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# Preliminary Report

ANCIENT NEAR EASTERN LAW AND THE BOOK OF MORMON

by

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## ANCIENT NEAR EASTERN LAW AND THE BOOK OF MORMON

John W. Welch

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The Book of Mormon, like the Bible, contains many passages which are intrinsically interesting to students of the history of legal institutions. The book is a lengthy record. By its own terms, it originated in the Near East in the seventh century B.C. and concludes in Meso-America in the fourth century A.D. It chronicles a detailed religious history of a relatively small group of dispersed Israelites. They closely observe the law of Moses,<sup>1</sup> and appear to have been particularly influenced by the jurisprudence of the Book of Deuteronomy<sup>2</sup> (which would have been discovered by King Josiah during the young adult years of a man named Lehi, the first prophet in the Book of Mormon). In the course of its history, this record preserves four relatively complete judicial trials<sup>3</sup> and several other partial accounts of criminal actions and prosecutions. These trials detail procedures of apprehension and accusation, the use of witnesses, the voting of the judges, the scope of judicial review, one case of a change of venue, the remuneration of judges, and many other points compatible or comparable with the legal concerns of ancient Near Eastern legal systems generally. The Book of Mormon documents, in more or less detail, legal reforms modifying procedural practices or administrative processes.<sup>4</sup> It contains instances of transactions involving tangible personal property and real estate, as well as international or intertribal oaths, curses, treaty negotiations and covenants.<sup>5</sup> It is relatively explicit in certain cases of incarceration pending trial, punishment or execution.<sup>6</sup> It also draws upon legal concepts in several passages of theological discourse.<sup>7</sup>

This paper examines only a few of the specific evidences of legal institutions in the Book of Mormon. In general, it submits two proposals for consideration: first, that much twentieth century scholarship on ancient Near Eastern and Biblical law helps significantly to elucidate passages in the Book of Mormon; and second, that several texts in the Book of Mormon may even, reciprocally, improve our understanding of ancient Near Eastern and Biblical law. While the former proposition is not so astonishing, the latter suggestion may well be.

Here are five or six examples of how the study of ancient Near Eastern law can enhance an understanding of the Book of Mormon, beginning with a relatively simple case. Early in the Book of Mormon, a young man is tied with cords by angry accusers and left "in the [desert] to be devoured by wild beasts."<sup>8</sup> The man escapes, but his assailants are never brought to justice for what in our books would clearly have amounted to an attempted murder.<sup>9</sup> Under Jewish law, however, Professor Elon explains, "no criminal intent, however far reaching, suffices to render any act punishable which is not the completed offense defined by law, . . . [and] notwithstanding the presence of premeditation, [there is] no capital murder . . . unless death is caused by the direct physical act of the assailent. Thus starving a man to death, or exposing him to heat or cold or wild beasts, or in any other way bringing about his death . . . however certain, [by operation of] a supervening cause, would not be capital murder."<sup>10</sup> Thus, the assailants in this Book of Mormon account, although they behaved wickedly, under principles of ancient law in fact committed no actionable crime. Several centuries later, a Book of Mormon Chief Judge reiterates his society's continuing commitment to this same idea, that punishment could only be imposed if an actus reus such as lying, stealing, or murdering was completed.<sup>11</sup>

But over uneffectuated thoughts or beliefs their laws had no power. These Book of Mormon passages make clear sense when judged against the ancient legal background Professor Elon describes.

A second example comes from the following Book of Mormon passage, dating to about 74 B.C. and dealing with the concepts of composition and atonement. It reads: "Now, if a man murdereth, behold will our law, which is just, take the life of his brother? I say unto you nay. But the law requireth the life of him who hath murdered."<sup>12</sup> A statement such as this presupposes the awareness and rejection of some other legal system which accepted vicarious capital punishment for crimes. Such a system would seem a priori improbable to the Western mind, but indeed, "vicarious punishment was a widespread phenomenon in the lawbooks of the Near East."<sup>13</sup> Such a practice, for example, existed under the Code of Hammurabi, where if a builder built a house or wall which collapsed and killed another man's son, the son of the builder would be killed, or if a man struck a pregnant woman and caused her to miscarry and die, the strikers' daughter would likewise be killed.<sup>14</sup> Similarly, under Near Eastern tribal law, if a member of one tribe was killed by a member of another tribe, this death could be avenged by taking the life of any comparable member of the murderer's tribe.<sup>15</sup> Reuven Yaron, on the other hand, identifies one of the major advances of Hebrew Biblical law as doing away with vicarious capital punishment, specifically of children for the crimes of their parents.<sup>16</sup> This Book of Mormon text comparably preserves a sense of great pride in a law which similarly disallowed vicarious capital punishment, particularly of brothers. That law also makes clear sense against an ancient Near Eastern background.

