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## The Trial of Abinadi

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## CHAPTER SIX

# THE TRIAL OF ABINADI



The second major legal proceeding in the Book of Mormon is the trial of a prophet named Abinadi, found in Mosiah 12–17. This is one of the most thoroughly reported legal incidents in the Book of Mormon, and it is considerably more complicated than Sherem’s encounter with Jacob. Abinadi’s potent condemnations of the unsavory King Noah and the unrepentant people in the city of Nephi gave rise to at least four separate accusations stated as legal causes of action (lying, prophesying falsely, blaspheming, and reviling). These accusations were leveled against Abinadi by three distinct parties, namely, the people at large, the priests of Noah, and Noah himself. Abinadi was ultimately executed, becoming the first reported martyr in the Book of Mormon.<sup>1</sup>

Abinadi’s expositions and prophecies are thoroughly embedded in the judicial setting of his trial. The account of the trial and the surrounding narrative are replete with legal terms and forensic strategies that lend themselves readily to detailed analysis. Many legal elements in this record can be compared closely with ancient Israelite and subsequent Jewish judicial practices; in certain respects, however, Noah’s court diverged from the traditional ancient precedents. An awareness of all these factors aids our understanding of Abinadi’s courage in the face of these inequities. The trial of Abinadi raises many questions worthy of consideration in this analysis, from authorship of the account to the jurisprudential import of its many legal details.

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1. The main ideas in this chapter were first circulated in two of my FARMS Preliminary Reports, “Judicial Process in the Trial of Abinadi” (Provo, UT: FARMS, 1983) and “Ancient Near Eastern Law and the Book of Mormon” (Provo, UT: FARMS, 1981), parts of which were presented at the regional meeting of the Society of Biblical Literature and American Association of Religions in Denver on April 16, 1982, and also formed the basis of Lew W. Cramer, “Abinadi,” in *The Encyclopedia of Mormonism*, ed. Daniel H. Ludlow (New York: Macmillan, 1992), 1:5–7.

**Who Wrote Mosiah 11–17?**

The Book of Mormon account of Abinadi's trial and execution is remarkably lengthy and quite precise. It is one of the longest trial accounts to have survived from antiquity anywhere. It rewards close scrutiny. But before these chapters can be analyzed from a legal perspective, one must consider how this text originated. This text has a complex history. It is not entirely certain who spoke, reported, wrote, compiled, edited, or abridged the materials in Mosiah 11–17 as we now have them, or why these original reports or records were created. Yet it makes a difference who wrote this account and why. Obviously, the story would certainly have been told differently if it had been written by King Noah or one of his scribes as part of an opinion of the court.

The case of Abinadi began with the words that he spoke in public. Those words were then reported to King Noah by the people who had arrested Abinadi and handed him over to the royal court. Words were then spoken in court by Abinadi, the king, and his priests.

A primary or preliminary written record of the trial of Abinadi was then generated by a second voice, that of Alma the Elder (Mosiah 17:4), who personally witnessed most of these legal proceedings as a member of the court. Alma was a knowledgeable, dynamic, and dedicated person who sat as a young priest judging this case until he spoke in Abinadi's defense and was expelled by Noah from his seat of judgment (vv. 2–3). As a pro-Abinadi reporter, Alma focused mainly on the words of Abinadi and not on the arguments or concerns of the government. Even with the very best of motivations, it would have been difficult for Alma to overcome his animus against Noah and to temper his avid sympathies for Abinadi in order to write an unbiased report of what transpired in that courtroom.

Although Alma created and used this record primarily to serve his immediate religious needs and purposes in “teach[ing] the words of Abinadi” to his recent converts (Mosiah 18:1), this report also served many other lasting purposes, both legal and religious. Alma's text purposefully vindicated Abinadi, thus protecting Alma himself from any possible attempts that Noah and his cohorts might make to characterize Abinadi as a criminal who had been justifiably convicted and executed or to pursue Alma and punish him as a fugitive from justice and a political dissident. Alma's report placed the weight of responsibility for Abinadi's death on King Noah, paving the way, in a sense of poetic justice, for the reciprocal demise of the king consonant with the legal principle of talionic justice. Beyond serving these immediate needs, Abinadi's commentaries on the meaning of the law of Moses, his use of the Ten Commandments, and

his success in withstanding the first three charges brought against him provided authoritative interpretations concerning several provisions in Nephite law and religion for many years to come.

In his place of hiding, Alma took “many days” to write “all the words which Abinadi had spoken” (Mosiah 17:4). We can assume that Alma wrote from memory since it is unlikely that he could have taken or retained any written notes of the proceeding. It is unclear what he eventually wrote on or how he managed to keep that memoir safe and secure, especially after he and his people were taken and held in bondage for several years in the land of Helam (Mosiah 23–24). Many, but perhaps not all, of Abinadi’s words survived and were eventually included in the final record. The immediacy of Alma’s writing, however, gives to the Book of Mormon account of Abinadi’s case high documentary credentials. Nevertheless, because of the inclusion of details that Alma would not have been able to witness firsthand (such as what occurred after he was dismissed), it remains uncertain whether all the words in Mosiah 11–17 came from Alma or in part from others. Some of the narrative setting for the trial in Mosiah 12, some of the words attributed to Abinadi or Noah, and information about the conclusion of this case may have been contributed by others. Indeed, there are several likely candidates for such contributors.

Some of Alma’s converts may have informed him about the case. After all, Alma may not have been present at the arrest of Abinadi, and he certainly was not present for the execution, so information about these events must have come from someone else. Alma’s followers may have heard Abinadi deliver his message and may have been converted by the spirit with which he spoke. They may well have witnessed the arrest or the execution of Abinadi, and they may have been a first- or secondhand source for information reported in Mosiah 12 and 17.

In addition, Limhi’s royal record probably included a report of the trial of Abinadi. Limhi was the son of King Noah and grandson of King Zeniff. One can be virtually certain that Limhi would have been present and would have known a great deal about Abinadi’s case. Because Alma would not have personally known, for example, what transpired during the deliberations of the priests after he was expelled from the court, the record of Limhi becomes the prime candidate for the primary source material for that portion of the trial and perhaps also for a number of the procedural comments and official steps that led up to the execution of Abinadi. It is likely that an account of the trial of Abinadi and the demise of King Noah was included on the plates that contained the record of the people of Zeniff and that were “brought before Ammon” (Mosiah 8:5),

since Limhi recounted these events in the public gathering when records were exchanged with Ammon (7:26–28). That record eventually ended up in the royal archive in Zarahemla either upon Ammon’s return or after the Limhite reunion with the Nephites in the land of Zarahemla shortly after the time of Ammon’s scouting expedition to the land of Nephi.

Moreover, Limhi could have told the story himself to Alma the Elder when they met in the north after both the people of Alma and the people of Limhi had escaped to Zarahemla from the land of Nephi. It is also possible that the explorer Ammon kept a record and reported back to Zarahemla what he had learned about the history of Zeniff’s colony—including the extraordinary trial and fateful execution of Abinadi—since the prophecies and execution of Abinadi were clearly seen as key factors in explaining why Ammon found the people of Limhi in awful bondage (Mosiah 7:26–27).

Eventually, someone composed the book of Mosiah, in which the trial of Abinadi figures as the centerpiece.<sup>2</sup> King Mosiah may have shaped the writing of the book that bears his name, for the book of Mosiah begins with the exemplary life and farewell speech of his father, King Benjamin (Mosiah 1–6); but the book of Mosiah ends with the resignation speech of Mosiah, who abdicated the throne and inaugurated the reign of the judges in the land of Zarahemla, with Alma the Younger becoming the first chief judge (Mosiah 29). Significantly, one of the main purposes of the book of Mosiah is to justify this major political change. Indeed, the book of Mosiah uses the “wickedness and abominations” of King Noah, including his willingness to destroy anyone who would not obey his laws, as its prime illustration of the evils of kingship, thus establishing the need to eliminate this institution (vv. 18, 22–23). That being the case, Alma the Younger seems to be the candidate who would have been most interested in constructing the book of Mosiah.

