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Theft and Robbery in the Book of Mormon and in Ancient Near Eastern Law

John W. Welch

There is good evidence that most legal systems in the ancient Near East distinguished between the crimes of theft and robbery. Under these systems, a thief was primarily perceived as a local person who stole alone and in secret from his neighbor. He was dealt with judicially. He was tried and punished civilly, most often by a court composed of his fellow townspeople. Robbers, on the other hand, were typically thought of as outsiders, brigands or highwaymen who attacked in groups with open force. When possible, they were dealt with militarily. In most instances, it was the army's task to free the countryside of robbers, and such outlaws could be executed summarily. This article will explore the extent to which similar legal and cultural perceptions of thieves and robbers are evidenced in the Book of Mormon.

The concepts of theft and robbery in the ancient world have been analyzed the most thoroughly by Bernard S. Jackson;[1] what follows draws upon his findings. Along with several other

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[1] See Bernard S. Jackson, "Some Comparative Legal History: Robbery and Brigandage," *Georgia Journal of International and Comparative Law* 1 (1970): 45–103; Bernard S. Jackson, *Theft in Early Jewish Law* (Oxford: Clarendon, 1972); and Bernard S. Jackson, "Principles and Cases: The Theft Laws of Hammurabi," in *Essays in Jewish and Comparative Legal History* (Leiden: Brill, 1975), 64–74.

studies,[2] they provide interesting background information relevant to many passages in both the Bible and the Book of Mormon.

One must proceed, however, with caution, for as Jackson observes, "it is rare to find terms already defined for us . . .; we are obliged to resort to etymology and semantics,"[3] together with context, phenomenology, and linguistics, to detect the ancient meanings of words. What emerges are paradigms, or collective images, of what it generally meant to the ancients to act like a thief or to act like a robber. By examining the extant evidence, the following characteristics and legal treatment of typical thieves and robbers in the ancient Near East can be identified:

1. In several instances, the Hebrew words *ganab* (to steal) and *gannab* (thief) connote stealing in *secret*, while the terms *gazal* (to rob) and *gazlan* (robber) normally mean taking property *openly* and blatantly.[4] This particular distinction between secret and open taking, however, is not always clearly found in

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[2] For example, Henry F. Lutz, "The Alleged Robbers' Guild in Ancient Egypt," *University of California Publications in Semitic Philology* 10 (1937): 231–42; Richard A. Horsley with John S. Hanson, *Bandits, Prophets, and Messiahs* (San Francisco: Harper & Row, 1985).

[3] Jackson, *Theft in Early Jewish Law*, 1.

[4] Jackson, *Theft in Early Jewish Law*, 1–5. See generally, G. Johannes Botterweck and Helmer Ringgren, eds., *Theological Dictionary of the Old Testament*, 5 vols. (Grand Rapids: Eerdmans, 1974–1986), 2:456–58; 3:39–40. See also Francis Brown, et al., *Hebrew and English Lexicon of the Old Testament* (Oxford: Clarendon, 1974), 159–60, 170.

the biblical texts.[5] While it may be implicit in many early texts, according to Jackson, it only became a "firmly distinguished" and "clearly established" point of law in the tannaitic period of Rabbinic Judaism in the first and second centuries A.D.[6] Hence Jackson does not find it to have been the critical difference between these two concepts in pre-Exilic Israelite law and society, although it was probably a factor.[7]

2. Jackson concludes that an earlier and more basic distinction can be found in the biblical texts, namely that a *gannab* is typically an insider who belongs to and lives *within* the same community as his victim, whereas a *gazlan* is an *outsider*.[8] Jackson explains the cases—mostly in prophetic

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[5] See also Boaz Cohen, *Jewish and Roman Law*, 2 vols. (New York: Jewish Theological Seminary, 1966), 2:511, n. 177.

[6] Jackson, *Theft in Early Jewish Law*, 20, 26. See also Matthew 6:19–20; 3 Nephi 13:19-20; 27:32. Jackson suggests that this development was influenced by the Greek concepts of *klope* (secret theft) and *lopodusia* (robbery by violence), described further in David Cohen, *Theft in Athenian Law* (Munich: Beck, 1983), 79–83. *Lopodusia* is a violent form of theft, including some but probably not all kinds of brigandage. If Jackson is correct that the distinction between secret and open taking was a late development in Jewish law, this dichotomy would not have figured dominantly in Lehi's day.

[7] Jackson, "Some Comparative Legal History: Robbery and Brigandage," 46.

[8] Jackson, "Some Comparative Legal History: Robbery and Brigandage," 46; Jackson, *Theft in Early Jewish Law*, 6. Jacob Milgrom, taking issue with Jackson, has argued that Jackson's insider/outsider distinction between *ganav* and *gazlan* is not always demonstrable, while a violence/nonviolence distinction is. Milgrom has concluded, therefore, that *gazlan* is characterized by open and illegal force, violence, power, and enemy action, while *ganav* connotes secrecy. Thus, Milgrom rejects Jackson's insider/outsider distinction as being fundamental. See Jacob Milgrom, "The Missing Thief in Leviticus 5:20ff.," *Revue*

literature—where this distinction shifts as owing to historical development or to figurative usage.[9] Over time, these words could take on different connotations and different words could be used,[10] but the Hebrew language always found two different words

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internationale des droits de l'antiquite 22 (1975): 71-85, and "The Priestly Doctrine of Repentence," *Revue biblique* 82 (1975): 186–205, esp. 188 discussing Leviticus 19:13 (rob a neighbor).

The validity of Jackson's distinction as a significant part of our understanding of the ancient meanings of *ganav* and *gazlan*, however, is not precluded by Milgrom's insights. As Jackson has recently explained, the core meaning of these words embraces several characteristic binary opposites: "The paradigm case of theft is committed by an insider . . . ; it is secret rather than open; and it involves the crossing of territorial boundaries . . . . The opposed paradigm is that of the 'brigand,' an outsider, who acts openly, and for whom boundaries are irrelevant. These paradigms influence, but fall far short of fully determining, the semantic opposition between *ganav* and *gazal*." Bernard Jackson, "Biblical Law," Speaker's Lectures of the Faculty of Theology, Oxford University (1984–85), 185–87.

The approach taken in this paper agrees substantially with Jackson's, but also sees value in Milgrom's observation that robbers were indeed violent and that these terms are not always used precisely. A cluster of attributes and behaviors, as discussed below, and not any single particularity, best informs us of the meaning of words like *ganav* and *gazlan*.

As for the "missing thief" in Leviticus 5:20–26 (KJV 6:1–7), that text is principally about lying; thus, when it lists several of the ways in which a person can wrongfully obtain possession of property, one need not view that list as either exhaustive or explicit. In Leviticus 19:13, the topic is about non-violent wage withholding, so the word *gazal* is used there as a synonym for fraud.

[9] Jackson, *Theft in Early Jewish Law*, 10.

[10] Jackson argues that *gannab* came to refer to the outside raider when *gazlan* shifted to connote "economic exploitation," at a time during the monarchy when the "central authority was increasing in its power." Later, *listis* (which Rabbinic Hebrew borrowed from Greek) and *g^{e}dud* were used to refer to these robbers and bandits, when the tannaitic distinction emerged between secret and open taking for the roots *ganab* and *gazal*, discussed above. Jackson, *Theft in Early Jewish Law*, 10, 29, 33.

to convey the unchanging societal and legal distinction between neighborhood thieves and outside bands of robbers.[11]

3. Robbers typically acted with *force* and violence, while thieves were usually not seen and did not harm their victims.[12] Yet, as Jackson points out, this distinction "is not consistently followed. In other sources *gazal* is not forcible; in some, *ganav* is forcible."[13]

4. Another important factor is that *ganab* was used primarily of an individual who acts *alone*, while *gazal* denotes action "usually committed by a *group*." The Hebrew word *g^{e}dud*, meaning "bandits" (literally "band"), also conveys the collective character of these raiding groups.[14] Likewise, in early Roman

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[11] The persistence of this distinction is seen in the fact that it has endured down to modern times in the Near East. In Arabic, *sirka* (theft; cf. *saraqu* in the Code of Hammurabi 6–10, 14) occurs "wenn ein Beduine einen Stammesgenossen bestiehlt" (i.e., if a Bedouin steals from a kinsman), whereas *ghazu* (robbery) is "wenn zwei Stämme in Feindschaft sind" (i.e., if two tribes are hostile enemies) and one attacks the other to take their animals. Gustav Dalman, "Aus dem Rechtsleben und religiösen Leben der Beduinen," *Zeitschrift des deutschen Pala"stina-Vereins* 62 (1939): 53.

[12] See, e.g., R. Laird Harris, Gleason L. Archer and Bruce Waltke, *Theological Wordbook of the Old Testament*, 2 vols. (Chicago: Moody, 1980), 1:150, 157–58, 168.

[13] Jackson, *Theft in Early Jewish Law*, 4.

[14] Jackson, *Theft in Early Jewish Law*, 6, 9, 14, 33. Similarly, *shod*, *peshat*, *bazaz* and *pariz*. Harris, et al., *Theological Wordbook of the Old Testament*, 1:150; Brown, et al., 151.

law the use of a gang was "vital" to the definition of brigandage.[15]

5. The evidence is consistent that these groups of robbers were organized in "professional" groups, with recognized leaders and rules of the pack. Achilles Tatius describes one militant band numbering 10,000, with a leader called "king."[16] A band of robbers could, however, be much smaller than this, and some laws stated numerical tests for distinguishing thieves (acting alone or in very small groups) from robbers (working in a group large enough to be considered a band).[17] "The robbers lived under their own code, sanctioned by their own religious views and practices. They had their own priests."[18] Still, they lived in lawless bands, and Josephus says they were not above robbing even from one another.[19] Diodorus takes plundering to be a full-time occupation for these robbers,[20] and Josephus reports that the

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[15] Jackson, "Some Comparative Legal History: Robbery and Brigandage,"45, 64; Jackson, *Theft in Early Jewish Law*, 6.