A third example deals with a matter of commercial law. About 124 B.C., a Nephite king named Benjamin decreed that any person who borrows

anything from his neighbor "should return the thing that he borrowed, according as he doth agree, or else thou shalt commit sin and perhaps thou shalt cause they neighbor to commit sin also."<sup>17</sup> It was a controversial legal issue in the ancient Near East whether a person who had borrowed seed or livestock, had to repay his debt in kind, or could repay either in different kinds of property or in silver or monetary equivalents. Both the debtor and the creditor had legal responsibilities. Babylonian statutes, for example, made it a crime for the commercial lender to refuse tender of non-like kind property equal in value to the property loaned: "[The debtor] may give anything . . . to his merchant before witnesses . . .; the merchant shall not refuse (?), he shall accept [it]."<sup>18</sup> Non-commercial lenders, however, could require repayments or services in precise kind.<sup>19</sup> Against this background, consider again King Benjamin's provision that one should return effectively in kind that thing which had been borrowed, so that neither the borrower nor the lender would risk creating an unlawful transaction. This handles the problem<sup>20</sup> of whether to recognize legal equivalences simply by authorizing no repayments except in kind. Later Jewish law retained a similar aversion to transactions involving any potential for under- or overpayment, voiding sales with more than a one-sixth discrepancy in the value of the property given and received, and demanding exact value to be paid.<sup>21</sup>

A fourth example is more general. It seems to me that the processes of law making in the Book of Mormon are consistent with ancient Near Eastern practices. Law making in antiquity was considerably different than it is today. The essence of much modern legislation is substantive legal modification. In antiquity, I find little evidence of substantive law reform and even some provisions prohibiting it.<sup>22</sup> More often,

however, procedural reforms occurred. Typically they were not enacted by popular assemblies, but by royal decree. For example, 2 Chronicles 19:5-11 records the reform of King Jehoshaphat, in which he set judges in all walled cities of the land and instructed them on how procedurally to try cases. The underlying laws which they administered, however, remained the same. Otherwise, new laws typically did things such as set prices and fix levels of rents, interest rates and financial equivalences in cases of injury to persons and property.<sup>23</sup> Against this background, consider a major legal reform in the Book of Mormon. The so-called "Law of King Mosiah," decreed about 92 B.C., was a royal decree. It changed no substantive provisions of law. Indeed, Book of Mormon peoples expressly viewed themselves without legitimate power to make any such changes.<sup>24</sup> This reform, however, had great procedural impact and accomplished two precise things: first, it established a system of judges with procedures for the apprehension, arraignment, prosecution and punishment of defaulting debtors, and second, it established wage and agricultural monetary equivalences.<sup>25</sup> The points of comparison are apparent.

Finally, here is yet another way in which comparisons may be helpful in clarifying a difficult legal usage in the Book of Mormon. Calum Carmichael has recently argued that one of the basic, but very subtle, aspects of the jurisprudence of Deuteronomy is the obligation of the Israelites to avoid confusing or blurring opposites.<sup>26</sup> Thus, it was against the law for one to mix life with death, to boil a kid in its mother's milk, or to mix wool and linen in one's clothing. The opposition between righteousness and wickedness was to be strictly maintained. In this light, and assuming that Carmichael is correct, an aspect of the astute discussion of concepts of "opposition" and "the ends of



the law" by the Book of Mormon prophet Lehi may come into focus. It dates to about 580 B.C. and stresses the role of opposites in the law. According to Lehi, an opposition is affixed by law, and if this were not a universal proposition, he says, the justice of God would be destroyed, there could be nothing created, and indeed even no God.<sup>27</sup> In other words, justice demands a strict maintenance of opposites, even by God. Thus, Lehi's statement, that "it must needs be an opposition in all things" implies a moral obligation to avoid blurring those opposites. Deuteronomic law helps explain why Lehi would have expressed his commitment to law in terms of the necessary existence of opposites.

