedly, many other important events occurred in the first year of the reign of judges, but none was so noteworthy as the trial of Nehor, the main event reported for that year. This proceeding was a monumental case in the political and religious history of the Nephites. It was also a crucial test case and a defining moment in the life of Alma the Younger, whose professional involvement and theological interest in legal matters remained a strong thread throughout his life.

Alma himself probably recorded the details of this case in his own initial writings. As one would expect from a man who was a jurist by profession, legal cases or concepts are witnessed in many of Alma’s writings.

40. “Persons put to death for public crimes were mostly stoned and then hanged.” Falk, *Hebrew Law in Biblical Times*, 73. See Raymond Westbrook, “Punishments and Crimes,” in *Anchor Bible Dictionary*, 5:546–56.

41. Webster’s *American Dictionary of the English Language* (1828) refers to hanging, whipping, cropping, and branding as ignominious punishments; s.v. “ignominious.”

Legal principles pervade Alma's detailed account of his encounters at Ammonihah (Alma 9–16),⁴² and the same is true for the account of his involvement in the trial of Korihor (Alma 30)⁴³ and his elaborate explanation of the operation of justice and mercy to his son Corianton (Alma 42). As prologue to the book of Alma, the case of Nehor rightly stands as a guiding example of Alma's concept of judging righteously, by showing how Alma creatively fashioned a punishment that was suitable to the facts and requirements of the particular case, by demonstrating Alma's concern for avenging the innocent blood of the slain Gideon, and by protecting society by condemning and deterring acts of violence.

Moreover, the political and legal ramifications of the trial of Nehor established how the new system of judges would work. With this case as an unforgettable precedent, not only could the chief judge correct and censure the lower judges, but he could also take original jurisdiction over certain cases brought to him, and he would be able to enforce his verdicts. While this case enlarged the defined authority of the chief judge, it also effectively shifted the balance of political power somewhat away from the voice of the people and the lower, more popular judges. The provisions in Mosiah's reforms that guaranteed equality (Mosiah 29:38) and freedom of belief (Alma 1:17) had the potential of being interpreted very broadly to expand the powers of the diffuse democratic factions in the land of Zarahemla. Any such tendency to expand those provisions excessively, however, was deterred by the holding in Nehor's case. More than simply prohibiting people from enforcing their beliefs by physical compulsion, the trial of Nehor tended to disable Nehor's followers and to alienate them from the new reign of judges. Furthermore, the fact that Alma went out of his way to exculpate and exonerate Gideon from any wrongdoing in this case must have emboldened the members of the church to perform their duty to prevent people in other religious groups from trespassing the laws of God or of the state.

Nevertheless, it seems likely that these legal developments and attitudes contributed to the polarization of segments of Nephite society that quickly ensued. The followers of Nehor had to be careful to preach only those doctrines that they sincerely believed, for otherwise they now could be punished for lying (Alma 1:17). People outside Alma's church began

42. See the discussion of the trial of Alma and Amulek in chapter 8 below. The compiler or abridger introduced the account of those events in the Nehorite city of Ammonihah with the caption "the words of Alma," proving that the accounts of these legal events can be attributed to Alma himself.

43. See chapter 9 below.

a verbal persecution of those in the church; and while members of the church were strictly prohibited from persecuting any people who did not belong to the church (v. 21), many church members “began to contend warmly with their adversaries, even unto blows” (v. 22). Significantly, they hit each other only with their fists because the case of Nehor had made it clear that it was illegal to enforce one’s religious beliefs with a weapon, but the holding said nothing about other kinds of striking.

Almost certainly as a result of this verdict and execution, the rift between the people of Christ and members of other groups within the community deepened in the second year of the reign of judges. Recalcitrant and bellicose members of the church were excommunicated (Alma 1:24), undoubtedly becoming bitter enemies to Alma and the church. In the fifth year of the judges, violent hostilities erupted. Amlici, “being after the order of the man that slew Gideon by the sword, who was executed according to the law” (2:1), had drawn away many people after him and had become “very powerful” (v. 2). It makes sense to see Amlici as Nehor’s successor or at least as his champion. Amlici not only opposed the reforms of Mosiah, but he probably argued that the execution of his mentor was a flagrant miscarriage of justice. He sought to scrap the government formed by Mosiah; Amlici and his people wanted to return the form of government in Zarahemla to a kingship and “to establish Amlici to be king over the people” (v. 2).

Amlici’s reaction constituted a rejection of everything that Alma and the reforms of Mosiah stood for. Political support for this opposition movement must have gathered momentum from several sectors in Zarahemla: more than ever, the Mulekites (who descended from Mulek, the son of Zedekiah, the last king of Judah before the exile) would likely have wanted to see the return of the kingship; the aristocratic Nephites or priests (who had been displaced or left unemployed as a result of the reforms of Mosiah and Alma), the followers of Nehor, and the excommunicated church members whose names were “blotted out” (Alma 1:24) would also have felt increasingly alienated from the Nephite leaders. In less than five years after the trial of Nehor, Alma thus found himself engaged in a life-and-death struggle against Amlici’s group in an effort to maintain the Nephite reign of the judges.

Alma was deeply involved in this problem. He personally fought a bloody civil war against the insurgent Amlici. Despite his victory over Amlici, Alma grew uncomfortable with the situation. War takes a devastating toll on its participants, and Alma now shouldered the responsibility for not only the judicial execution of Nehor and his own hand-to-hand

killing of Amlici in battle but also the terrors of a civil war in the land of Zarahemla that ended in the death of many friends and brothers on both sides of the dispute. Did he feel sorry about the consequences of the trial of Nehor? Did he grow uncomfortable bearing the burdens of being a judge and having to make hard decisions that triggered explosive repercussions?

Averting any accusation that he himself had enforced his beliefs by the sword, Alma eventually—after eight rigorous years of service as the chief judge—relinquished all of his military, judicial, and political responsibilities (Alma 4:16–20). He did this in order to go forth preaching “the word of God” (to reclaim the phrase that Nehor had co-opted), pulling down “all the pride and craftiness and all the contentions which were among his people” and “bearing down in pure testimony” against the people in an effort to establish righteousness and justice “according to the spirit of revelation and prophecy” (vv. 19–20).

But even Alma’s victory over Amlici and his impassioned spiritual ministry did not stem the tide of fragmentation or put an end to Nehorism. For a time, the Zoramites remained loyal to the Nephites, but not for long. In the next few years, the Zoramites would leave Zarahemla, moving northward, to claim and settle the land of Antionum and to build a city of their own where their ruling class would exploit the poor and fundamentally oppose the Nephite ideals of social justice and economic equality. At the same time, Nehorism would gather strength to the south of Zarahemla in the city of Ammonihah, which would become the seat of legal corruption and injustice against Alma himself. Ammonihah would remain a hotbed and stronghold of the Nehorites until it was reduced to a “heap,” going down in infamy as the “Desolation of Nehors” (Alma 16:11), as the next legal case in the Book of Mormon will show.