[16] Achilles Tatius, III, 9, cited in Lutz, "The Alleged Robbers' Guild in Ancient Egypt," 233.

[17] For example, Ulpian required more than three or four to constitute a group of rioters. *Digest* 47, 8, 4, 3–6; Jackson, "Some Comparative Legal History: Robbery and Brigandage," 77. Anglo-Saxon law defined a band as ranging from seven to thirty-five. Ibid., 90.

[18] Lutz, "The Alleged Robbers' Guild in Ancient Egypt," 240.

[19] Josephus, *Antiquities* XV, 348. For a colorful analysis of the writings of Josephus in this area, see David M. Rhoads, *Israel in Revolution* (Philadelphia: Fortress, 1976), esp. 159–62.

[20] Diodorus, I, 80, 1, 2, cited in Lutz, "The Alleged Robbers' Guild in Ancient Egypt," 239–41.

robbers lived with their families out in caves.[21] Where the men in these bands had come from is not often clear, but Lutz speculates that they were dissidents, foreigners, descendants of foreign mercenaries, and social outcasts—groups caused especially by "political, economic, and social conditions [that] made for a distinct class of human dross."[22]

6. These robbers bound themselves together with oaths and clothed themselves with religious ritual. For example, Josephus reports that one band had an oath which they all swore.[23] According to Dio Cassius, another band, which under the leadership of the priest Isidorus nearly threw all of Egypt into revolt in A.D. 172–73, sacrificed the companion of a Roman centurion and "swore an oath over his entrails and then devoured

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[21] Josephus, *War* I, 312; Josephus, *Antiquities* XVII, 346; Jackson, *Theft in Early Jewish Law*, 34, n. 7; see also Lutz, "The Alleged Robbers' Guild in Ancient Egypt," 233.

[22] Lutz, "The Alleged Robbers' Guild in Ancient Egypt," 241; see also 234, 236. In Rome, 76 B.C., domestic upheavals "resulted in armed bands of slaves running wild in the countryside," a condition leading to the edict of Lucullus against gangs of brigands (*hominibus coactis*). Jackson, "Some Comparative Legal History: Robbery and Brigandage," 70.

[23] Josephus, *War* IV, 408 (*synomnymenoi kata lochous*). The Greek here probably means more than simply that they "swore together" (*synomnymenoi*), but also that their oath was peculiar to or customary with their band (*kata lochous*).

them."[24] It is said that they would sacrifice and eat these victims to purify their camp.[25]

7. An important obligation of these robbers was to keep secret their identity and also the whereabouts of their hideout. Their camps were usually located in the mountains.[26] For example, Judges 9:25 records that "the men of Shechem set liers in wait for him in the top of the mountains, and they robbed all that came along." Josephus gives a graphic account of the caves opening onto mountain precipices where the brigands lived whom Herod conquered.[27]

8. The mode of operation of these robbers typically involved swooping down out of their mountain roosts in raids on villages.[28] On occasion, however, they could also work within large cities. For example, in Jerusalem under Felix (ca. A.D. 51), bandits committed a wave of murders, one of Jonathan the High Priest, in broad daylight. One notorious band, the Sicarii, would mingle among the crowds at festival times, carrying daggers and stabbing their enemies, after which they would join in the

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[24] Lutz, "The Alleged Robbers' Guild in Ancient Egypt," 242. Other such oath swearing was accompanied by drinking the blood of slaughtered human victims, cf. Herodotus III, 11; Lutz, "The Alleged Robbers' Guild in Ancient Egypt," 240.

[25] Achilles Tatius, III, 12, 1. Lutz, "The Alleged Robbers' Guild in Ancient Egypt," 240–41.

[26] Jackson, *Theft in Early Jewish Law*, 6–7.

[27] Josephus, *War* I, 309–16; Josephus, *Antiquities* XIV, 421–22.

[28] For example, the raid of a town called Engaddi, Josephus, *War* IV, 403ff.

cries of indignation and alarm.[29] Clearly they were bloodthirsty and unscrupulous. One robber butchered his seven sons and wife and then committed suicide before the eyes of Herod.[30] Josephus gives the following account of the operations of one of these groups in Judea in the first century A.D.:

> These assassins, eluding under cover of night those who might have obstructed them, made a raiding descent upon a small town called Engaddi. Those of the inhabitants who were capable of resistance were, before they could seize their arms and assemble, dispersed and driven out of the town; those unable to fly, women and children numbering upwards of seven hundred, were massacred. They then rifled the houses, seized the ripest of the crops, and carried off their spoil to Masada. They made similar raids on all the villages around the fortress, and laid waste the whole district, being joined daily by numerous dissolute recruits from every quarter. Throughout the other parts of Judaea, moreover, the predatory bands, hitherto quiescent, now began to bestir themselves. And as in the body when inflammation attacks the principal member all the members catch the infection, so the sedition and disorder in the capital gave the scoundrels in the country free licence to plunder; and each gang after pillaging their own village made off into the wilderness. Then joining forces and swearing mutual allegiance, they would proceed by companies—smaller than an army but larger than a mere band of robbers—to fall upon temples and cities. The unfortunate victims of their attacks suffered the miseries of captives of war, but were deprived of the chance of retaliation, because their foes in robber fashion at once decamped with their prey.[31]

9. The robbers would take any action possible to harass the highways or weaken the local government, to make plundering easier.[32] Indeed, the robber bands in Egypt described by Lutz

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[29] Josephus, *Antiquities* XX, 160-63; Josephus, *War* II, 255.

[30] Josephus, *War* I, 312.

[31] Josephus, *War* IV, 405–9.

[32] Jackson, *Theft in Early Jewish Law*, 15.

were always on the verge of "immediately flaring up again whenever the government showed the least signs of political or economic weakness."[33] Josephus expressly correlated the rise of robbers with "sedition and disorder in the capital."[34] Thus the action of these robbers was often political in nature.[35] For example, in 2 Chronicles 21:16–17 and 22:1, bands of robbers broke into the king's house, stole his wives, and killed his sons. As a result, it was common for robbers to claim or dispute the throne.[36]

10. Robbers' raids sometimes involved large-scale destruction;[37] other times they attacked just to restock their supplies or supplement their meager income off the land.[38] The military strength of some of these groups cannot be doubted: one

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[33] Lutz, "The Alleged Robbers' Guild in Ancient Egypt," 234.

[34] Josephus, *War* IV, 406–7.

[35] For this reason, the Roman government and not the Sanhedrin kept jurisdiction over brigandage in Palestine. Jackson, *Theft in Early Jewish Law*, 251–60.

[36] Jackson, *Theft in Early Jewish Law*, 35, discusses the story told by Rabbi Meir in Tosefta, Sanh. 9.7 and the characterization of pretenders to the throne as robbers in Roman rhetoric. See Ramsay MacMullen, "The Roman Concept of Robber-Pretender," *Revue internationale des droits de l'antiquite* 10 (1963): 221–25.

[37] Lutz, "The Alleged Robbers' Guild in Ancient Egypt," 234.

[38] Jackson, *Theft in Early Jewish Law*, 14–15; Lutz, "The Alleged Robbers' Guild in Ancient Egypt," 234; 1 Samuel 25.

nearly captured the city of Alexandria from the Romans.[39] They were more threatening than foreign invaders.[40]

11. In lieu of ransacking, robbers would often demand ransom or extort money from towns. One text suggests that robber leagues were so well established in Egypt that they became entitled by custom to demand ransom equal to one fourth of the property seized or threatened.[41] In addition, they might bribe local officials. Josephus accuses Albinus of taking kickbacks from brigands.[42]

12. The *gannab* (thief), if apprehended, was tried according to the legal procedures of the community, while a *gazlan* (robber) was not considered a member of the community entitled to the protections of law and therefore could be dealt with by military force and martial law.[43] The severity of robbers' punishment seems to have corresponded directly with the seriousness of the problem they presented at a particular time, and with the central government's ability to do something about them.[44]

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[39] Lutz, "The Alleged Robbers' Guild in Ancient Egypt," 242.

[40] Lutz, "The Alleged Robbers' Guild in Ancient Egypt," 238.

[41] Lutz, "The Alleged Robbers' Guild in Ancient Egypt," 232.

[42] Josephus, *War* II, 278.

[43] Jackson, "Some Comparative Legal History: Robbery and Brigandage," 63. "Against them the laws of war operated." John Michaelis, *Commentaries on the Laws of Moses* (London: Rivington, 1814), iv, 280, cited in Jackson, *Theft in Early Jewish Law*, 16, 180, 251.

[44] Jackson, *Theft in Early Jewish Law*, 153.

13. The task of clearing the countryside of the menace of these robber bands was typically the responsibility of the local governmental authorities. Thus, for example, the Code of Hammurabi distinguishes between *saraqu* (to steal)[45] and *habatu* (to rob).[46] The thief was a common criminal. He could usually be detected and made to return what he had stolen and pay the penalties assessed. But in the case of a robber who was not caught, "the city and the mayor in whose territory or district the robbery has been committed" were obligated to replace whatever had been robbed; and if the victim had been killed, then the city or the mayor had to pay one maneh of silver to the decedent's heirs.[47] The Egyptian *Report of Wenamun* may show this principle in action: Wenamun complained to the Ruler of Dor, "I was robbed in your harbor and since you are the chief of this land and since [you are its investigating] judge—retrieve my money!" Nevertheless, this crime, committed on the seas, seems to have been outside the jurisdiction of the territorial officer, and Wenamun was left to resort to self help.[48] Thus, a heavy responsibility fell upon the local authorities if a robber—as

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[45] Code of Hammurabi, Sections 6–10.