Many other similar examples could be given. Others still need more work. For example, I would like to know more about the legal protection given to livestock under ancient Near Eastern law, especially regarding the flocks of the king or of the temple. If a person acted as a bailee of someone else's property and it was stolen or destroyed while he was taking care of it, we know that legal provisions required oaths and evidence for the bailee to prove his innocence so that he would not be punished as the thief.<sup>28</sup> Thieves, however, were not typically put to death. But in the Book of Mormon, an interesting account is found from the first century B.C.<sup>29</sup> In it a king had servants who, according to some established custom, were compelled to assume, on pain of death, responsibility for the livestock of the king. Is there precedent for this in ancient Near Eastern property laws, or alternatively should this matter be analyzed as a case of disobedience to the king? The Code of Hammurabi ordains death for a fisher or runner who fails by disloyalty in his service to the king.<sup>30</sup>

These few representative examples show the interest which serious readers of the Book of Mormon may generate toward ancient Near Eastern



and Biblical law. The administration of justice in the Book of Mormon presents a relatively complete and consistent picture of an ancient Near Eastern public legal system.

Now let me suggest a few ways in which the study of the Book of Mormon may shed some light, in the other direction, on ancient Near Eastern laws. These are more modest and are not so numerous. Some only offer clues. But to the extent these clues merit even potential historical consideration, they may add needed insight into a field in which definitive evidence is all too often lacking in any event.

One question, which has recently surfaced is that of when the Israelites began thinking of law as a written set of statutes rather than as a collection of illustrative principles showing how cases should be resolved on a case-by-case basis. Some have suggested the seventh century B.C., with the rediscovery of the Book of the Law by King Josiah. Similarly, as early as 592 B.C., the Book of Mormon would contain evidence that this shift had already or was just then occurring. In leaving Jerusalem, the Book of Mormon peoples, at great expense, obtained a written copy of the law. They state that they could not obey the law of Moses "save they should have the law,"<sup>31</sup> viewing the law not in a common law, case-by-case sense, but in a formal documentary way.

A current question of methodology in Biblical law asks to what extent rabbinic law can be viewed as shedding light back on earlier Biblical or Near Eastern law. In general, where Biblical law and ancient Near Eastern law <sup>appear to agree, but if rabbinic law differs, it</sup> has been argued that the rabbinic innovation is late, but where both the rabbinic and the ancient Near Eastern sources agree, but Biblical law is silent, it may be assumed that Biblical law probably also conformed.<sup>32</sup> The Book of Mormon may contribute somewhat to this spectrum. For example, one detailed account of an execution of a

traitor in the Book of Mormon<sup>33</sup> parallels a procedure recorded in the Talmud.<sup>34</sup> According to the Talmud, after a victim's body has been hanged on a tree, or post, the tree or post is to be chopped down or removed so that it will not symbolize or remind the people of the wickedness of the criminal. Likewise in the Book of Mormon, a traitor named Zennarihah in 21 A.D. was executed, hanged on the top of a tree, the tree was ritually felled to the earth.<sup>35</sup> If the origins of this procedure in the Book of Mormon are of ancient Near Eastern extraction and not of independent origin, they must extend back to at least the seventh century B.C. when Lehi left the Old World. This might imply that the practice reflected in the Talmudic account may be older than otherwise thought.

The Book of Mormon may also shed light on Hebrew attitudes toward the role of law in the Age to Come. Several well-known studies have meticulously demonstrated how unclear the evidence is concerning what the various strands of Judaism thought about the role of law in the Messianic Age or in the Age to Come.<sup>36</sup> Some sources support the proposition that the law of Moses would continue unchanged throughout eternity due to its perfect and immortal character. Some expected the Messiah only to explain the demands of the Torah. Other sources, however, awaited the cessation of certain laws concerning festivals or unclean things, while others looked forward either by implication or expressly to the substitution of the old Torah, either in whole or in part, by a new one. Scholars like Davies emphatically remind us that our sources are sketchy, sometimes ambiguous, and show a possible wide divergence of viewpoints within the Biblical law traditions.<sup>37</sup> How far back in time Jewish thought began developing on this subject is also unclear, but it is possible that the idea that the Messiah would issue a new law originated as early as

with Isaiah.<sup>38</sup> The Book of Mormon would also support an early dating in the development of thought expecting a new law to be given in the Age to Come. In a passage which dates to around 550 B.C. and which follows immediately after the quotation of the relevant texts from Isaiah, the Book of Mormon prophet Nephi states that in the Messianic Age, the observance of the law of Moses shall be done away and "the words which [the Messiah] shall speak unto you shall be the law which ye shall do."<sup>39</sup>