Alma the Younger would have had powerful motivations for preserving and retelling the story of the trial of Abinadi. He would have had strong interests in documenting and elevating his father’s important conversion during the trial of Abinadi, while at the same time solidifying his own position as the first chief judge against the challenges that indeed would soon arise in some quarters of Zarahemla by those who preferred kingship and wanted “Amlici to be a king over the people” (Alma 2:2). He also would have had access to the written and oral reports of his father, which he could have combined with the record of Limhi and with information

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2. The chiasmic structure of the book of Mosiah, with the trial of Abinadi standing at the center, is displayed in John W. Welch, “Chiasmus in the Book of Mormon,” *BYU Studies* 10, no. 1 (1969): 82.

he could have readily gathered from his father's initial converts, some of whom he would have known and may have interviewed. Alma was the son and namesake of his father, and because the conversion of Alma the Elder occurred during the trial of Abinadi, Alma the Younger must have heard his father speak of this pivotal event many times.

By profession, Alma the Younger was a judge (Mosiah 29:44). He would have had great professional interest in an important case of this nature. He would have had the technical legal skills necessary to understand legal nuances and to document the story as fully as possible.

Moreover, Alma the Younger became the high priest in the city of Zarahemla and would have had great interest in criticizing the role of the wicked and apostate priests of Noah, some of whom would soon affiliate with the Nehorites, Alma's archenemies in the city of Ammonihah. These Nehorites were the followers of Nehor, whom Alma executed in the first year of his judgeship. Associating the priests of Nehor with the wicked priests of Noah would certainly have cast them in a bad light, to Alma's advantage. Showing that the priests of Noah were in fact the ultimate agitators who pressed for the execution of Abinadi might have given Alma further assurances that he had done the right thing in executing Nehor.

Beyond that, as the first chief judge, Alma needed to convince all of the people in the land of Zarahemla that abandoning kingship was politically prudent. When King Mosiah eventually abdicated and the voice of the people selected Alma as the chief judge, Mosiah used the case of Noah as his star evidence in arguing that kingship was not a good idea in general (Mosiah 29:18). Alma would have had a vested interest in being sure that all of the people in the city of Zarahemla knew and understood exactly how bad a king like Noah could be. In any event, it is clear that Alma the Younger stood in a prime position to preserve, structure, and promote the story of Abinadi as it has come down to us today.

By shaping the account of the trial of Abinadi in such great detail, Alma would also have appealed to the people of Limhi, letting them know that he did not blame the people of Limhi for the bondage under which they had suffered. King Noah and his wicked priests were to blame for their agony and suffering, and it was precisely for this reason—placing all people on an equal ground and giving them equal burden for their wrongdoing rather than bringing people under the burdens of wickedness and mismanagement by a ruling monarch—that King Mosiah justified his abdication in Mosiah 29.

It should also be remembered that Alma the Younger possessed the plates of brass. He was, for a time, the official Nephite record keeper

(Mosiah 28:20). Some readers may wonder whether Abinadi was able to quote Isaiah 53 and Exodus 20 as precisely as the record reports, and how Alma was then able to go out into the wilderness and remember precisely what Abinadi had said. It seems at least possible that, however accurately Abinadi quoted or paraphrased those two sources, it would have fallen upon Alma the Younger, as holder of the plates of brass, to have at least checked Abinadi's words against the texts in his custody, which may explain the precise quotation of these lengthy texts in the final version of this account.

If Alma the Younger was not responsible for the overall architecture of the book of Mosiah, it seems highly likely that he was at least the writer who constructed major parts of the book of Mosiah, the book that bears the name of Alma the Younger's immediate predecessor in power. The book of Mosiah gives center stage to the account of the conversion of Alma's father, his immediate predecessor in the office of high priest. The book of Mosiah also serves a major political purpose: it celebrates the unity of various peoples in the land of Zarahemla. As a public record, it emphasizes at its beginning the unity that was achieved among the Nephites and the Mulekites under the reign of King Benjamin; it chronicles the reunion of the Limhites and the people of Alma with their kinsmen in Zarahemla; it explains how Mosiah became king and how Alma the Elder became the high priest, and then how those offices were united in the person of Alma the Younger. Thus, the book of Mosiah functions largely as a prologue and rationalization for the ascendancy of Alma the Younger as the premier leader in the united land of Zarahemla.<sup>3</sup>

Finally, Mormon, the abridger of the work as a whole, may have shortened or paraphrased portions of the text of Abinadi's trial, although there seems to be little reason for him to have changed the underlying record very much. The records at his disposal may have included the record of Limhi, the complete abdication speech of King Mosiah, and other items pertinent to the trial of Abinadi. We know that Mormon was very interested in the prophecies of Abinadi, for he found in them authoritative predictions of the burdens and destruction that eventually came upon his own people (Mormon 1:19). Mormon was also highly critical of the worship of idols in the decadent world around him (4:14, 21; 5:15), and thus he would have taken special note of the fact that Noah and his priests were criticized most explicitly because of their idolatry (Mosiah 9:12; 11:6).

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3. While it is possible that King Mosiah had something to do with the writing of the book that bears his name, I find little evidence that he did so. Mosiah's sons are given little attention in the book of Mosiah, and his father, Benjamin, overshadows Mosiah himself.

Mormon's comments in Helaman 12 about the destructive effects of pride show that he would have been thoroughly disgusted by Noah's prideful excesses (11:2–15). Mormon may well have selected, abridged, edited, added to, or shaped parts of this section of the book of Mosiah as he compiled his set of plates, but it would not have served Mormon's purposes to create such a lengthy and detailed account of the trial itself. Only a lawyer, not a general, would care to give us all the legal information that we find in these chapters; and only a high priest still interested in the law of Moses would care to quote all of the Ten Commandments, let alone include the extensive midrashic exegesis of Isaiah 52 channeled through Isaiah 53 that is found in Mosiah 12–16.

It is true that Mormon and other Nephites must have been delighted to find such strong and early predictions and understanding of the role of the true Messiah in ancient Israel, and for that reason Mormon was likely eager to include so much of this material in the history of his people; but the underlying text itself must have been something he found on the large plates of Nephi and then incorporated without much change into the plates of Mormon. The account does not appear to be a retrospective tale told by Mormon five hundred years after the fact. A document with such contemporaneous validity can be scrutinized carefully for legal and technical details in order to extract as much judicial information as possible. This information can be attributed with confidence to the legal system that operated during the mid-second century BC in the land of Nephi.

### **King Noah's Excesses**

The trial of Abinadi took place around 150 BC, near the end of the reign of King Noah over the city of Nephi.<sup>4</sup> The prophet's rebukes and curses came in response to the king's excesses. Noah had ruled for several years over a small group<sup>5</sup> of reactionary, stiff-necked Nephites who had

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4. See chart 17 in John W. Welch and J. Gregory Welch, *Charting the Book of Mormon: Visual Aids for Personal Study and Teaching* (Provo, UT: FARMS, 1999). This date is only approximate; the trial may have been as much as ten years earlier or fifteen years later.

5. Zeniff began with a "large number" of people (Omni 1:27) about 200 BC, but only fifty in the initial party survived (Omni 1:28), so the number of settlers was very small. A dozen years later (Mosiah 9:11), 279 men in the colony were killed, which must have been a large percentage of the Nephites then in that land. Twenty-two years passed (Mosiah 10:3), Zeniff grew old (Mosiah 10:22), and Noah became king. Thus, when the trial of Abinadi took place near the end of Noah's reign, the population in the city of Nephi still must have been quite small. When Alma converted some 450 souls and fled with them into the wilderness (Mosiah 18:16, 34–35), he would have made a sizable dent in Noah's population base. Understandably, Noah and his soldiers came after Alma, among other reasons, to return these people to their fields and posts in what must have been a fragile economy and vulnerable society. No small part of this motivation, too,



returned a generation earlier under Noah's father, Zeniff, to the land of Nephi to reclaim their legal inheritance. By worldly standards Noah had been a successful king, but he had grown arrogant and oppressive. He had constructed large public buildings for his own aggrandizement, collected a tax of 20 percent (in effect a double tithe) on "all they possessed" (Mosiah 11:3),<sup>6</sup> appointed his own sympathizers as priests, and lived extravagantly and excessively, at least by the standards possible in this relatively modest and primitive society.