[46] Code of Hammurabi, Sections 22–23.

[47] Code of Hammurabi, Sections 23–24.

[48] Hans Goedicke, *The Report of Wenamun* (Baltimore: Johns Hopkins University, 1975), 31, 43. A somewhat similar provision making local officials responsible for highway robbery within their jurisdiction was enacted in England in 1676, 27 Eliz. c. 13; see Leon Radzinowicz, *A History of English Criminal Law and its Administration from 1750*, 4 vols. (New York: Macmillan, 1956), 2:3, n.7.

distinguised from a thief—was not caught. The difference seems to rest on the distinctions between "the individual offender and the organized group . . . . Such civic responsibility was an attempt to secure the central authority against attack, and existed in similar situations elsewhere in the ancient world."[49] Indeed, many Babylonian, Ugaritic, and Phoenician kings have left inscriptions boasting that they had successfully eradicated the robbers from their territory, and Ipuwer laments the unsafe conditions in Egypt due to these brigands.[50] Related to this sense of civic responsibility for brigandage was the law that a shepherd or carrier was liable for loss from theft, but not for loss to robbers, against whom he was *de jure* considered powerless.[51]

14. Although the evidence regarding the capital punishment of thieves in ancient Near Eastern law is variable,[52] the evidence for capital punishment for theft under biblical law is

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[49] Jackson, *Theft in Early Jewish Law*, 11.

[50] Jackson, *Theft in Early Jewish Law*, 15–16; Lutz, "The Alleged Robbers' Guild in Ancient Egypt," 235.

[51] Jackson, *Theft in Early Jewish Law*, 13–14, 39; Exodus 22:9, 11; Code of Hammurabi 103.

[52] Thieves were executed under the Code of Hammurabi, Sections 6–13, 21, for several types of theft; for example, housebreaking, stealing from a temple or a palace, dealing without documentation with a legally disadvantaged person, or concealing stolen goods; but it is not clear that there was a general death penalty for theft under the Code of Hammurabi. Jackson, "Principles and Cases: The Theft Laws of Hammurabi," 66–69. Moreover, other Babylonian legal records are incongruous with the Code of Hammurabi. W. F. Leemans, "Some Aspects of Theft and Robbery in Old-Babylonian Documents," *Revista degli Studi Orientali* 32 (1957): 661–66.

probably nonexistent.[53] Robbers, on the other hand, could clearly be given the death penalty,[54] and indeed, brigands were "often executed summarily."[55] The mode of punishment, at least in one case, was crucifixion.[56] Decapitation by the sword also seems a likely mode of execution.[57]

15. The leaders of these robber bands were treated especially notoriously. Josephus reports that Herod put to death a robber-chief named Ezekias, who headed a "large horde,"[58] and records the arrest of another brigand-chief Eleazar, who was sent

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[53] Jackson discusses the biblical sources in depth in *Theft in Early Jewish Law*, 144–54.

[54] See, for example, Code of Hammurabi, Section 22. In Egypt, the death penalty applied if a person could not prove that he had acquired his wealth in an honest livelihood. Lutz, "The Alleged Robbers' Guild in Ancient Egypt," 232. In early Roman law, the penalty for robbery was "the interdict of fire and water"; under Tiberius the penalty became deportation; and for ordinary *grassatores* (highwaymen) the punishment was sometimes death. Jackson, "Some Comparative Legal History: Robbery and Brigandage," 79, 86.

[55] Jackson, *Theft in Early Jewish Law*, 38, 252, listing examples; Jackson, "Some Comparative Legal History: Robbery and Brigandage," 86.

[56] Josephus, *War* II, 253; see also the two robbers (*kakourgoi*, Luke 23:32; *lestai*, Matthew 27:38; Mark 15:27) crucified with Jesus.

[57] See Abimelech's slaying of the Shechemite band in Judges 9:45, and Josephus, *War* II, 260. Later, Maimonides prescribes decapitation for murderers, Sanhedrin 15.12, and robbers are often associated with murderers. Cf. Jackson, *Theft in Early Jewish Law*, 186.

[58] Josephus, *War* I, 204; and Josephus, *Antiquities* XIV, 159, in Jackson, *Theft in Early Jewish Law*, 252.

to Rome for trial, even though he was not a Roman citizen.[59] We do not know why Eleazar was sent to Rome; perhaps it was for public humiliation, execution, or display as part of a triumph.

16. Unlike thieves, robbers were viewed as instruments of divine justice. The wicked were beset with the tumultuous attacks of these brigands as a manifestation of God's judgment. For example, Hosea 7:1 reads: "When I would have healed Israel, then the iniquity of Ephraim was discovered . . . and the troop of robbers spoileth without."

In addition to the foregoing points, it should also be noted that the ancient concept of theft included a range of situations broader than direct takings of property. (1) A bailee who converted the property entrusted to him, and (2) a finder of lost property who knowingly did not return it to its rightful owner, received the same punishment as thieves.[60] "Retention of lost property is treated as theft in the Laws of Eshnunna, and the Hittite Laws,"[61] and (3) Philo included "within theft the defaulting debtor and the fraudulent partner."[62] Under these rules, the resultant misappropriation of property was the determining factor, not whether possession had been lawfully or unlawfully obtained.

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[59] Josephus, *War* II, 253; and Josephus, *Antiquities* XX, 161, in Jackson, *Theft in Early Jewish Law*, 253–54.

[60] Jackson, *Theft in Early Jewish Law*, 17–18.

[61] Jackson, *Theft in Early Jewish Law*, 17 and nn. 5–6.

[62] Jackson, *Theft in Early Jewish Law*, 91, n. 4. Philo, *De Decalogo* 171.

Other forms of taking were also associated with or analogized to theft, although they were probably not thought of as being tantamount to theft or robbery. Plundering and despoiling (*bazaz*, e.g., Genesis 34:27; Numbers 31:9, and *shalal*, e.g., Isaiah 10:6; Ezekiel 26:12) are general terms associated with the taking of booty in warfare and, more commonly, with the spoiling of a city either by external enemies, by one another, or by God, without special theological or legal significance.[63] Deception could also be described idiomatically as a form of stealing, as when Absalom "stole the hearts of the men of Israel" (2 Samuel 15:6).

Finally, a distinction should be observed between the public treatment of robbers criminally and the private remedies for robbery civilly. Thus, while the public punished robbers as criminals, if a private party were to seek recovery of his property from an apprehended robber, the remedial principles involved seem to have been the same as in a case of theft: "In dealing with *civil* cases the law relating to a robber applies equally to a thief and vice versa."[64] Thus, the victim would obtain restitution of his property plus punitive damages

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[63] Harris, et al., *Theological Wordbook of the Old Testament*, 1:99. In the Book of Mormon, "plundering" also appears to be a general term referring to destruction and occurring in a variety of contexts: robbers plunder (Helaman 6:18; 3 Nephi 4:4); Nephite citizens are prohibited from "plundering" (Mosiah 2:13; Mosiah 29:14); Lamanites "plunder" (Mosiah 10:17; Alma 18:7), etc.

[64] Shalom Albeck, "Theft and Robbery," in Menachem Elon, *Principles of Jewish Law* (Jerusalem: Keter, 1975), 493 (emphasis added).

totalling two, four, or five-fold (Exodus 22:1, 4), and if the thief or robber had insufficient assets to satisfy the judgment, he would be sold into slavery or servitude (Exodus 22:3).

This condensed summary does not do justice to Jackson's extensive treatment of the subject. Nor does it attempt to display the subtle shifts in meaning or in legal practice that occurred during the two thousand years from which these ancient law texts arise. What emerges, however, is a relatively clear picture regarding the differences between the definitions and the criminal treatment of thieves and robbers in ancient Near Eastern cultures. Throughout, robbers were typically organized in the same kinds of dissident groups of outsiders, being active in the same violent ways, causing essentially the same types of problems, and being dealt with by local governmental authorities in basically the same social and cultural patterns.

Against this ancient Near Eastern background, many Book of Mormon references to stealing[65] and to robbers are quite consistent, reflecting the same basic legal and cultural distinctions between thieves and robbers as do their Old World counterparts.[66] From these texts, much can be discerned about the semantic content of these terms as they are used in the Book

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[65] The verb "steal" and nouns "theft" or "thief" are all used to translate the Hebrew word *gannab* and its cognates into English.

[66] Such legal information would have been known to the Nephites best from the books of Moses which were contained on the Plates of Brass, as well as from their linguistic and cultural heritage in general.

of Mormon. Indeed, the ancient perception of robbery, i.e., the quasi-military behavior of members of a raiding group against a separate settled community, corresponds closely with the syndrome of robbery reflected in the Book of Mormon, especially regarding the Gadianton Robbers.

The Small Plates of Nephi

The evidence on robbery is scanty in the early religious records of the Nephites. The words theft or robbery are mentioned only rarely in the Small Plates of Nephi.

The word "robber" first occurs in 1 Nephi 3:13. When Laban became angry with Laman over his peaceful attempt to obtain the Plates of Brass, Laban threw him out of his house, saying, "Behold thou art a robber, and I will slay thee." To a modern mind, this death-threat seems unjustified and irrational, since robbery is not punishable today by death. Such a threat, however, would have been quite serious and meaningful to a person like Laman. Laban was probably a military officer (1 Nephi 3:31) and one of Jerusalem's city elders (1 Nephi 4:22) who were typically well versed in the law.[67] If he chose to characterize Laman as a robber (and although he was not one, he was the son of

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[67] The fact that Laban is described as a "mighty man" able to "command fifty" (1 Nephi 3:31) is strong evidence that he had soldiers as well as domestic servants at his disposal. Laban's probable political, social, and military positions in Jerusalem are discussed by Hugh W. Nibley, *An Approach to the Book of Mormon* in the *Collected Works of Hugh Nibley* (Salt Lake City: Deseret and F.A.R.M.S., 1988), 6:120–28. Assuming Laban held some kind of military power, he could exercize martial jurisdiction over a robber and kill him, whereas he would have had to give a thief a trial. See Jackson, *Theft in Early Jewish Law*, 33, 252.