Another dim corner in the history of Biblical law is the question of the extent to which adoption was legally permitted in ancient Israel. Adoption is found in most societies and is well documented in ancient Near Eastern law. Some scholars, including Gordon, deVaux and Sarna, have suggested that adoption was permitted and practiced in ancient Israel,<sup>40</sup> but their sources are obscure and strong contrary arguments can be raised.<sup>41</sup> The fact that Talmudic law does not recognize adoption has led Reuven Yaron to observe that this may reflect a rabbinic reaction against the common use of adoption in the Greek and Roman world and to wish that one knew "at what stage Jewish law parted ways with the East on this topic."<sup>42</sup> Yaron is hesitant to hazard a guess, and so am I. But in this debate, the Book of Mormon would stand on the side of rejecting the practice of legal adoption. The Book of Mormon records one instance in which one might expect to see an adoption, if in fact the Book of Mormon community recognized this as a legal practice, and another case where important privileges were forfeited because a man had no natural sons.<sup>43</sup> These cases would indicate that as early as the seventh century B.C., this group of Israelites shunned legal adoption.

Another legal provision which has been puzzling to interpreters is the definition of the crime of false prophecy found in Deuteronomy 18:22. The crime of false prophecy was a capital offense.<sup>44</sup> Yet as this crime

has been traditionally understood from the text in Deuteronomy, it would seem to be unenforceable. The text seems to provide that a prophet has spoken falsely if he prophesies something which does not come to pass. But this would mean that no person could be convicted of this crime until his accusers had waited long enough to be sure that the prophesied event would in fact not ever occur.<sup>45</sup> And how long would that be?<sup>46</sup> And assuming that Jeremiah was accused of the crime of false prophecy and not of blasphemy, why do his prosecutors feel no need to wait?<sup>47</sup> Or should the substance of this crime be understood differently? The difficult interpretative issue lies in how we should read the phrase "and the word is not" in Deuteronomy 18:22. Two commentators have solved the problem inherent in the traditional analysis given above by arguing that this critical phrase should be taken as introducing a second prong into the definition of the crime of false prophecy.<sup>48</sup> The first test was whether the prophecy goes unfulfilled; the second is if the prophecy defies or contradicts the previously established word of God, i.e. "is a word which is not" in the canon. Craigie summarizes: "The implication seems to be that . . . . the word supposedly spoken by God through the prophet was not in accord with the word of God already revealed and it was therefore automatically suspect."<sup>49</sup> The Book of Mormon connection here is that it documents three cases in which prophets are accused, directly or indirectly, of the crime of false prophecy.<sup>50</sup> In each instance, especially in the case of a prophet named Abinadi in the second century B.C., his accusers, attempt to establish a prima facie case, is not by showing that what has been spoken will not come to pass, but by showing that what has been spoken is inconsistent with other things which were accepted as legal authorities.<sup>51</sup> Thus, the Book of Mormon

practice would bear out precisely the subtle but more realistic understanding of the crime of false prophecy which Craigie and Battenwieser have detected.

A final Biblical practice which may come to light through a Book of Mormon incident is the slap on the cheek. We tend to view the slap always as just an insult,<sup>52</sup> but might it in some cases have legal significance? In one Book of Mormon trial, the accuseds refused to answer the charges brought against them.<sup>53</sup> As a result, they were slapped on the cheeks ceremoniously by the responsible judge on seven occasions,<sup>54</sup> as if to lodge the accusation, much as we today would accomplish with personal service of process.<sup>55</sup> All of the accusers then stepped forth, gave the slap, and issued their challenging accusation and testimony, each one "even until the last."<sup>56</sup> The slap here would not seem to be just defamatory. In light of this, might we not suspect that there is technical meaning in the slap specifically on the cheek given by Zedekiah to Micaiah before he is sentenced to prison in 1 Kings 22?<sup>57</sup> Other Biblical passages, notably Micah's prophecy that the judge of Israel will be smitten on the cheek, or the Sermon on the Mount's instruction that we turn the other cheek, might also take on added significance if they could be shown to be drawing, a here, upon legal terminology.<sup>58</sup>