Although he had become lax in his commitment to follow the law of Moses as the law was understood by Abinadi, as it had been taught by the prophets Nephi and Jacob, and as dictated by any sensible understanding, Noah and his priests still purported to teach and presumably abide by the law of Moses (Mosiah 12:28), at least as they understood it. One must wonder, at the outset, how much of the Torah Noah and his priests had in written form. Perhaps they learned it only by memory through oral transmission, which was the preferred mode of instruction and learning in the ancient world, particularly among some Jewish sects, such as the Pharisees, who even valued oral traditions in preference to (in other ways incomplete and untrustworthy) written records.<sup>7</sup> If Zeniff's colony possessed a copy of the law, perhaps Noah read the law "all the days of his life" as required of kings by Deuteronomy 17:19. In whatever forms and from whatever sources they knew the law, Abinadi and Noah obviously disagreed about how the law should be understood and applied, but at

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would have stemmed from the people's support of the extravagant lifestyles of King Noah and his ruling class (Mosiah 11:3–4).

6. In ancient Israel, the tithe "in its original form was a tax associated with palace and Temple." Moshe Winfeld, "Tithe," in *Encyclopaedia Judaica*, ed. Cecil Roth et al. (Jerusalem: Keter, 1972), 19:738. The Levites and priests were variously entitled to a 10 percent tithing (Leviticus 27:30–33; Numbers 18:21–32; Deuteronomy 14:22–29); additionally, the king could collect another 10 percent (1 Samuel 8:15–17). Together this would amount to a 20 percent flat tax. By modern standards, that would not seem excessive, but in light of the benefit returned by Noah to his people it was probably well beyond. See Daniel C. Snell, "Taxes and Taxation," in *The Anchor Bible Dictionary*, ed. David Noel Freedman et al. (New York: Doubleday, 1992), 6:338–40.

7. For a thorough treatment of the oral dimension of biblical law, see James W. Watts, *Reading Law: The Rhetorical Shaping of the Pentateuch* (Sheffield, England: Sheffield Academic Press, 1999). For very insightful explorations of orality in Jewish education, see Birger Gerhardsson, *Memory and Manuscript: Oral Tradition and Written Transmission in Rabbinic Judaism and Early Christianity* (Grand Rapids, MI: Eerdmans, 1998). On the "Oral Torah," see Daniela Piattelli and Bernard S. Jackson, "Jewish Law during the Second Temple Period," in *An Introduction to the History and Sources of Jewish Law*, ed. Neil S. Hecht et al. (Oxford: Oxford University Press, 1996), 22–24; Alan J. Avery-Peck, "Oral Tradition: Early Judaism," in *Anchor Bible Dictionary*, 5:34–37; and Abraham Cohen, *Everyman's Talmud* (1949; repr., New York: Schocken Books, 1975), 146–49.

least they shared a common legal groundwork of commitment to the law of Moses out of which a legal controversy could ensue.<sup>8</sup>

From the legalistic approach of their treatment of Abinadi, it would appear that Noah and his priests spent a fair amount of time discussing the law, if for no other purpose than to justify their conduct and to get as close to the edge of legality as they possibly could. Indeed, Noah may have rationalized his conduct in all instances. Many of the things Noah did were morally and spiritually derelict, especially because he did them to the point of excess, such as drinking heavily (Mosiah 11:15; compare Proverbs 31:4–7, which admonishes leaders not to drink wine or strong drink, “lest they . . . forget the law, and pervert the judgment of any of the afflicted”), having many wives and concubines (Mosiah 11:2, 4; the king was prohibited from this too, according to Deuteronomy 17:17, but only if taken to excess),<sup>9</sup> adorning the temple with special seats for the privileged priests (the ancient Israelite sense of social justice strongly favored a classless society), and being lazy and “riotous” (Mosiah 11:14). But he may have argued that these infractions of the moral code did not comprise legally actionable transgressions under ancient Israelite law. Polygamy and concubinage, for example, were not against the traditional law of Moses (although Lehi had restricted his sons in this regard, Jacob 3:5). Noah was greedy and vain (Mosiah 11:1–9), but were there “laws” against such traits? Without much difficulty, Abinadi could see through such self-serving sophistry.

The record accuses Noah of serious infractions. In general, we are told that “he did not walk in the ways of his father. For behold, he did not keep the commandments of God, but he did walk after the desires of his

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8. Pietro Bovati, *Re-Establishing Justice: Legal Terms, Concepts and Procedures in the Hebrew Bible* (Sheffield, England: JSOT Press, 1994), 30, explains: “The *rib* is a controversy that takes place between two parties on questions of law. For the contest to take place, the individuals in question must have had a previous judicial bond between them (even if not of an explicit nature), that is, it is necessary that they refer to a body of norms that regulates the rights and duties of each. This underlying relationship between the individuals affects not just the origin but also the progress of a dispute that is substantiated by juridical arguments and requires a solution in conformity with the law.”

9. For further information, see David Daube, “One from among Your Brethren Shall You Set King over You,” *Journal of Biblical Literature* 90, no. 4 (1971): 480–81; Moshe Greenberg, “Biblical Attitudes toward Power: Ideal and Reality in Law and Prophets,” in *Religion and Law: Biblical-Judaic and Islamic Perspectives*, ed. Edwin B. Firmage, Bernard G. Weiss, and John W. Welch (Winona Lake, IN: Eisenbrauns, 1990), 101–12; Helen Ann Kenik, “Code of Conduct for a King: Psalm 101,” *Journal of Biblical Literature* 95, no. 3 (1976): 391–403; and Georg C. Macholz, “Die Stellung des Königs in der israelitischen Gerichtsverfassung,” *Zeitschrift für die alttestamentliche Wissenschaft* 84, no. 2 (1972): 157–82.

own heart” (Mosiah 11:1–2). Not walking after the ways of one’s father was presumptively illegal and iniquitous. The essence of a wicked king is found in the fact that “he tearth up the laws of those who have reigned in righteousness before him” (29:22). In the prologues and epilogues to ancient Near Eastern law codes, searing curses are placed upon successor kings who change the laws.<sup>10</sup> But it was still the prerogative of new kings to issue their own laws, and so Noah may have argued that he was still within his royal rights to legislate as he did.

But in what ways did he “not keep the commandments of God”? The most serious of legal violations that Noah is explicitly accused of committing were (1) idolatry (Mosiah 11:6) and (2) disregarding the law that prohibited the king from economic excesses and pride (Deuteronomy 17:16–20). Regarding idolatry, it goes without saying that making and worshiping graven images was forbidden under Exodus 20:2–6, standing significantly and “[without] parallel in the history of religion” at the very head of the law of Moses;<sup>11</sup> but perhaps Noah stopped short of actually making images of other gods and simply made reliefs of himself, of his priests, or of birds (perhaps quetzals?) or animals (perhaps jaguars?), such as are found in the archaeology of highland Guatemala from this time period. How far an observant person can go in making statues or depictions of people or animals has long been a hotly debated topic between various Jewish sects. The contours of the law regarding idolatry, even in biblical times, are notoriously imprecise.<sup>12</sup> Biblical authors usually do not “distinguish between worshipping other gods (with or without images), the worship of images, and the worship of Yahweh using images,”<sup>13</sup> although these

10. See, for example, the curses in the epilogue to the Code of Hammurabi.

11. Hans Jochen Boecker, *Law and the Administration of Justice in the Old Testament and Ancient East*, trans. Jeremy Moiser (Minneapolis: Augsburg, 1980), 145.