Lehi, a wanted man,[68] now living out in the wilderness), Laban probably had the power and influence to put some real teeth into his heated threat. It is no wonder that Laman preferred not to reenter Jerusalem, but wanted to return empty-handed to Lehi (1 Nephi 3:14).[69] On the other hand, if the text had said, "Thou art a *thief*, and I will slay thee," it would not have sounded quite right.

Laban's use of the word "robber" can be understood in several ways, but in my opinion it is best explained by the ancient meaning of this term, especially with respect to being an outsider. To Laban, Laman appears to be a robber, since he and Lehi are now outsiders. This accounts for Laban's usage better than does the distinction between a thief who steals in secret and a robber who takes by violence from the presence of his

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[68] 1 Nephi 1:20. Uriah ben Shemaiah, a prophet similar to Lehi, was considered an outlaw for prophesying against the city of Jerusalem. After he fled to Egypt, he was extradited and executed in Jerusalem (Jeremiah 26:20, 23). To Laban's rationalizing mind, Lehi's family easily looked like a band of fugitives from justice, now back openly trying to obtain possession of valuable property.

[69] Laman's legal situation would not have improved when the brothers soon returned to Laban's house with armloads of precious goods (1 Nephi 3:22–25). They might have had trouble producing proof that it had not been stolen, as at times was required; see, e.g., Lutz, "The Alleged Robbers' Guild in Ancient Egypt," 231. Sons generally did not have legal authority to dispose of their father's property before his death. See Reuven Yaron, *Gifts in Contemplation of Death in Jewish and Roman Law* (Oxford: Clarendon, 1960).

victim, since Laman made no violent attacks on Laban as "he talked with him as he sat in his house" (1 Nephi 3:11).[70]

The word "steal" (which in Hebrew would have been *ganab*, the root meaning also "theft" or "thief") appears only once in the Small Plates (2 Nephi 26:32). Here Nephi lists eight commandments applicable to all laborers in Zion who want to come unto the Lord (2 Nephi 26:31, 33).[71] "The Lord God hath commanded that men should not murder; that they should not lie; that they should not *steal*; that they should not take the name of the Lord their God in vain; that they should not envy" (2 Nephi 26:32). Six of these laws are similar to provisions in the Ten Commandments, the eighth of which reads, "Thou shalt not steal [*tignob*, from the root *ganab*]" (Exodus 20:15). The concern in the Ten Commandments is over stealing from one's *neighbor*.[72]

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[70] These are the modern distinctions between theft and robbery, discussed further below. Of course, the irony of Laban's statement is powerful, since Laban proceeds to play the robber, seizing Lehi's property from the boys under threats of violence.

[71] This set of laws is applicable to the community of the righteous; it differs from the so-called Noachide laws that apply to all men. Saul Berman, "Noachide Laws," in M. Elon, *The Principles of Jewish Law*, 708–10; Aaron Lichtenstein, *The Seven Laws of Noah* (New York: Rabbi Jacob Joseph School, 1981); *The Seven Noachide Laws and their Mosaic Counterparts* (New York: Dissertation, New York University, 1967).

[72] See, e.g., Moshe Weinfeld, "The Decalogue—Its Significance, Uniqueness, and Place in Israel's Tradition," in *Religion and Law*, E. Firmage, B. Weiss, J. Welch, eds. (Winona Lake: Eisenbrauns, 1988), 15: "[T]hese commandments are . . . a formulation of conditions for membership in the community." See also Albrecht Alt, *Kleine Schriften zur Geschichte des Volkes Israel*, 3 vols. (Munich: Beck, 1953–59), 1:339: "[B]ei dem Verbot des Diebstahls im Dekalog ursprünglich nur an den Diebstahl von Menschen, genauer gesagt von *Angeho"rigen des*

This is further evidenced by the fact that the tenth commandment expressly prohibits coveting one's *neighbor's* property. Thus, Nephi's use of the word steal (probably *ganab*), spoken likewise in the context of internal group regulation, most likely conveys the sense of stealing from one's neighbor.

Aside from these two instances, the English words "rob" and "robbed" occur on the Small Plates only in passages quoted from or commenting on Isaiah (2 Nephi 20:2, 13; 28:13). Isaiah, however, does not use the words *ganab* or *gazal*, but *bazaz* and *shasah*, meaning to plunder, despoil, or defraud the poor and fatherless.

The Period of Kings in Zarahemla

The book of Mosiah never mentions robbery in the land of Zarahemla. Apparently, robbers were not a serious threat to the Nephites at this time, a fact consistent with the presence of the strong central government that existed then. When theft and robbery are mentioned during this period, however, it seems that theft is best understood to mean stealing within the community, and robbery from without, although other views are possible.

For example, in Mosiah 10:16–17 the record of Zeniff reports that the Lamanites accused Nephi of having "robbed" their ancestors of the Plates of Brass. This was a persistent accusation (see Alma 20:13; 54:17). Certain aspects of the

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Volkes Israel gedacht war" (emphasis added) (i.e., originally the commandment in the Decalogue about stealing pertained only to kidnapping, or more precisely stated to kidnapping members of the house of Israel).

ancient idea of robbery can be detected here. By characterizing Nephi's conduct as the serious offense of robbery, the Lamanites accused him of a capital offense and thus they sought to kill and, in retaliation, to rob the Nephites (Mosiah 10:17). The plausibility of the Lamanites' allegation may have been enhanced by the fact that the Nephites had left the Land of First Inheritance and had gone off on their own (Mosiah 10:16). Stealing is not mentioned here, as one would not normally think of "stealing" from outsiders. Indeed, the record affirms that the Lamanites did not rob or plunder "among their own brethren" (Mosiah 24:7). Thus, the ancient distinction between community theft and external group robbery explains these usages well. At the same time, the modern definition of robbery seems less fitting to these texts, since it is doubtful that Nephi took the Plates of Brass by force from the persons of Laman or Lemuel, since he already had possession of that record.

Also during this period, Benjamin and his son Mosiah proudly assert at the end of their reigns that they had taught and enforced the law within the kingdom of Zarahemla. Benjamin stated that he had not allowed his people to "murder, or plunder, or steal" (Mosiah 2:13), and Mosiah reported that he had taught that there should be "no stealing, nor plundering, nor murdering" (Mosiah 29:14, 36). In these statements, relevant to internal domestic affairs, robbery is not mentioned.

The Early Period of Judges: Alma Through Pahoran

Through Mosiah's translation of the 24 Gold Plates of Ether (Mosiah 28:17), the Nephites became critically aware of the robbers that had plagued and destroyed the Jaredite government,[73] and of their "robbings" (Alma 37:21), and of their secret oaths, mysteries, agreements, covert murders, and abominations (Alma 37:21–22, 25–27). The Nephites were so concerned about the threat robbers might pose to them that they tried to keep the details secret about the actions and operations of the Jaredite robbers (Alma 37:27; Helaman 6:25). It is understandable, therefore, that Nephite law in this period, as reformed by Mosiah II, began to take greater cognizance of robbery.

Several fragments from the law of Mosiah have survived which mention theft and robbery (Alma 1:18; 1:32, 11:2; 16:18, and 30:10). Under the law of Mosiah, certain distinctions between theft and robbery seem to have been lessened somewhat. For example, two of these texts explain that under the law of Mosiah the people "durst not steal, for fear of the law, for such were punished; neither durst they rob, nor murder, for he that murdereth was punished unto death" (Alma 1:18; see also 30:10). As seen above, theft was not a capital offense in biblical law, but robbery generally was. Under the law of Mosiah, however, theft and robbery seem to be treated the same, as noncapital offenses, as is implied by the absence in both Alma 1:18 and

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[73] Shez was killed by a robber, Ether 10:3; Com's government was beleaguered by robbers, Ether 10:33; and in the end every man belonged to a "band" and there were "robbers" in all the land, Ether 13:25–6. Neither thieves nor stealing is ever mentioned in the book of Ether.

30:10 of any mention of the death penalty in these verses, except in connection with murder.[74] By not treating robbery as a capital offense, this law may reflect the fact that robbers were not yet an actual threat to society during the early years of the reign of Judges, which is consistent with what is found in the ancient Near East where punishment of robbers was less severe when the central authority was relatively more secure.[75]

These texts also provide evidence that theft and robbery continued to be viewed as separate crimes. Otherwise there would have been no need to mention both of them in the lists in Alma 1:18 ("they durst not steal, . . . neither durst they rob"); Alma 1:32 ("thieving, robbing"); Alma 16:18 ("stealing, robbing"); and Alma 30:10 ("if he robbed, . . . if he stole"); see also Mormon 2:10. These lists, however, give no indication of how the distinction between these two crimes was understood at this time. One may assume, however, that robbery was more violent than theft.

Another provision in the law of Mosiah interestingly analogizes the delinquent debtor to "a thief and a robber." Alma 11:2 sets forth a civil procedure to be followed in collecting an overdue debt. It tells where to file the complaint, how to

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[74] All of which is consistent with ancient Israelite law. See notes 52–54 above. Killing was a capital offense unless the slayer did not lie in wait and unless the victim was delivered into his hands by God, in which case the killer was compelled to flee either to a city of refuge or leave the Holy Land. See Exodus 21:13–14; cf. 1 Nephi 4:11–12.