In conclusion, let me acknowledge that my remarks have only been sketchy and introductory. Each of my points individually may not be particularly significant, but taken cumulatively, they become more compelling. This type of evidence invites the conclusion that a direct historical connection existed between the Book of Mormon and the ancient Near East, which may well best explain the foregoing results.

Even short of concluding that a direct causal connection can be demonstrated here, valuable comparisons can still be made merely by entertaining the assumption or possibility of such a relationship.

Perhaps an analogy to the well-known trial of Susannah is illustrative. Although not generally accepted either as canonical or historical, the trial of Susannah in the apocryphal Daniel 13 still sheds great light on the procedures of accusation, interrogation and judgment in an ancient Jewish popular court, as well as containing the first substantial account in legal history of the art of cross-examination. We are better informed because we have that account. It would be inappropriate to disregard it out of hand because its complete historical origins cannot be definitively ascertained. It seems to me that similar things might be said of the Book of Mormon. There is a chance that the Book of Mormon was written by an ancient Israelite group, as it claims to have been. In light of that chance, the Book of Mormon should be considered alongside other historical developments in Biblical law. In so suggesting, I concur with Yaron, who has stated:

Comparison is a valid tool of legal research, even when any connection between the systems compared is a priori unlikely, or even altogether impossible. If a relationship can be assumed or established, [each comparison] becomes doubly significant.<sup>59</sup>



#### FOOTNOTES

<sup>1</sup>See, e.g., 2 Ne. 5:10, 25:24; Jacob 4:5, Jarom 5, 11; Mos. 2:3, 12:28-31; Alma 25:15, 30:3; Hel. 13:1. They seem to have observed all its "outward performances" until the law was "all fulfilled," even though they knew by prophecy of the "deadness" of the law. Alma 25:15; 2 Ne. 25:27. Doing this served "to strengthen the faith in Christ." Alma 25:16.

<sup>2</sup>Compare, for example, Mos. 2:10-15 with Deut. 17:14-20; 2 Ne. 3:6-11 with Deut. 18:15-19; J. Stevenson, "Deuteronomy and the Book of Mormon," (Unpublished seminar paper, 1981).

<sup>3</sup>The trials are the trials of Abinadi (Mos. 12:9-17:20), of Nehor (Alma 1:2-15), of Alma and Amulek (Alma 14:4-27) and of Korihor (Alma 30:20-60). See John W. Welch, "Judicial Process in the Trial of Abinadi," (FARMS Preliminary Reports, 1981); Carol A. Cluff, "Legal and Sociological Aspects of the Trial of Nehor," (Unpublished seminar paper, 1981). Other matters include a justifiable homicide (1 Ne. 4:5-18); an attempted murder (1 Ne. 7:16-21); a case of blasphemy (Jacob 7:1-23); a civil rebellion (Alma 51:15-21); a case of reviling (Hel. 8:1-10); a case of treason (3 Ne. 4:22-33), among others.

<sup>4</sup>Mos. 29:10-32; Alma 11:119.

<sup>5</sup>1 Ne. 3:22-26; Alma 17:25-28; Alma 27:22; Alma 50:25-33; 2 Ne. 1:28-29; Mos. 9:5-9; Alma 44:1-20; See Roy Johnson, "A Comparison of the Use of Oaths in the Old Testament and the Book of Mormon" (FARMS Preliminary Reports, 1982); Mark J. Morriss, "Simile Curses in the Ancient Near East, Old Testament and Book of Mormon" (FARMS Preliminary Reports, 1982).

<sup>6</sup>Mos. 7:8; 17:25; Alma 14:23; 51:19; Hel. 9:9; Mos. 17:13-20; Alma 1:15; 14:7-8; 3 Ne. 4:28-33.

<sup>7</sup>2 Ne. 2:10-13; Mos. 13:11-35; Alma 34:11-12; 42:14-28.