12. For a very helpful discussion of the law against idols and idolatry beginning in the biblical period, see Joseph Gutmann, “The ‘Second Commandment’ and the Image in Judaism,” *Hebrew Union College Annual* 32 (1968): 161–68. See further Herman Chanan Brichto, “The Worship of the Golden Calf: A Literary Analysis of a Fable on Idolatry,” *Hebrew Union College Annual* 54 (1983): 1–44; Boaz Cohen, “Art in Jewish Law,” *Judaism* 3, no. 2 (1954): 165–76; Christoph Dohmen, *Das Bilderverbot: Seine Entstehung und seine Entwicklung im Alten Testament*, *Bonner Biblische Beiträge* 62 (Frankfurt: Athenäum, 1987); Christopher R. North, *The Essence of Idolatry*, *Beiheft zur Zeitschrift für die alttestamentliche Wissenschaft* 77 (Berlin: de Gruyter, 1958), 151–60; Silvia Schroer, *In Israel gab es Bilder: Nachrichten von darstellender Kunst im Alten Testament*, *Orbis Biblicus et Orientalis* 74 (Friburg, Switzerland: Veandenhoek and Ruprecht, 1987); Mark S. Smith, *The Origins of Biblical Monotheism: Israel’s Polytheistic Background and the Ugaritic Texts* (Oxford: Oxford University Press, 2001), 182–94; and Matitiah Tsevat, “The Prohibition of Divine Images according to the Old Testament,” in *Wünschet Jerusalem Frieden*, ed. Matthias Augustin and Klaus-Dietrich Schunck (Frankfurt am Main: Peter Lang, 1988), 211–20.

13. Edward M. Curtis, “Idol, Idolatry,” in *Anchor Bible Dictionary*, 3:379.

practices may well have been enforced differently. For example, “were the Second Commandment in its entirety to be taken literally, the construction of Solomon’s Temple, with its graven images, such as the cherubim and the twelve oxen which supported the molten sea, would obviously have been a direct violation and transgression. Yet no censure was invoked by the biblical writers.”<sup>14</sup> The fact that the prophets regularly accused many people in Israel of committing idolatry and yet most of them evidently went unpunished indicates that people did not fundamentally agree on strict definitions or required punishments for this offense. The situation was apparently similar in the New World. As in pre-exilic Israel, idols and idolatry are mentioned as problems in all eras of Nephite history, especially in the land of Nephi, where it seems to have been a prevalent practice from the days of Jacob and Enos down to the times of King Noah and the sons of Mosiah.<sup>15</sup> So one can be confident that Noah, operating in the historical capital of the land of Nephi, had his own definition of idolatry—however flimsy his legal logic may have been—that his own practices conveniently did not contravene. Noah and his priests had evidently gone too far with the local practice in this regard, much to Abinadi’s horror. As was Abinadi, the prophets Hosea and Amos were especially outspoken against

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14. Gutmann, “The ‘Second Commandment,’” 163.

15. In addition to the ample references to idolatry found in the Isaiah chapters quoted in the Book of Mormon, Jacob in the city of Nephi placed a curse on the Nephites if they were to “worship idols, for the devil of all devils delighteth in [idols]” (2 Nephi 9:37). Soon the Lamanites living around the land of Nephi became “full of idolatry” (Enos 1:20), and this condition continued in that land down to the time of Noah (Mosiah 9:12) and beyond, as Ammon found (Alma 17:15) and as Mormon experienced (Mormon 4:14, 21). Alma the Younger, in the years when he rebelled against his father’s ways, “became a very wicked and an idolatrous man” (Mosiah 27:8). What stronger way would there have been for him to express his rejection of his father’s covenant practices than for him to have adopted the practices of Noah and his priests that stood as the polar opposite of his father’s religion and teachings? Idol worship was also present in the land of Zarahemla in Alma’s day. After he became the chief judge and high priest, Alma the Younger made a special point of listing idolatry and the closely related crime of sorceries as the first two evils that were not to be practiced by his people but were observed by those who did not belong to Alma’s covenant community (Alma 1:32). When he spoke to the people in Gideon, who had recently escaped from the idolatrous land of Nephi, Alma expressed confidence in them that they would not revert to the practices that had led to their suffering and downfall in the city of Nephi: “I trust that ye are not lifted up in the pride of your hearts; yea, I trust that ye have not set your hearts upon riches and the vain things of the world; yea, I trust that you do not worship idols” (Alma 7:6). The Zoramite apostates and the followers of Gadianton were, first and foremost, characterized by their idolatry: “Zoram, who was their leader, was leading the hearts of the people to bow down to dumb idols” (Alma 31:1); the Gadianton oaths were evidently made before idols: “and did build up unto themselves idols of their gold and their silver” (Helaman 6:31). Mormon clearly saw idol worship as one of the seven sins “which brought upon [the Nephites] their wars and their destructions,” as he lists in Alma 50:21.

idolatry (Hosea 8:4; 13:2; Amos 3:15; 6:4), and the Deuteronomic reforms of King Josiah involved severe “iconoclastic strictures,”<sup>16</sup> but Noah could cite opposing precedents, such as the cherubim in the temple, in arguing for a somewhat looser legal definition of the crime of idol making or idol worshipping.

Similarly, there are laws prohibiting pride and economic excess in Deuteronomy 17, but quantifiable limits would be imprecise and difficult to pin down under the best of circumstances. Pride, riches, spacious buildings, and idol worship are often linked together in the Book of Mormon (e.g., 1 Nephi 11:36; Alma 1:32; 7:6; 31:27–28), but nowhere more graphically than in the case of Noah. Still, Noah could well have argued that it was his right as a king to tax, to build, to encourage economic growth, and to provide for the common defense. Just how far he could go in these efforts would have been open to dispute.

Interestingly, Noah is also accused in the record of acting in such a way that he “did cause his people to commit sin,” causing them “to do that which was abominable in the sight of the Lord” (Mosiah 11:2). What is meant by this is unclear, but several possibilities present themselves. Did he cause them, for example, to break the Sabbath by requiring them to work on that day? Did he cause the society to languish in impurity by not following the laws of ritual or sexual purity, perhaps regarding laws of menstruation or cleansing after childbirth (sexual sins are described as abominations in Leviticus 18 and 20, but many other sins are similarly described, Proverbs 6:16–19)? Or did Noah cause his people to commit sin simply by not seeing that they were taught appropriately (as was the duty of the priests to do under Deuteronomy 31:11; see the accusation to this effect in Mosiah 12:26), or by failing to enforce the law against violators (perhaps because he needed people in his small and beleaguered community and would not have wanted to put any able-bodied men to death)? Again, the record is unclear, which is understandable since it is Abinadi, not Noah, who was on trial.

Nevertheless, that Noah was wicked is abundantly clear, certainly from Alma’s perspective (assuming that Alma was the one who most influenced the writing of the narrative prologue for the trial of Abinadi, which contrasts so exquisitely with the puffing prologues that ancient kings, such as Hammurabi or Eshnunna, typically wrote for themselves to extol their grand and benevolent accomplishments). Thus, carrying out the traditional role of the Israelite prophets, who were often called by

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16. Gutmann, “The ‘Second Commandment,’” 168. See Roland de Vaux, *Ancient Israel: Its Life and Institutions* (New York: McGraw-Hill, 1965), 2:290, 307–8, 333–34.

God to preach repentance to errant royalty and wayward populations,<sup>17</sup> Abinadi was justified in speaking out sharply against King Noah and his people. Having made his pronouncement in the form of a classic “prophetic lawsuit,”<sup>18</sup> in which the prophet speaks legalistically in the name of the Lord, Abinadi exposed himself willingly to the legal system in the city of Nephi. The final outcome of this prophetic castigation soon hung on the inner workings of legal processes under Noah’s administration.