[75] See Jackson, *Theft in Early Jewish Law*, 153, n. 3.

apprehend the debtor, how to try the matter, and what the consequences were if the debtor could not repay the obligation: If he could not pay that which he owed, he would be "striped" (i.e. flogged) or "stripped" (i.e. his goods confiscated),[76] or he could "be cast out from among the people as a thief and a robber" (Alma 11:2).

There are several interesting features of this text. First is the unusual fact that the law of Mosiah treated a delinquent debtor as if he had stolen the property. As discussed above,[77] there is evidence that defaulting debtors were indeed analogized to thieves in Near Eastern law. Treating defaulting debtors as thieves is logical, since the result is the same whether a person steals something outright, or borrows it and then fails to return it.

Second, Alma 11:2 speaks of both "a thief and a robber." Since four other texts likewise based on the law of Mosiah discussed above show that stealing and robbing were considered separate crimes, Alma 11:2 should not be taken to mean that little or no distinction between theft and robbery existed in Mosiah's mind. Rather the joint occurrence of the words theft and robbery in Alma 11:2 makes sense since this is a civil law, affording one private citizen a legal remedy against another

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[76] The earlier Book of Mormon manuscripts and editions read "striped"; see the Printer's Manuscript, 1830, 1837, RLDS 1908. The more recent editions read "stripped"; see the 1840, 1879, 1920, and 1981 editions in *Book of Mormon Critical Text*, 3 vols., 2d ed. (Provo: F.A.R.M.S., 1986–87), 2:586.

[77] See text accompanying notes 60–62 above.

private citizen in a business setting. As shown above,[78] the private civil property remedies under biblical law were probably the same for theft as for robbery: In either case, the victim would be entitled to restitution plus punitive damages as under Exodus 22:1, 4. By mentioning both theft and robbery, however, Alma 11:2 emphasizes the communal rejection and possible treachery of the defaulting debtor. There is a similar literary usage in John 10:1.

Third, Alma 11:2 tells us that thieves, robbers, and delinquent debtors, could be banished from Zarahemla under the law of Mosiah. A distant parallel is found in talmudic law, where creditors could impose a form of ostracism (*niddui*) on defaulting debtors, such that the offender would have to "live in confinement with his family only, no outsider being allowed to come near him, eat and drink with him, greet him, or give him any enjoyment."[79] Banishment was a very severe punishment, perhaps the most drastic sanction remaining, and in effect relegated the defaulting debtor to the status of an outsider.

Fourth, if the text should read "striped" (i.e. flogged), a close relationship between Alma 11:1–2 and Deuteronomy 25:1–3 may be established:

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[78] See note 64 above.

[79] Haim H. Cohn, "Herem," in M. Elon, *The Principles of Jewish Law*, 541–42. "The most common purpose of punishment, as found in the Bible, is 'to put away the evil from the midst of thee.'" Ibid., 522.

> If there be a controversy between men, and they come unto judgment, that the judges may judge them; then they shall justify the righteous, and condemn the wicked. And it shall be, if the wicked man be worthy to be beaten, that the judge shall cause him to lie down, and to be beaten before his face, according to his fault, by a certain number. [Not more than] forty *stripes* he may give him.

Both of these texts establish procedures for adjudicating disputes between two private citizens, apparently involving commerical litigation. Flogging was used in Israel to punish the loser.

Alternatively, "stripping" the guilty party of his clothes or his hair would probably have been used as a form of public humiliation, similar to the practice under ancient Near Eastern law.[80] Among the Arabs in recent times, all the property of a thief is confiscated and divided among the tribe.[81] In any case, debt-slavery was apparently not an option among the Nephites, for Mosiah 2:13 prohibited them from making slaves of one another, and thus selling the offender into slavery (Exodus 22:3) is not mentioned as a remedy in Alma 11:2.

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[80] See, e.g., Samuel Greengus, "A Textbook Case of Adultery in Ancient Mesopotamia," *Hebrew Union College Annual* 40–41 (1969–70): 33–44, discussing a case in which an adulteress had her private parts shaved, her nose bored with an arrow, and was then "led around the city"; Code of Hammurabi 129 (adulterers were tied together and thrown into the Euphrates River). Under Babylonian law it was possible for a more recalcitrant guilty party to be both stripped and striped. See, e.g., Code of Hammurabi 127 (insulting a high-priestess or married lady resulted in flogging *and* having half the head shaved [or branded]). But under Jewish law, multiple punishments were shunned. See Hyman E. Goldin, *Hebrew Criminal Law* (New York: Twayne, 1952), 50, n. 66.

[81] Dalman, "Aus dem Rechtsleben und religiösen Leben der Beduinen," 53.

Growing Nephite awareness of the increasing threat of robbery is further evidenced in the law of Mosiah in Alma 1:32 and 16:18. These verses both list basically the same twelve laws, indicating that the public law of Mosiah probably stands behind both of them. These lists appear to be an expansion of Nephi's eight laws (2 Nephi 26:32), and thus the addition of "robbing" in both cases (Alma 1:32; 16:18) seems to reflect a growing concern about robbery in this society. The same is seen as the general word "plunder" in Benjamin's list (Mosiah 2:13) was replaced by the more specific term "robbed" in the comparable law list in Alma 30:10. These three texts may also reflect the fact that Nephite society at this time found itself composed of several fragmented groups—Mulekites and Nephites, Church members and nonmembers—and thus their criminal law would have a growing need to prohibit not only stealing, but inter-sectional robbery as well.[82]

Just as the law of Mosiah shows a rising concern over robbery during this period, so do the narratives in the book of Alma. Here, somewhat greater attention seems to be paid to the old distinction between stealing within the community and robbing without. Thus the word "rob" is used to describe the Lamanites' "robbing and plundering" *the Nephites* (Alma 17:14), but when the internal wickedness of the Nephites is described the text only

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[82] While many Mulekites may have been members of the Church, all were not. Evidence that the Mulekites remained in part distinct is found in Helaman 1:15, connecting a Mulekite with the rise of Gadiantionism.

refers to the "plunderings [not robbings] . . . which were *among themselves*" (Alma 50:21). When Lamanites take the sheep of another Lamanite, it is not described as robbery, but as "a practice of plunder *among them*" (Alma 18:7).

From this period also comes the account of King Lamoni's severe punishment of his servants who had failed to protect his sheep from raiders. This is an odd situation, however, and is not directly pertinent to the Nephite laws of theft and robbery. The nature or purpose of these raids at the waters of Sebus is not entirely clear, except that the winners thereby "scattered [the animals] unto their own land" (Alma 18:7). If the laws of theft and robbery are pertinent here, it may be relevant that ancient law made shepherds liable to replace sheep lost due to theft, but not due to robbery.[83] For loss due to theft, imposing the death penalty would have been extraordinarily harsh, although not without precedent where royal property was involved.[84] But the death penalty would have been even more unusual in the excusable case of a loss due to marauding robbers. Perhaps for such a reason, King Lamoni himself began to "fear exceedingly, with fear lest he had done wrong in slaying his servants; for he had slain many" (Alma 18:5–6).[85]

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[83] See note 51 above.

[84] See Code of Hammurabi, Section 8, where a person who steals the animals of the palace is put to death if he cannot pay to replace them.

[85] Ideally, kings in Israel were subject to the rule of law, as the stories of Naboth's vineyard in 1 Kings 21 and of David and Bathsheba in 2 Samuel 11–12 illustrate. See generally Ze'ev

Finally, in this period, for a brief time the Nephites (as represented by the sons of Mosiah) and the Lamanites (at least as represented by Lamoni) became reconciled. The Lamanites had long accused the Nephites of robbing them,[86] and Lamoni's father also suspected the four sons of Mosiah of coming to "rob us of our property . . . by their cunning and their lyings" (Alma 20:13). To a modern Western mind, Lamoni's father should have called them thieves, for stealth and secretive deception are usually associated with theft, and robbery with violence. To an ancient mind, however, the sons of Mosiah could well be described as a band of robbers, since they came in a group from the outside, threatening to undermine the government. Accordingly, Lamoni's father commanded him to slay Ammon "with the sword." This manner of military execution would suit a robber.[87] To counteract this

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Falk, *Hebrew Law in Biblical Times* (Jerusalem: Wahrmann, 1964), 45–51; Roland de Vaux, *Ancient Israel*, 2 vols. (New York: McGraw-Hill, 1965), 1:151. Perhaps Lamoni had been strict with his servants because the problem had been a repeated one, or because his sheep were a rare or royal commodity, or because he suspected his servants of complicity with "their brethren" (Alma 18:6) who did the raiding. Perhaps also he did not think the servants were entitled to the usual protections of law regarding losses due to robbers because they were not lone shepherds but should have been able to stand, band for band, against the raiders. Perhaps he tried to justify himself denying his servants the normal exemption by never calling the attackers "robbers." They are just called plunderers and "brethren" (Alma 17:35; 18:7), afterwards walking the streets of the king's city freely (Alma 19:21–22).

[86] See discussion on Mosiah 10:16–17 and Alma 20:13, above. The accusation of robbing the Plates of Brass (Alma 20:13) was later expanded into the accusation that Nephi had robbed the "right to the government" (Alma 54:17).

[87] See note 57 above.

long-standing Lamanite sentiment and the idea that Nephites were outsiders to the Lamanites, Lamoni decreed after his conversion that the Lamanites should "be convinced that they were *all brethren* [with the Nephites], and that they ought not to murder, nor to plunder, nor to *steal*" (Alma 23:3). Robbery is not mentioned here, evidently since robbery would become irrelevant once the Nephites were defined as brothers of the Lamanite community.