<sup>8</sup>1 Ne. 7:16.

<sup>9</sup>This was partly because they were outside the territorial jurisdiction of an local court and also because Nephi "frankly forgives" his brothers. 1 Ne. 7:21. If a victim of a crime in ancient Israel did not press charges, there was no public prosecutor to bring an indictment.

<sup>10</sup>M. Elon, Principles of Jewish Law (Jerusalem: Keter Pub. House, 1975), p. 471, 476. See also Z. Falk, Hebrew Law in Biblical Times (Jerusalem: Wahmann Books, 1964), p.77.

<sup>11</sup>Alma 1:17-18 (ca. 91 B.C.). Although reviling against the government and speaking false prophecies were considered actionable speech acts. See Ex. 22:28; Dt. 18:20.

<sup>12</sup>Alma 34:11-12a.



<sup>13</sup>R. Yaron, "Biblical Law: Prolegomena," in B. Jackson, Jewish Law in Legal History and the Modern World (Leiden: E.J. Brill, 1980), p. 35.

<sup>14</sup>CH §§229-30; 209-10.

<sup>15</sup>R. deVaux, Ancient Israel (New York: McGraw-Hill, 1965) I:11.

<sup>16</sup>R. Yaron, "Biblical Law: Prolegomena," p.34. See Dt. 24:16; 2 Ki. 14:6; 2 Chron. 25:4.

<sup>17</sup>Mos. 4:28; cf. Ex. 22:14. Although Benjamin speaks of avoiding "sin," there is a basic issue here of preventing the breaking of some law, whether religious or secular. There was no strong distinction between religion and secular laws in ancient Israel. Indeed, of all the Hebrew words used for "sin," none was "exclusively devoted to religious or theological use," but rather each "had a secular as well as a religious sense." G. Kittel, Theological Dictionary of the New Testament I:269 (1964).

<sup>18</sup>CH §R. See also CH §§49-52, A, 108. It was a capital offense for an ale-wife to refuse full payment in corn instead of silver. CH §108.

<sup>19</sup>CH §C: "If he persists in giving corn, money or goods for a house owing a service . . . he forfeits whatsoever he has given."

<sup>20</sup>Alma 11:4 states that the Nephites "altered their reckoning and their measure, according to the minds and the circumstances of the people, in every generation, until the reign of judges, they having been established by Mosiah." I take this to imply that there were commercial problems during the time of Benjamin, Mosiah's father, due to a lack of reliable monetary equivalences or legal tender.

<sup>21</sup>E.g., Encyclopedia Judaica 14:676-77; M. Elon, Principles of Jewish Law, p. 211; BM 51a.

<sup>22</sup>It is prohibited by Dt. 4:2.

<sup>23</sup>CH §§L, M; CE §§1-18A.

<sup>24</sup>2 Ne. 25:24-25 (no changes were made despite an awareness by the Nephites that their law would someday be changed); Mos. 29:25 (the new judges continued to judge according to the old "correct" law given by the fathers and God), and Mos. 29:23 (it was a sign of wickedness to enact laws).

<sup>25</sup>Alma 11:1-19; Mos. 29:11 ff.

<sup>26</sup>C. Carmichael, "On Separating Life and Death: An Explanation of Some Biblical Laws," HTR 69 (1976): 17.

<sup>27</sup>2 Ne. 2:10-13.

<sup>28</sup>CH §§ 244, 245, 249, 266, 267; Ex. 22:7-13.

<sup>29</sup>Alma 17:25-28.

<sup>30</sup>CH §26.

<sup>31</sup><sub>1</sub> Ne. 4:15.

<sup>32</sup>R. Yaron, "Biblical Law: Prolegomena," p.32.

<sup>33</sup><sub>3</sub> Ne. 4:28-33.

<sup>34</sup>TB, Sanh. XV.9; The Code of Maimonides, A. Hershman Transl. (New Haven: Yale University Press, 1949), p.43.

<sup>35</sup><sub>3</sub> Ne. 4:29.

<sup>36</sup>See, e.g., W. D. Davies, Torah in the Messianic Age and/or the Age to Come (Philadelphia: SBL, 1952) and sources cited therein.

<sup>37</sup>Ibid., pp. 85-86.