### **Abinadi’s Words and His Arrest by the People**

The trial of Abinadi arose out of words he spoke to the townspeople within the city of Nephi (Mosiah 12:1–17). The older people in that audience could have been among the original group that had returned to the land of Nephi with Zeniff about forty years earlier (Omni 1:27–29), while the younger men in the crowd would have been born members of this small enclave of reactionary Nephites. These people had endured considerable hardships in repossessing the land and temple of Nephi, the traditional hallmarks of the people of Nephi. Apparently they strongly preferred to live in that place (in spite of the disadvantages of isolation and subjugation they suffered there) rather than in the foreign land of Zarahemla as a minority but privileged party among the people of Zarahemla (the Mulekites). Thus the people in the city of Nephi may well be seen as self-righteous zealots<sup>19</sup> who had struggled to repossess this sacred land and who considered themselves blessed and prospered by the Lord for their sacrifice (Mosiah 10:19–22). They must have taken pride in their independence and separatism, for they had negotiated with King Laman to obtain the land, had fought the Lamanites, and had paid tribute to them in order to maintain their place in the land of Nephi. They would have thought of themselves as having reestablished and preserved the correct and legitimate ancient Nephite capital and original temple city. Given their success under such difficult circumstances, this audience probably

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17. For an excellent discussion of the literary complexity of Mosiah 11–17 and its abundant allusions to the Deuteronomic narratives involving prophetic confrontations against the wicked kings Jeroboam (1 Kings 14) and Ahab (1 Kings 20), see Alan Goff, “Uncritical Theory and Thin Description: The Resistance to History,” *Review of Books on the Book of Mormon* 7, no. 1 (1995): 170–207, esp. 192–206. For more on the role of prophets, see John J. Schmitt, “Prophecy: Preexilic Hebrew Prophecy,” in *Anchor Bible Dictionary*, 5:482–89.

18. See the discussion of prophetic lawsuits in John W. Welch, “Benjamin’s Speech as a Prophetic Lawsuit,” in *King Benjamin’s Speech: “That Ye May Learn Wisdom,”* ed. John W. Welch and Stephen D. Ricks (Provo, UT: FARMS, 1998), 225–32.

19. Zeniff describes himself as being “over-zealous to inherit the land of [his] fathers” (Mosiah 9:3).

would have been particularly predisposed to reject any condemnation of their lives and practices.

This was at least the second time that Abinadi had spoken publicly in the city of Nephi. Two years earlier, Abinadi had prophesied that the Lord would visit this people in his anger, that they would be delivered into the hands of their enemies, that their enemies would bring them into bondage and afflict them, and that none would deliver them—not even God himself would hear their cries for relief (Mosiah 11:20–26).<sup>20</sup> For saying such things on that earlier occasion, Abinadi had been condemned to die (v. 28), but he had managed to escape with his life. Now Abinadi had returned.

As before, he again accused the entire population of wickedness and abominations (Mosiah 12:2). But this time he expanded his prophecy, making not only the people generally but King Noah specifically a target of the Lord's censure. On this occasion, Abinadi's words against the people took the form of an Israelite woe oracle<sup>21</sup> or prophetic lawsuit.<sup>22</sup> Abinadi reiterated his pronouncements of woe against the people even more graphically than before, proclaiming that the Lord had a grievance against the people and would visit them in his anger "because of their iniquities and abominations"; that they would be "brought into bondage," "smitten on the cheek," "driven by men," and "slain"; and that "vultures of the air, and the dogs, yea, and the wild beasts" would "devour their flesh" (v. 2). Abinadi also heaped upon the people various curses and divine punishments of sore afflictions, famine, pestilence, insects, hail, wind, burdens, and utter destruction, "that they shall howl all the day long" (v. 4).

In addition, he leveled accusations against King Noah. Abinadi prophesied that "the life of King Noah shall be valued even as a garment in a hot furnace" (Mosiah 12:3) and that Noah would be "as a dry stalk of the field, which is run over by beasts and trodden under foot" and "as

20. See Bovati, *Re-Establishing Justice*, 62, 68–70.

21. See Steven Horine, "A Study of the Literary Genre of the Woe Oracle," *Calvary Baptist Theological Journal* 5, no. 2 (1989): 74–97.

22. See note 18 above. On prophetic lawsuits, see generally Berend Gemser, "The 'rib' or Controversy-Pattern in Hebrew Mentality," in *Wisdom in Israel and in the Ancient Near East*, ed. M. Noth and D. Winton Thomas, Supplements to Vetus Testamentum, vol. 3 (Leiden: Brill, 1955): 120–37; Hans J. Boecker, *Redeformen des Rechtslebens im Alten Testament* (Neukirchen: Neukirchener, 1964; rev. ed. 1970); J. Carl Laney, "The Role of the Prophets in God's Case against Israel," *Bibliotheca Sacra* 138, no. 552 (October 1981): 313–25; Eberhard von Waldow, *Der traditionsgeschichtliche Hintergrund der prophetischen Gerichtsreden*, Beiheft zur Zeitschrift für die alttestamentliche Wissenschaft 85 (Berlin: Töpelmann, 1963); Kirsten Nielsen, *Yahweh as Prosecutor and Judge: An Investigation of the Prophetic Lawsuit* (Sheffield, England: JSOT, 1978); and Bovati, *Re-Establishing Justice*, 108.

the blossoms of a thistle, which, when it is fully ripe, if the wind bloweth, [are] driven forth upon the face of the land,” except he repent (vv. 11–12). These words against Noah are in the classic form of an ancient Near Eastern simile curse.<sup>23</sup> Curses, which were special forms of malediction in the ancient world,<sup>24</sup> sometimes took the form of a simile. For example, an Aramaic treaty from about 750 BC contains the incantation “Just as this wax is burned by fire, so may Matī‘el be burned by fire.”<sup>25</sup> Perhaps the Nephites would have heard in Abinadi’s curses an echo of the simile curse that Jeremiah pronounced against the temple in Jerusalem: “I will make this house like Shiloh” (Jeremiah 26:6), an allusion to the destruction of the shrine at Shiloh that resulted in the loss of the ark of the covenant. The point of Jeremiah’s curse was that even the tabernacle and the ark had not protected the Israelites at Shiloh, and similarly the temple at Jerusalem would not protect the kingdom of Judah, except its people repent and remain righteous.<sup>26</sup> Abinadi’s curse also carried the warning that the temple in the city of Nephi would not shelter the people as long as they retained

23. See Deuteronomy 27:14–26 for examples of such oaths spoken in the form of curses directed against the entire populace. See also Haim H. Cohn, “Oath,” in *The Principles of Jewish Law*, ed. Menachem Elon (Jerusalem: Keter, 1975), 615.

24. F. Charles Fensham, “Malediction and Benediction in Ancient Near Eastern Vassal-Treaties and the Old Testament,” *Zeitschrift für die alttestamentliche Wissenschaft* 74 (1962): 1–9. See also Douglas Stuart, “Curse,” in *Anchor Bible Dictionary*, 1:1218–19; Jeff S. Anderson, “The Social Function of Curses in the Hebrew Bible,” *Zeitschrift für die alttestamentliche Wissenschaft* 110, no. 2 (1998): 223–37; Herbert C. Brichto, *The Problem of the ‘Curse’ in the Hebrew Bible*, Journal of Biblical Literature Monograph Series, no. 13 (Philadelphia: Society of Biblical Literature, 1963); Stanley Gevirtz, “West-Semitic Curses and the Problem of the Origins of Hebrew Law,” *Vetus Testamentum* 11, no. 2 (1961): 137–58; Johannes Hempel, *Die israelitische Anschauungen von Segen und Fluch im Lichte altorientalischer Parallelen*, Beiheft zur Zeitschrift für die alttestamentliche Wissenschaft 81 (Berlin: de Gruyter, 1961), 30–113; Horine, “A Study of the Literary Genre of the Woe Oracle,” 74–97; Paul Keim, “‘Cursed Be . . .’: Mundane Malediction and Sacral Sanction in Biblical Law,” *Society of Biblical Literature Biblical Law Group* 20 (November 1994); and Willy Schottroff, *Der Altisraelitische Fluchspruch* (Neukirchen-Vluyn: Neukirchener, 1969).