The Later Period of Judges: Pahoran II to Lachoneus II

With the chief judgeship of Pahoran II (Helaman 1:9), robber bands began to figure prominently in the Book of Mormon. Classic manifestations and descriptions of ancient robbers are unmistakeably found in this section of the Book of Mormon. Their mode of operation follows precisely the pattern of ancient Near Eastern brigandage. The parallels between the Gadianton robbers and their counterparts in ancient Egypt, Mesopotamia, Palestine, Greece and Rome, could hardly be more complete.

Several reasons explain why these robbers could rise to such power at this time in Nephite history. The prolonged wars of Moroni and Helaman in the north and the south left the central government in Zarahemla precariously weak. The capital city Zarahemla itself had fallen in those wars (Alma 61:5–8), and it fell twice more shortly afterwards (Helaman 1:27, 4:5). Furthermore, the deaths of Alma's sons Helaman (Alma 62:52) and Shiblon (Alma 63:10), of Captain Moroni (Alma 63:3), and Chief Judge Pahoran (Helaman 1:2), not to mention numerous other war

casualties, along with the departure of Alma's son Corianton (Alma 63:10) and those who left with Hagoth (Alma 63:5), all occurred within five years of each other (57 to 52 B.C.), and left the Nephite government almost leaderless. Helaman II must have been young when he took the records from Shiblon, and his son Nephi was even younger when he succeeded his father already in 39 B.C.[88] Just as was the case in ancient Near Eastern civilization, these weaknesses made Zarahemla vulnerable to the repeated raids, pillage, terrorism, corruption, and extortion that characterized robber activity.

Moreover, several dissident groups in the land of Zarahemla could readily swell the ranks of these robber bands. (1) Despite Lamoni's conversion and brotherly proclamation, other Lamanites continued to respond to the claim that Nephi had robbed Laman, and they remained disposed to avenge that wrong (Alma 54:17). Although at first the Lamanites did not tolerate their presence and vigorously sought them out and "utterly destroyed" them (Helaman 6:37), some Lamanites eventually joined with the Nephite robbers (Helaman 11:24–26; 3 Nephi 1:29). (2) Certain Nephites had probably been expelled under the law of Alma 11:2 or similar provisions and had been branded "robbers." (3) Other Nephites were likely excommunicated under the procedure instituted in Mosiah 26. These or other Nephites affiliated with the robbers were specifically identified as "dissenters from the people of

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[88] See John W. Welch, "Longevity of Book of Mormon People and the 'Age of Man,'" *Journal of Collegium Aesculapium* 3 (1985): 35–45.

Nephi" (Helaman 11:24; see also 6:38; 3 Nephi 1:28). (4) The followers of Nehor (Alma 1:15–16; 14:16–18; 21:4; 24:28–29) had marginal loyalties and ample antagonism toward the Nephite regime, (5) as also did the Zoramites.[89] (6) The Mulekite population may have provided a festering source of second-class citizens, probably less educated and never having the leading role in the Nephite-dominated government, despite their being more numerous than the Nephites (Mosiah 25:2, 4; Omni 17). Some Mulekites probably fueled the civil wars fought in Zarahemla shortly after the installation of Alma as Chief Judge (led by Amlici in Alma 2–3), and upon the succession of Helaman to the same office (led by Zerahemnah in Alma 44), and again following the accession of Pacumeni to that office (led by the Mulekite Coriantumr in Helaman 1:15).[90]

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[89] Zoramite hostility intensified when Alma and his comrades converted the lower working class in Antionum and took them to Jershon (Alma 35). Amalickiah and Ammoron were descendants of Zoram (Alma 54:23; 52:3). Zoramites also joined the ranks of the Gadianton robbers (3 Nephi 1:29).

[90] The names *Amlici* and *Zerahemnah* have possible Mulekite connections: *Amlici* can be associated with the Hebrew root *mlk* meaning king; see F.A.R.M.S. Update "New Information About Mulek, Son of the King" (February 1984); and *Zerahemnah* is a likely name for a descendant of Zarahemla, king of the Mulekites. Both were interested in reestablishing the kingship. Coriantumr is expressly identified as "a descendant of Zarahemla" (Helaman 1:15). It seems that the assimilation of Mulekites into Nephite culture was not entirely satisfactory and that these two groups remained distinct (Mosiah 25:4; Helaman 6:10).

Over the years, several of these robber groups came and went, each having its own political and religious agendas.[91] One robber movement was a serious problem in the final years of the Jaredites (Ether 10:3, 33; 13:26). Independently (Helaman 1:11; 6:26), another group arose led by Kishkumen and Gadianton, who were fugitives from justice over the violence surrounding the succession of Pahoran II to the chief judgeship. This group was active about 50–20 B.C. A third group emerged among the Lamanites about 12 B.C. after the Nephites had been brought to their knees by famine (Helaman 11:9–10, 24). A fourth band was active between A.D. 15–20, led by a man named Giddianhi (3 Nephi 3:9), who represented outcasts and whose motives were political (3 Nephi 3:10). His short-lived successor was Zemnarihah (3 Nephi 4:17, 28). Yet another group formed about A.D. 30 out of disputes over religious issues and over an attempt by the Nephite governor to limit the lower judges' authority to impose the death penalty (3 Nephi 6:21–30). A secret group was formed, conspiring "to deliver those who were guilty of murder from the grasp of justice . . . [and] to destroy the governor, and to establish a king over the land" (3 Nephi 6:29–30); it was led by a man named Jacob, who soon took his followers and left to the north (3 Nephi 7:9–13). Robbers reappear after the Great Nephite Peace (4 Nephi 42–46), and they continue as a major factor until the destruction of the Nephites (Mormon 1:18; 2:8, 27; 8:9).

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[91] Richard Bushman, *Joseph Smith and the Beginnings of Mormonism* (Urbana: University of Illinois, 1984), 130, briefly summarizes the history of two of these groups.

The activities of these groups of robbers follow the pattern of the sixteen factors described at the beginning of this paper, against which the Book of Mormon data will now be compared:

1. Whether these Book of Mormon robbers worked in secret (e.g., Helaman 2:4, 8; 6:17) or in the open (e.g., 3 Nephi 2:17; 3:12; 4:7), they were still called "robbers." The distinction between secret theft and open robbery is therefore not primary here.

2. The insider/outsider distinction, however, is fundamental. These Book of Mormon robbers are perceived as political outsiders or traitors, and the talk is therefore always of "robbers." The Gadianton robbers are always called robbers, never thieves.

It is possible, however, for these robbers to "steal" within the community once they have obtained control of the government. Thus, when the record speaks of wickedness "*among* the Nephites," it always speaks of "stealing," not robbery (Helaman 4:11–12). Accordingly, "stealing" is the issue in Helaman 6:21–23 because the Nephites have united with the robbers "among the Nephites" (Helaman 6:18), and the same is the case in Helaman 7:5 and 21, because the opposition group now controlled the government and the concern was with offenses "against your *neighbor*" (Helaman 7:21).[92]

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[92] Samuel the Lamanite's prophecy in Helaman 13:34, that men would set down a tool and the next day not be able to find it (either a neighbor or an outsider could have taken it), is fulfilled according to Mormon 2:10 because of the "thieves and the robbers" in the land.

3. Typically, these robbers utilized force and violence. They assassinated, murdered, raided, plundered, and extorted. They often resorted to open warfare (e.g., 3 Nephi 3:1–4:27).

4. These Book of Mormon robbers operated in groups. The word "band" (in Nephite Hebrew this word was probably close to *g^{e}dud*) appears over twenty times during this period (e.g., Helaman 1:12). Indeed, there may be a connection between the Hebrew word *g^{e}dud* (meaning "band") and the name *Gadianton*, since this name was spelled with a double "d," Ga*dd*ianton, in the Original Manuscript of the Book of Mormon (Helaman 2:11–12).[93]

5. There is also no question that they were organized in professional groups. They had leaders who were "expert" in their craft (Helaman 2:4). Kishkumen and Zemnarihah were each called "leader" (Helaman 2:4; 3 Nephi 4:17); Giddianhi was called "governor" (3 Nephi 3:1, 9); and Jacob, "king" (3 Nephi 7:10). They had laws (Helaman 6:24), as well as their frequently mentioned oaths, covenants, and secret alliances (e.g., Helaman 6:21–22). Presumably they had priests to formalize these oaths. They were a bloodthirsty lot, filled with hatred and violence (3 Nephi 3:3; 7:11), committing numerous "secret murders" and being lawless and violent to the point that one robber would kill another (Helaman 8:27). Yet they subsisted as a community, in

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[93] I am grateful to Kelly Ward and Robert F. Smith for this information. There may also be a play on words in Alma 37:23, where a stone called Gazelem (possibly from the Hebrew *gzh* "cut, cut-stones") will reveal the darkness of the *gzl*-robbers, as suggested by JoAnn Hackett, Robert F. Smith, Blake Ostler, and John Tvedtnes. Cf. also Gi*dd*ianhi.

all probability living with women and children (Helaman 11:33). They came from social groups who probably felt themselves to be outcasts, from those who thought they had been repeatedly "wronged" (3 Nephi 3:4), and from other people who felt socially alienated.

6. Their use of oaths is well attested. Helaman 1:11 reports an oath "by their everlasting Maker" (see also Helaman 6:21; 3 Nephi 3:8). They also identified themselves to each other with secret signs (Helaman 2:7; 6:22). Possibly their oath-making was accompanied by blood rituals, for when they came to battle they were covered with blood (3 Nephi 4:7), and Mormon says that the robbers in his day sacrificed women and children (Mormon 4:14–15, 21) and practiced "magic art" (Mormon 2:10).

7. Maintaining their secret identity was one of main duties of these robbers (Helaman 1:11; 2:3; 6:21). Their strongholds were located in the wilderness (Helaman 2:11) and in the mountains (Helaman 11:25–31; 3 Nephi 1:27; 2:17; 3:20), except when they were successful in infiltrating population centers (Helaman 3:23).