<sup>38</sup>Ibid., p. 70. See Isaiah 2:1-5 where "in the end of days" it is expected that the God of Jacob will teach his ways and will send for the law from Zion. Similarly, the Targum on Isaiah 12:3 anticipates that one shall receive from the Messiah "a new teaching with joy from the chosen of righteousness."

<sup>39</sup><sub>2</sub> Ne. 25:24-26:1.

<sup>40</sup>C. Gordon, "Biblical Customs and the Nuzi Tablets," Biblical Archaeologist 3 (1940):2; R. deVaux, Ancient Israel (New York: McGraw-Hill, 1965), I:51; M. Sarna, Understanding Genesis (New York: McGraw-Hill, 1966), p. 122. See also S. Feigin, "Some Cases of Adoption in Israel," JBL 50 (1931):193; S. Kardimon, "Adoption as a Remedy for Infertility in the Patriarchs," JSS 3(1958):133-36; for adoption at Elephantine, see B. Ayad, The Jewish-Aramaean Communities in Ancient Egypt (Cairo: Inst. of Coptic Studies 1975), p.253.

<sup>41</sup>H. Boecher, Law and the Administration of Justice in the Old Testament and the Ancient East (Minn:Augsburg Pub., 1980), p.121; C. Garrick, Literal Adoption in the Old Testament (Unpublished Seminar Paper, 1981).

<sup>42</sup>R. Yaron, "Biblical Law: Prolegomena," p.42.

<sup>43</sup><sub>1</sub> Ne. 4:34-35 and 2 Ne. 1:30 (Zoram was apparently not adopted by Lehi, since Lehi does not call him a son, despite being "given place"); and Omni 25 (Amaleki having no seed passed plates to Benjamin).

<sup>44</sup>Deut. 18:20.

<sup>45</sup>G. von Rad, Deuteronomy (Philadelphia: Westminster, 1966), p.125, states, "The preacher is probably making things too easy for himself. If a serious matter arose, could the question of the genuine authority of the prophet be left in suspense until it had at last appeared that his message had come true?"

<sup>46</sup> S. R. Driver, International Critical Commentary, p.230, proposes to solve the problem by assuming that the only cases contemplated to be covered by this law are prophecies dealing with the near future.

<sup>47</sup> Jer. 26:8; J. Bright, Jeremiah (New York: Doubleday, 1965), p.172.

<sup>48</sup> M. Battenwieser, The Prophets of Israel (New York: MacMillan, 1914), 31-32; P. Craigie, The Book of Deuteronomy (Grand Rapids: Eerdmans, 1976), p.263.

<sup>49</sup> P. Craigie, The Book of Deuteronomy, p.263.

<sup>50</sup> Abinadi (Mos. 12:9, 17:8); Nephi (Hel. 8:13); and possible Alma and Amulek (Alma 10:24-26). This subject was researched further by David Warby, "The Book of Mormon Reveals the Forgotten Law of False Prophecy," (Unpublished Seminar paper, 1981).

<sup>51</sup> Mos. 12:19-24. The passage from Isaiah 52 appeared to say that a true prophet should bring good tidings, not curses as had Abinadi. In this, Abinadi's accusers sought to "cross him, that thereby they might have wherewith to accuse him."

<sup>52</sup> The slap can of course just be an insult without judicial overtones. Job 16:10; Lam. 3:30.

<sup>53</sup> Alma 14:17.

<sup>54</sup> Alma 14:14, 15, 16, 20a, 20b, 24, 25.

<sup>55</sup> Perhaps similarly, striking on the shield was an official summons to pay fealty taxes. H. Nibley, "Tenting, Toll and Taxing," Western Political Quarterly 19 (1966); 621. Under the common law, service of process must also accomplish a physical touching. See 62 Am. Jur. 2d 822-824.

<sup>56</sup> Alma 14:25.

<sup>57</sup> 1 Ki. 22:24-27; 2 Chron. 18:23.

<sup>58</sup> Ps. 50:6-9 (refers to smiting and plucking hair from the cheeks, followed by law-suit language to the effect that God will judge the accused to be innocent); Mic. 5:1 (the judge of Israel is to be smitten on the cheek); Ps. 3:7; Mt. 5:39; Acts 23:3.

<sup>59</sup> Yaron, "Biblical Law: Prolegomena," p.32.

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