25. Sefire I Treaty A37, in Joseph A. Fitzmyer, *The Aramaic Inscriptions of Sefire* (Rome: Pontifical Biblical Institute, 1967), 14–15; and Delbert R. Hillers, *Treaty-Curses and the Old Testament Prophets* (Rome: Pontifical Biblical Institute, 1964), 18. Compare 1 Kings 14:10–11. Simile curses in the Book of Mormon are discussed further in a paper by my law student Mark J. Morisse titled “Simile Curses in the Ancient Near East, Old Testament and Book of Mormon,” distributed originally as a FARMS Preliminary Report in 1986 and published under the same title in *Journal of Book of Mormon Studies* 2, no. 1 (1993): 124–38. See also Donald W. Parry, “Hebraisms and Other Ancient Peculiarities in the Book of Mormon,” in *Echoes and Evidences of the Book of Mormon*, ed. Donald W. Parry, Daniel C. Peterson, and John W. Welch (Provo, UT: FARMS, 2002), 156–59.

26. Discussed further in John W. Welch, “The Trial of Jeremiah: A Legal Legacy from Lehi’s Jerusalem,” in *Glimpses of Lehi’s Jerusalem*, ed. John W. Welch, David Rolph Seely, and Jo Ann H. Seely (Provo, UT: FARMS, 2004), 341–43; quotation on p. 342.



their wicked ways. Just as Jeremiah's words immediately entangled him in litigation, Abinadi's words also precipitated direct legal accusations.

Moreover, it was an official duty of the ancient Israelite priests to remind all Israel of the curses that fall upon the wicked and to impose these curses ritually: "And the Levites shall speak and say unto all the men of Israel with a loud voice, Cursed be the man . . ." (Deuteronomy 27:14–15; vv. 15–26 give twelve specific curses). The people of Israel were supposed to echo the priest ceremoniously: "And all the people shall answer and say, Amen" (v. 15). In a sense, the utterance of curses by the prophet Abinadi fulfilled this priestly function that undoubtedly had been neglected by the self-serving and derelict priests of Noah. But people in his audience may well have wondered, "By what authority does this man usurp the rights and duties of the temple priests?" Even more particularly, Abinadi's words were more than mere warnings against wickedness in general. They were aimed personally at certain individuals, and thus his words would have been extremely provocative, carrying the weight of injurious indictments and ominous forebodings of impending harm.

Indeed, Abinadi's words against Noah's life were extremely demeaning and dreadful. Burning in a furnace, kiln, or oven was a debasing form of punishment in the ancient world and would be a grim execution under any circumstances. Two slaves at the time of Hammurabi, for example, were burned to death in a furnace, apparently pursuant to a royal decree.<sup>27</sup> Threats, curses, and verbal assaults were thought by ancient peoples to cause actual injury. Modern people shrug off such verbal attacks, thinking that sticks and stones can break bones but words alone are not to be feared. Ancient people, however, were extremely wary of a curse hanging over them, especially if the curse invoked the wrath of a god upon the targeted person. For example, Hittite law provided, "If a free man kills a snake, and speaks another's name, he shall pay one mina . . . of silver. If [the offender] is a slave, he himself shall be put to death."<sup>28</sup> Harry Hoffner observes that doubtless "analogic magic" is involved here; "he who kills the snake probably said something like, 'As this snake dies, so may so-and-so (i.e., his enemy) also die.'"<sup>29</sup>

27. The letter of Rim-Sin, king of Larsa, pertaining to this case is discussed by John B. Alexander, "New Light on the Fiery Furnace," *Journal of Biblical Literature* 69, no. 4 (1950): 375–76. Compare Daniel 3; 3 Nephi 28:21; 4 Nephi 1:32. Burning was an unusual form of punishment, usually reserved in Israel for the foulest and most defiling offenders. See further the discussion of Abinadi's execution below.

28. Harry A. Hoffner Jr., *The Laws of the Hittites: A Critical Edition* (Leiden: Brill, 1997), 136.

29. Hoffner, *Laws of the Hittites*, 217, giving further scholarly sources on the use of such simile curses among the Hittites.

Under biblical law, people were required to call their neighbors to repentance (Leviticus 5:1), but they were granted legal immunity from liability under the law of slander in doing so, provided they did not go overboard. “Thou shalt not hate thy brother in thy heart”; “thou shalt surely rebuke thy neighbor, and not bear sin because of him” (19:17).<sup>30</sup> Jacob Milgrom emphasizes the importance in this statement of ethical duty in making one’s rebuke public, even in a forensic sense, in a judicial procedure, rather than holding bad feelings against a brother inwardly: You shall not hate your brother (Israelite) in your heart. “Reprove your fellow openly . . . so that you will not bear punishment because of him.”<sup>31</sup> At Qumran, the duty to “make reproof,” as Abinadi does, would become “a cardinal requirement for its members,”<sup>32</sup> and so Abinadi may have felt not only duty bound by the calling of the Lord but also legally justified by this requirement of the Levitical Holiness Code to rebuke those who had wandered into wicked and forbidden paths.

The law of reproof, however, was also coupled immediately with the tempering requirement to “love thy neighbor as thyself” (Leviticus 19:18). The sectarians at Qumran required any reproof to be issued “in truth, humility, and lovingkindness.”<sup>33</sup> Talmudic jurists further understood Leviticus 19:17 to mean that “you may reprove your neighbor so long as you do not insult him.”<sup>34</sup> Perhaps people in Abinadi’s audience felt that he had not shown forth adequate kindness following his rebuke; possibly they gave him little chance to do so.

Curses in the Psalms express strong feelings against those who have broken the law, and while they may seem vindictive or angry to the wicked, to the righteous these curses depict Jehovah as a protective warrior violently opposing sin and purifying the community.<sup>35</sup> Curses were believed to affect the target, the speaker, and the community in many psychological, social, religious, and legal ways;<sup>36</sup> and so for reasons such as these, the

30. Translation from Haim H. Cohn, “Slander,” in Elon, *Principles of Jewish Law*, 513.

31. Jacob Milgrom, *Leviticus 17–22* (New York: Doubleday, 2000), 1647–48.

32. Milgrom, *Leviticus 17–22*, 1648, citing the *Damascus Document* 9:17–19.

33. 1QS 5:25–6:1, quoted in Milgrom, *Leviticus 17–22*, 1650.

34. Cohn, “Slander,” 513.

35. Robert Althann, “The Psalms of Vengeance against Their Ancient Near Eastern Background,” *Journal of Northwest Semitic Languages* 18 (1992): 1–11.

36. Keim, “Cursed Be . . .” 26. See Lyn M. Bechtel, “Shame as a Sanction of Social Control in Biblical Israel: Judicial, Political, and Social Shaming,” *Journal for the Study of the Old Testament* 16, no. 49 (1991): 47–76. For more information on curses, see Walter Farber, “Wehe, wenn . . . !” *Zeitschrift für Assyriologie* 64, no. 2 (1975): 177–79; M. Filipiak, “Spoleczno-prawne znaczenie zorzeczen u Pismie swietym” (in Polish), *Ruch Biblijny i Liturgiczny* 21 (1968): 32–39; M. Filipiak, “Znaczenie Przeklenstwau Kodeksach Prawnych Piecickiego (Le sens des maledictions dans les

people in the city of Nephi would not have taken Abinadi's strident, if not insulting, curses lightly.