8. They raided and attacked (3 Nephi 4:16). Reminiscent of the cloak-and-dagger assassination of the high-priest Jonathan by a robber in Jerusalem are the slayings of Pahoran and Cezoram by disguised robbers in Zarahemla (Helaman 1:9–10; 6:15). Another similar coup against Helaman was narrowly averted (Helaman 2:3–5).

9. Similar to their ancient Near Eastern counterparts, these robbers also preyed on the local government. Just as a range of infractions could be analogized with theft, usurping power could also be associated readily with the actions of these robbers (Helaman 7:4). They attacked local leaders and destroyed cities (3 Nephi 2:11). Their greatest success came when Nephi abdicated (Helaman 5:1–8:7). They regularly claimed and disputed the throne (3 Nephi 3:10).

10. These robbers were militant. They came as invading armies, in siege warfare (3 Nephi 4:16), with military power capable of defying "whole armies" (Helaman 11:32; 3 Nephi 2:11, 17; 4:1, 11). Yet their supply shortage is evident, for they, like the Near Eastern robbers, lived off the land (3 Nephi 4:3; 4:19–20). Their military strength was terrifying. These robbers were the most feared of all Nephite enemies: Mormon identifies them as the primary cause of the overthrow and near destruction of the Nephites (Helaman 2:13–14). Their attacks were so "great and terrible" that "there never was known so great a slaughter among all the people of Lehi since he left Jerusalem" (3 Nephi 4:11).[94]

11. Just as robbers in Egypt might demand ransom, Giddianhi attempted to extort from Lachoneus his cities, lands and

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[94] Remembering the total destruction and captivity of Jerusalem as exceeding the severity of these attacks has an authentic ring. No Lehite would likely have ever forgotten Lehi's prophetic warning to Jerusalem and his revealed confirmation of its total destruction, in the face of which Lehi and his group left Jerusalem in the first place.

possessions on pain of being destroyed with the sword (3 Nephi 3:6). In Egypt, the robbers were said to have demanded one-fourth of the threatened property. In Giddianhi's case, he also wanted a share, as he proposed to make the Nephites "partners" (3 Nephi 3:7). Giddianhi may have thought he was making a reasonable ransom offer, since, on earlier occasions, the Nephites had been willing to unite with and deal with the robbers: The Nephites "supported them . . . and partook of their spoils" (Helaman 6:38), much as Josephus accused Albinus of taking kickbacks from robbers in Judea.

12. Little effort was made in this period to deal with robbers judicially. Helaman sent soldiers after Gadianton, who fled, fearing that he would "be destroyed" (Helaman 2:11). It is doubtful that any kind of trial would have taken place if Gadianton had been apprehended, for Helaman sent men after these assassins already intending "that they might be *executed* [not tried] according to the law" (Helaman 2:10). Similarly, "the Lamanites did hunt the band of robbers" (Helaman 6:37), using "every means in their power" (Helaman 6:20) and "utterly destroyed" them in Lamanite lands (Helaman 6:37). "An army of strong men" was sent into the wilderness to "search" and "destroy" the robbers who arose after the famine of Nephi (Helaman 11:28, 30). At a later time, Giddianhi was "overtaken and slain" (3 Nephi 4:14), when he could have been taken prisoner. Zemnarihah was taken and executed on the spot, being hung on a tree and ceremoniously cut down (3 Nephi 4:28–30). The

rank and file robbers under Zemnarihah were summarily slain if they would not become prisoners (3 Nephi 4:27), and even the prisoners were "condemned and punished according to the law" (3 Nephi 5:5); they would have been executed for murder, if not for robbery, if they had not made a covenant "that they would murder no more" (3 Nephi 5:4). Thus, robbery was clearly under the jurisdiction of martial law among the Nephites at this time.

13. Similarly, clearing the countryside of robbers was a responsibility of government. Helaman took official action (Helaman 2:10), as did the Lamanites (Helaman 6:37) and Nephi (Helaman 11:28). The government of Lachoneus consolidated the Nephites and built fortifications against the robbers (3 Nephi 4:3–5). These governments considered themselves responsible: Only because the robbers were "not known unto those who were at the head of government" were they "not destroyed out of the land" (Helaman 3:23). Mormon takes pains to exonerate Helaman from any insinuation that he had allowed the secret oaths of the Jaredite robbers to be known from the records in his custody (Helaman 6:26). By the same token, whenever the robbers were defeated, the government boasted or was praised for this success (Helaman 6:37; 11:10; 4 Nephi 17).

14. The death penalty was imposed summarily upon robbers in this era of Nephite history (Helaman 2:10). This represents a change, moving back to the more traditional law and away from the law of Mosiah under which robbery does not seem to have been punishable as a capital offense (Alma 1:18; 11:2; 30:10). The

mode of punishment for Zemnarihah was "hanging," a form of execution related to crucifixion (3 Nephi 4:28; cf. Deuteronomy 21:22).[95]

15. The deaths of robber-leaders were particularly notorious. Zemnarihah's execution was a public spectacle, with all the people in unison chanting loud incantations and supplications, and singing, praising, rejoicing, and exulting (3 Nephi 4:28-33).[96] The deaths of Kishkumen (Helaman 3:9) and Giddianhi (3 Nephi 4:14) are also emphatically recorded.

16. Finally, robbers in the Book of Mormon are also viewed as instruments of divine judgment. They came upon the people as a "great evil . . . because of their iniquity" (Helaman 11:34). Mormon sees robbers as instruments of death and terror sent by God to "chasten his people" (Helaman 12:3). It may be that the presence of robbers in the land northward was the "great curse" said to be upon that land (3 Nephi 3:24). In any event, the only hope for deliverance was righteousness: "As the Lord liveth, except ye repent of all your iniquities, and cry unto the Lord, ye will in nowise be delivered out of the hands of those Gadianton robbers" (3 Nephi 3:15). In the same vein, Nephi cries

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[95] See generally Martin Hengel, *Crucifixion* (Philadelphia: Fortress Press, 1977).

[96] The detailed way in which this execution followed ancient Israelite practice, as reflected in Maimonides, Sanh. XV.6, is set forth in my "The Execution of Zemnarihah," F.A.R.M.S. Update (November 1984). See *Code of Maimonides, The Book of Judges*, Abraham Hershman, trans. (New Haven: Yale University, 1949), 43. See also *Maimonides' Commentary on the Mishnah, Tractate Sanhedrin*, Fred Rosner, trans. (New York: Sepher-Hermon, 1981), 75.

to God hoping that he will finally be "appeased in the destruction of those wicked men" and take mercy upon the Nephites (Helaman 11:11).

Thus, in every respect, the organized robbers in this period of Nephite history manifest the same legal and cultural characteristics as do robbers in the Old World. While members of these countercultural Book of Mormon groups probably saw themselves in another light (see 3 Nephi 3:9), to the Nephites they were "robbers" (3 Nephi 3:12) and despicable outlaws.

The foregoing discussion accounts for every occurrence of the words *rob*, *robber*, *thief*, or *steal* in the Book of Mormon, except for the following usages, which I consider to be literary rather than legal. Mosiah 27:9, Alma 31:22 and 39:4 speak idiomatically of deception as "stealing hearts." The same expression is similarly used in biblical Hebrew (e.g., 2 Samuel 15:6). Two other verses mention "robbing God." The meaning of the word *rob* in the phrase "will a man rob [Heb. *yiqba^{c}*] God," (3 Nephi 24:8 = Malachi 3:8), is to "cover up," and hence to "defraud." The same meaning probably stands behind the thought of "mercy robbing justice" in Alma 42:25. Another literary appearance of robbery, mentioned briefly above, is in 2 Nephi 20:2 and 13 (Isaiah 10:2, 13). Those who "rob (*yabozzu*) the fatherless" and have "robbed (*shoseti*) their treasures" are condemned by Isaiah, speaking of those who exploit or defraud the poor. The same meaning is found in 2 Nephi 28:13, where Nephi (commenting on these words of Isaiah) condemns those churches who

"rob the poor."[97] Finally, Moroni prophesied that there will be great pollutions upon the earth in the last days, particularly murders and robbings (Mormon 8:31). Theft is not mentioned, perhaps because it is not so serious.

Concluding Reflections

In conclusion, there is good evidence that virtually the same legal and cultural distinctions between thieves and robbers existed in ancient Near Eastern and Israelite law and in the Book of Mormon, especially in the later period of the reign of Judges. The syndrome of robbery was a complex phenomenon in both the Book of Mormon and in the ancient Near East. Far more was meant by the word "robber" in biblical law and in the Book of Mormon than is meant by that word today. Until the reign of Judges, robbery was not a serious problem in Nephite civilization. As time progressed in the first century B.C., however, the plague of robbery and robber bands quickly assumed monumental proportions for the Nephites, eventually becoming one of the principal causes of their downfall. Internal Book of Mormon history, together with biblical and ancient Near Eastern precedents, account for the treatment of these robber bands.

As in the Bible, the terms "theft" and "robbery" are never defined in the Book of Mormon. Their meanings must be reconstructed by examining how they are used. Although several occurrences of these terms are ambiguous, others provide

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[97] Cf. Proverbs 22:22–23. See also the concern of other Jewish sectarians over "robbing the poor," mentioned in Jackson, *Theft in Early Jewish Law*, 29, citing Damascus Document 6.16.

important information about the Book of Mormon precept of robbery. From these usages, it is clear that robbers could act both in the open (e.g. 3 Nephi 3:1–10) or in secret (e.g. Alma 20:13; Helaman 2:4), and robbery could consist of both violent (e.g. Helaman 2:4, 8) or nonviolent behavior (e.g., 1 Nephi 3:13; Alma 20:13). More characteristic of ancient robbers, especially in the books of Helaman and 3 Nephi but also in other places as well, is the appearance of robbers in bands or groups, formed to victimize governments or people outside their circles. This factor, along with the implications that follow from it, appears to be a distinctive element in the ancient Near Eastern view of robbery, and also in the Book of Mormon.