Moreover, beyond having social or legal impact, Abinadi's curses impugned the worthiness of Noah to act in a priesthood capacity before God. Noah's garment could easily have represented his authority before God, just as Elijah's mantle given to Elisha had symbolized his rights in the priesthood.<sup>37</sup> When Moses tried to prepare the children of Israel to see God on Mount Sinai, he told them to "wash their clothes, and be ready against the third day" (Exodus 19:10–11). Seeing the lightning, fire, and smoke that "ascended as the smoke of a furnace" (v. 18), however, the people stayed below "lest [the Lord] break forth upon them" and consume them with fire (v. 24). When Abinadi cursed Noah "as a garment in a hot furnace," he implied that Noah had broken into a sacred area, had defiled it, and would be punished by God. Other scriptures gathered by John Tvedtnes further demonstrate that "a garment visibly tainted by the plague is to be burned" (see Leviticus 13:52, 57), that "a ceremonial burning of worn-out priestly clothing took place in the Jerusalem temple of Christ's time," and that burning by fire was generally indicative of God's eradication of serious sin.<sup>38</sup>

In light of these powerful applications, Abinadi must have known that his curses would be highly inflammatory, for he entered the city covertly, in disguise.<sup>39</sup> He probably knew that his disguise would not shield him for very long, but this ploy gave him enough time to attract a curious crowd to

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codes juridiques du Pentateque)," *Annales Theologico-Canonici* 15 (1968): 47–59; Lewis S. Ford, "The Divine Curse Understood in Terms of Persuasion," *Semeia: An Experimental Journal for Biblical Criticism* 24 (1982): 81–87; Johannes Hempel, *Die israelitische Anschauungen von Segen und Fluch im Lichte altorientalischer Parallelen*, Beiheft zur Zeitschrift für die alttestamentliche Wissenschaft 81 (1961): 30–113; Immanuel Lewy, "The Puzzle of DT. XXVII: Blessings Announced, but Curses Noted," *Vetus Testamentum* 12, no. 2 (1962): 207–11; and Schottroff, *Der Altisraelitische Fluchspruch*.

37. Fred E. Woods, "Elisha and the Children: The Question of Accepting Prophetic Succession," *BYU Studies* 32 (1992): 47–58.

38. John A. Tvedtnes, "As a Garment in a Hot Furnace," *Journal of Book of Mormon Studies* 6, no. 1 (1997): 76–79.

39. Alan Goff, "Abinadi's Disguise and the Fate of King Noah," FARMS Update, *Insights* 20, no. 12 (December 2000): 2, discusses the typological meaning of prophets gaining an audience with the king by means of a disguise, as developed by Richard Coggins, "On Kings and Disguises," *Journal for the Study of the Old Testament* 50 (1991): 55–62. Abinadi's behavior fits broadly within the biblical imagery that nothing is hidden from God and that kings are unable to see the truth until the prophet reveals himself from behind his disguise. See, for example, the prophet who put ashes on his face to hide his identity from King Ahab (1 Kings 20:38). But in Abinadi's case, it does not appear that he was trying to hide his identity from King Noah, for Abinadi revealed himself as soon as he was within the city.

whom he delivered his final public statement (Mosiah 12:1–8). Since Abinadi had been in trouble with King Noah’s legal system in the city of Nephi two years earlier (11:26–28), he would have been fully aware that the city’s judicial system would allow the people to apprehend him as soon as he was detected. Moreover, Abinadi’s case was much weaker the second time around, for his previous prophecies had not yet been fulfilled even though two full years had elapsed. This non-eventuality exposed him quite clearly to a charge of false prophecy under Deuteronomy 18:22, “When a prophet speaketh in the name of the Lord, if the thing follow not, nor come to pass, that is the thing which the Lord hath not spoken, but the prophet hath spoken it presumptuously: thou shalt not be afraid of him.”

Under ancient biblical law, the general population in the city of Nephi was obligated to enforce the law (Leviticus 5:1). The biblical system used no police, sheriffs, marshals, or public prosecutors. Indeed, it appears that the king had little or no authority in antiquity to initiate a lawsuit. No known legal case from antiquity was initiated by a king as a plaintiff or prosecutor. King Jehoshaphat instructed his rulers to judge “what cause soever *shall come to you of your brethren*” (2 Chronicles 19:10; emphasis added). Even wicked Queen Jezebel and King Ahab did not (and perhaps could not) bring their action against Naboth personally, but they arranged for two false witnesses to testify against Naboth “in the presence of the people” in their scheme of using the judicial system to confiscate Naboth’s vineyard (1 Kings 21:10–13).

Any adult male could convene a court of city elders in a relatively spontaneous fashion to judge the accused.<sup>40</sup> In such cases, the town elders would act simultaneously as judges, prosecutors, defenders, and witnesses.<sup>41</sup> Israelite elders generally took this legal responsibility seriously, applying the law as accurately and as mercifully as possible. Thus the trial of Abinadi began in a normal fashion with the men of the city acting spontaneously (Mosiah 12:9). Abinadi’s arrest by the people and their

40. Under the law of Moses, justice at the “city gates” was administered by the local elders, leading citizens, and heads of families in the individual towns. Biblical examples of the spontaneity and the seriousness with which these popular courts dispensed justice are found in Deuteronomy 22:13–21; Ruth 4:1–91; and 1 Kings 21:11–13. A group of ten elders was sufficient to constitute a court in Ruth 4. See the discussions of Donald A. McKenzie, “Judicial Procedure at the Town Gate,” *Vetus Testamentum* 14, no. 1 (1964): 100–104; John L. McKenzie, “The Elders in the Old Testament,” *Biblica* 40 (1959): 522–40; de Vaux, *Ancient Israel*, 1:152; and Zēv W. Falk, *Hebrew Law in Biblical Times: An Introduction*, 2nd ed. (Winona Lake, IN: Eisenbrauns; Provo, UT: Brigham Young University Press, 2001), 36–37. See further Deuteronomy 21:19; 25:7; Amos 5:10, 12, 15; Zechariah 8:16.

41. Boecker, *Law and the Administration of Justice*, 34–35. See Temba L. J. Mafico, “Judge, Judging,” in *Anchor Bible Dictionary*, 3:1106.

ensuing preliminary deliberations comprised a legitimate procedure, not mobocracy. But if the people normally had plenary jurisdiction to handle a case such as this if they chose to, why did they turn Abinadi over to the king? Would they not have won favor in the eyes of Noah by proceeding immediately to rid the kingdom of this pesky fellow?

### **Facts Found and Charges Formulated by the People**

Although the people took initial jurisdiction over Abinadi, they did not dispose of the case themselves. They “were angry with him” and held him only long enough to formulate two specific charges against him, to find to their own satisfaction that misconduct had occurred, and to decide to deliver him to the king (Mosiah 12:9). Before the king’s very person, they repeated Abinadi’s precise words as evidence against the accused, countered Abinadi’s charges by loyally affirming the innocence of the king, and asserted their own strength and alleged worthiness in order to enhance their standing in the action (vv. 9–16). An assertion of innocence such as this is a typical element of an ancient legal controversy.<sup>42</sup> The people pled their innocence before King Noah, saying, “And now, O king, behold, we are guiltless, and thou, O king, hast not sinned,” and accused Abinadi of bearing false witness and of prophesying falsely (v. 14).

Several factors explain why the people were correct in deciding not to retain jurisdiction over this particular case. Two charges were to be leveled against Abinadi by the people: (1) that he had lied concerning the king and (2) that he had falsely prophesied evil about the people—as they alleged, “This man has lied concerning you, and he has prophesied in vain” (Mosiah 12:14). As seen above in the case of Sherem, lying, bearing false witness, or making an unwarranted accusation were serious offenses (Exodus 20:16), typically punishable under the rubric that “then shall ye do unto him, as he had thought to have done unto his brother” (Deuteronomy 19:19). The crime of false prophecy was also a very serious offense: “Even that prophet shall die” (18:20).<sup>43</sup> It is not clear, however, that the

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42. “In civil cases the plaintiff would take hold of the defendant and bring him before the court (Deuteronomy 21:19) or summon him to appear at a hearing (Job 9:19). On the other hand, in criminal cases the accused was put to trial upon the information of witnesses and taken into custody until judgment was pronounced (Leviticus 24:12; Numbers 15:34; 1 Kings 22:27; Jeremiah 37:15). Both parties then submitted their pleadings, accusing their opponents and asserting their own innocence.” Falk, *Hebrew Law in Biblical Times*, 58–59. Compare the biblical case of Zelophehad’s daughters, who pled their dead father’s innocence before the king, asking him to grant them inheritance from his estate (Numbers 27:1–11).