It is doubtful, in my opinion, that Joseph Smith could have detected such subtle legal distinctions or surmised these historical patterns from his own nineteenth century informational environment. For example, *Jahn's Biblical Archaeology*[98] discusses "Punishment of Theft," but it makes no reference whatever to ideas like Jackson's, and never even mentions robbers. Similarly, if Joseph Smith had relied on his King James Bible on this point, he would have stumbled into error, for that translation uses the words theft and robbery interchangeably, there being little difference between the two in English. For example, the word "thieves" was rightly used in Matthew 6:19 (KJV) as a translation of the Greek *kleptai*, but it was wrongly

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[98] Thomas Upham, ed. *Jahn's Biblical Archaeology* (Andover: Flagg and Gould, 1823), 313. This was a standard Bible commentary of its day.

used in Matthew 21:13 in the phrase "a den of thieves," where the Greek *leston* should have been translated "robbers." It creates this confusion despite the fact that Matthew 21:13 is quoting Jeremiah 7:11, which was rightly translated "a den of robbers." Likewise, in the parable of the Good Samaritan the translation should not read "fell among thieves" (Luke 10:30), since these were outlaw robbers: the Greek (*lestais*) should be translated "robbers." Furthermore, Jesus was not crucified between two "thieves," as in Matthew 27:38 (KJV), but between two robbers (*lestai*); the same word (*lestes*) was correctly translated "robber" when describing Barabbas (John 18:40). With his cultural background in King James terminology, Joseph Smith would have assumed that there was no significant difference in biblical law between a thief and a robber.[99]

Moreover, Anglo-American common law and language would have provided Joseph Smith with a different understanding, inconsistent in significant ways with the usages found in the Book of Mormon. In the common language of his day, the difference between a thief and a robber was mainly the distinction between secretive and open taking. In 1828, the word "thief" was defined as "one who secretly, unlawfully and feloniously takes the goods or personal property of another. The thief takes the property of another privately; the robber by open

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[99] Even today this distinction is not self-evident to Westerners. After all, we do not speak of "Ali Baba and the Forty *Robbers*."

force."[100] Without giving a full explanation of the English and American laws regarding theft (often called larceny) and robbery,[101] certain general observations can be made. In England, robbery was a crime against the *person*, whether by a neighbor or an outsider. It required a "felonious taking, *from the person of another*, money or goods of any value, by putting [the victim] in fear . . . . The theft [sic] must be from the person."[102] British robbers were typically highwaymen—fancy-dressed dandies who would rob travellers and sometimes masquerade as aristocratic house-guests to support their high living and gambling.[103] Nevertheless, the words theft and robbery were often used without apparent distinction in England, as in the

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[100] Webster's *An American Dictionary of the English Language*, 2 vols. (New York: Converse, 1828), s.v. "thief," 2:92

[101] See generally, Samuel Walker, *Popular Justice: A History of American Criminal Justice* (New York: Oxford University Press, 1980); Douglas Greenberg, *Crime and Law Enforcement in the Colony of New York 1691–1776* (Ithaca: Cornell University, 1974); William E. Nelson, *Americanization of the Common Law: The Impact of Legal Change on Massachusetts Society*, 1760–1830 (Cambridge: Harvard University, 1975).

[102] Joseph Chitty, *A Practical Treatise on the Criminal Law*, 5 vols. (London: Valpy, 1816; reprinted New York: Garland, 1978), 4:802–9. This law was strictly interpreted; see William Holdsworth, *A History of English Law*, 16 vols., plus index (London: Methuen, 1966–1972), 8:304. See also Herbert Broom, *Commentaries on the Common Law* (Philadelphia: Johnson, 1856), 633–34.

[103] See Patrick Pringle, *Stand and Deliver: The Story of the Highwaymen* (London: Museum, 1951). *Highway* robbery and putting in fear also became the issues in the laws of Massachusetts and Pennsylvania; see Edwin Powers, *Crime and Punishment in Early Massachusetts* (Boston: Beacon, 1966), 270; Nathan Dane, *A General Abridgment and Digest of American Law*, 9 vols. (Boston: Cummings, Hilliard, 1823–1829), 7:180; *Laws of the Commonwealth of Pennsylvania*, ch. 154 (1780).

1751 Act for Better Preventing Thefts and Robberies.[104] Larceny, by way of distinction, was a crime against personal *property*. It required "a taking from the *possession*" of another.[105] Thus "if a party lawfully acquired possession of goods and afterwards misapplied them, this is no felony."[106] In American law, the term robbery describes a type of theft, "a compound larceny . . . from the person with the aggravation of force, actual or constructive, used in the taking."[107] "Robbery is a wrongful taking of personal property in the possession of another, from his person or immediate presence, and against his will, accomplished by means of force or fear."[108] Since the crime of theft, larceny, or stealing can also be committed in the presence of the victim,[109] the only significant distinction between theft and robbery in American jurisprudence is the use of force when stealing from a person. But since "the degree of force employed is immaterial,"[110] the distinction between theft and robbery is not, in most fact situations, a great one. Indeed, the two terms

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[104] Pringle, *Stand and Deliver*, 234.

[105] Chitty, *A Practical Treatise on the Criminal Law*, 4:917–24. See also Holdsworth, *A History of English Law*, 3:361–66; 7:513.

[106] Chitty, *A Practical Treatise on the Criminal Law*, 4:917.

[107] "Larceny," 50 *Am Jur 2d* 160.

[108] *Penal Code of New York*, Section 280 (1865). See generally, "Robbery," 67 *Am Jur 2d* 49–51.

[109] E.g., *Penal Code of New York*, Section 592 (1865). Theft need not be in secret; cf. note 6 above.

[110] *Penal Code of New York*, Section 282 (1865).

theft and robbery were used with little differentiation in colonial America. In Massachusetts, it was against the law to "*rob* any Orchard or Garden" or to "*steal* from any person."[111] Current usage would tend to reverse the terms "rob" and "steal" in these sentences. Likewise, in Pennsylvania, an Act against Robbing and Stealing was passed in 1705, whereunder little substantive distinction is evident and a "robber" convicted of his first offense was treated the same as a thief.[112] Theft was one of the most odious and often prosecuted crimes in the colonies of New York and Massachusetts, but cases involving robbery were rare.[113]

In many ways, therefore, English and American legal usage is inconsistent with the Book of Mormon's understanding of theft and robbery. For example, Laban was not put in fear by "an actual violence" or "a struggle."[114] Under Anglo-American law, one can neither steal nor rob a "right to government" (Alma 54:17), since there is no offense here against person or property. Similarly, a delinquent debtor cannot be treated as a thief under modern

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[111] *General Laws and Liberties of Massachusets Colony* (Cambridge: Green, 1672), 13 (emphasis added).

[112] *Laws of the Province of Pennsilvania* [sic] (Philadelphia: Bradford, 1714), 35. For his second offense, a robber was punished more severely than a second offending thief. The terms are not defined.

[113] Greenberg, *Crime and Law Enforcement in the Colony of New York 1691-1776*, 90; Nelson, *Americanization of the Common Law: The Impact of Legal Change on Massachusetts Society*, 1760–1830 (1975), 37.

[114] See Chitty, *A Practical Treatise on the Criminal Law*, 4:803–4.

law, since he "lawfully acquire[d] possession."[115] Likewise, imprisonment was a frequent punishment for delinquent debtors in New York in 1828,[116] but prison is not mentioned in Alma 11:2.

Ancient law, however, provides fuller information against which to understand the Book of Mormon on this point. In light of the ancient concepts, the modern reader can appreciate the intense concern and mortal terror which all ancient peoples, including the Nephites, must have felt in the face of the horrible threat of robbers. With this understanding, the modern reader can also reject facile attempts to explain the Book of Mormon oath-taking robbers as nineteenth century Masons,[117] and can see that the comparison between these robbers and twentieth century "terrorist guerrillas" is not exhaustive.[118] Although it

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[115] See Chitty, *A Practical Treatise on the Criminal Law*, 4:917. I am grateful to Cole Durham for these last two suggestions.

[116] See Richard Bushman, *Joseph Smith and the Beginnings of Mormonism*, 66.

[117] Alexander Campbell, Delusions: An Analysis of the Book of Mormon (Boston: Greene, 1832), 9; Campbell himself abandoned this lame theory before long. See Bushman, *Joseph Smith and the Beginnings of Mormonism*, 128–31. For a discussion of the general similarities of all secret societies, see John L. Sorenson, *An Ancient American Setting for the Book of Mormon* (Salt Lake City: Deseret, 1985), 300–9; see also Richard Deacon, *The Chinese Secret Service* (New York: Ballantine, 1976). In addition, Bill Hamblin has suggested that other close parallels can be found in radical Islam; see Marshall G. S. Hodgson, *The Order of Assassins* (Hague: Mouton, 1955); and Bernard Lewis, *The Assassins: A Radical Sect in Islam* (New York: Basic, 1968).

[118] Both Richard Bushman, *Joseph Smith and the Beginnings of Mormonism*, 131, and Ray Hillam, "The Gadianton Robbers and Protracted War," *BYU Studies* 15 (1975): 215–24, suggest this modern parallel.

is impossible for us to know for sure, so long as the original Nephite texts are absent, it strongly appears that Nephite usage with respect to theft and robbery continued to reflect the preceptions of ancient Near Eastern law and society—replete with legal concepts different from those of Anglo-American law and brimming with social pathologies foreign to (and likely unknowable by) Joseph Smith and his contemporanies.