43. See Deuteronomy 13:5; and Hyman E. Goldin, *Hebrew Criminal Law and Procedure* (New York: Twayne, 1952), 37, 207, 215. For more information on lying, see Norman Frimer,

people at large had either the legal authority or a compelling case to justify them in proceeding against Abinadi on these two particular charges. Moreover, by previous decree, Noah had asserted jurisdiction over Abinadi as a wanted offender (Mosiah 11:27–28).

### Jurisdiction over the Charge of Lying about the King

While lying was considered seriously unholy and immoral (e.g., Leviticus 19:11; Hosea 4:2), biblical law probably considered bearing false witness to be the equivalent of a public crime, one enforceable by the local courts, only if a person lied as an accuser or witness in a legal setting.<sup>44</sup> “The words translated ‘false witness’ [Exodus 20:16] are technical terms designating a person who offers false or deceptive testimony in a trial.”<sup>45</sup> Accordingly, because Abinadi’s words were not spoken in a legal setting, they would not have given rise to the type of matter over which the town elders would normally have had jurisdiction. Likewise, it is not likely that ancient Israelite law recognized slander as a general crime or tort.<sup>46</sup>

Thus it is significant that Abinadi was not accused of lying or slander in general, but specifically of lying *about the king*. This seems akin to reviling the king or the clan’s leader, which was indeed an express and heinous crime closely related to blasphemy against deity: “Thou shalt not revile the gods [*elohim*], nor curse the ruler of thy people” (Exodus 22:28).<sup>47</sup> Cursing and reviling are presented in this legal provision as parallel, if not synonymous, terms.<sup>48</sup> Certainly, Abinadi has openly “curse[d] the ruler” of this people. Moreover, the sense of this passage need not require any specific verbal conduct, for this verse also embraces the ideas of disregarding the ruler, holding him in contempt, or doing “anything which is an assault” on his civil or moral authority.<sup>49</sup> Abinadi, again, readily qualifies.

“A Midrash on Morality or When Is a Lie Permissible,” *Tradition: A Journal of Orthodox Jewish Thought* 13–14 (Spring–Summer 1973): 23–34.

44. Haim H. Cohn, “Perjury,” in Elon, *Principles of Jewish Law*, 516–17.

45. Dale Patrick, *Old Testament Law* (Atlanta: John Knox, 1985), 56.

46. Cohn, “Slander,” 513–14, citing Maimonides: “Mere talk does not amount to an overt act, and only such acts are punishable (Yad, *Sanhedrin* 18:2).” Leviticus 19:17 was interpreted to mean that one could reprove a neighbor so long as it was not done insultingly. The rabbis, however, considered a public slanderer to be a grave sinner who would be punished by God, having “no share in the world to come.” Babylonian Talmud (hereafter TB) *Avot* 3:11, quoted in Cohn, “Slander,” 513.

47. Falk, *Hebrew Law in Biblical Times*, 71; and Joe M. Sprinkle, *The Book of the Covenant: A Literary Approach* (Sheffield, England: JSOT Press, 1994), 167. The word *elohim* might better be translated as a name of the supreme God.

48. Eric E. Vernon, “Illegal Speech: Blasphemy and Reviling,” *Studia Antiqua: The Journal of the Student Society for Ancient Studies* (Summer 2003): 117–24.

49. Sprinkle, *The Book of the Covenant*, 168.

Anyone committing this particular crime or accused of such misconduct was probably handed over to the king himself for reprimand or punishment, as would seem to be the natural thing to do. Maimonides, in the Middle Ages, held that it was “the prerogative of the king to kill any person disobeying or slandering him,”<sup>50</sup> but whether such a royal prerogative was absolute in ancient Israel is open to doubt. Something of this practice, however, can be traced back into the times of David and Solomon, after whom King Noah seems to have patterned much of his life: “The principle that the king could take direct legal action in the event of crimes against the crown was further developed by David and Solomon, both of whom used this notion to eliminate political troublemakers and possible rivals (2 Samuel 1:1–16; 4:1–12; 19:16–43; 21:1–14; 1 Kings 2:19–46).”<sup>51</sup> Accordingly, Abinadi’s resounding public curses against Noah would probably have been of direct legal concern only to the throne, and so it was appropriate for them to turn this matter over to the king himself, to “do with him as seemeth [him] good” (Mosiah 12:16).

Evidently the phrase “to do as seems good” reflects some kind of formality in ancient law,<sup>52</sup> for otherwise it would be an odd thing for the people to say to their king. One would think that in most cases a king would not need permission of his subjects to do what he wanted. But whenever a lawsuit begins in the hands of one group of people, it would be legally important for those people to relinquish their jurisdictional interest in the case as they formally turn the matter over to someone else. Thus the transfer of power and discretion to the ruling authorities to do as they wished is similarly reflected in Jeremiah’s words to the king’s princes who tried Jeremiah for prophesying against Jerusalem. After being arrested by the people, Jeremiah willingly submitted himself to the jurisdiction of the rulers: “I am in your hand: do with me as seemeth good and meet unto you” (Jeremiah 26:14). In Jeremiah’s case, he was about to be killed by the people, so his chances were certainly better before the princes and rulers.

Two years earlier, when Abinadi had warned the people and called them to repentance (Mosiah 11:20–25), Noah had taken an express interest in Abinadi’s case. Noah had said, “Who is Abinadi, that I and my

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50. Haim H. Cohn, “Extraordinary Remedies,” in Elon, *Principles of Jewish Law*, 551, citing Maimonides, *Yad, Melakhim* 3:8.

51. Robert R. Wilson, “Israel’s Judicial System in the Preexilic Period,” *Jewish Quarterly Review* 74, no. 2 (1983): 242.

52. A similar phrase, “Let my lord do what pleases him,” appears in two texts from Mari regarding the king’s discretion to handle the words of prophets as he wished. See William L. Moran, “New Evidence from Mari on the History of Prophecy,” *Biblica* 50, no. 1 (1969): 21n2. I thank Paul Y. Hoskisson for drawing this article to my attention.

people should be judged of him, or who is the Lord, that shall bring upon my people such great affliction? I command you to bring Abinadi hither, that I may slay him” (vv. 27–28). Thus the people may have readily concluded that exclusive jurisdiction over any case involving Abinadi had already been taken by King Noah. Especially in a case such as Abinadi’s that potentially involved a capital offense, Nephite jurisprudence seems to have reserved jurisdiction only to the highest governmental authority. At least in the land of Zarahemla under the later reign of the judges, no man could be put to death according to the laws of the land “except they had power from the governor of the land” (3 Nephi 6:24). For purposes of comparison, similar provisions are found in Hittite Law 44b, which places all cases involving the magical misuse of impurities under the exclusive jurisdiction of the king, and in the Law of Eshnunna 48, which requires that a capital charge “(belongs) to the king himself.”<sup>53</sup> Thus, for several reasons the people in the city of Nephi rightly determined that jurisdiction had been taken out of their hands and they should turn Abinadi over to Noah without delay.

### Jurisdiction over the Charge of False Prophecy

While it was a crime under ancient Israelite law to prophesy falsely, little is known about actual trials of false prophets in the ancient Israelite period, and even less is said about such cases in rabbinic literature.<sup>54</sup> Nevertheless, the legal right to try a person for this capital offense also appears to have been out of the hands of the population at large. During the time of Jeremiah, two known cases of false prophecy, one against Jeremiah and the other against Urijah, were pursued by the king or his princes (Jeremiah 26:10, 21); and during the rabbinic period, such actions were heard only by the Sanhedrin.<sup>55</sup> Although it is unclear whether the

53. See, for example, Hoffner, *The Laws of the Hittites*, 189; and Reuven Yaron, *The Laws of Eshnunna*, 2nd rev. ed. (Jerusalem: Magnes, 1988), 119–20.

54. Although they are not tried in a formal court, false prophets are reported to have suffered ill-fated deaths; for example, the slaughter of the priests of Baal after their trial by ordeal with Elijah (1 Kings 18:40; 19:1) and the death of Hananiah (Jeremiah 28:15–17). See also the threats against false prophets in Jeremiah 5:12–13; 14:14–16; 29:21; and Zechariah 13:2. The prophet Urijah was tried and executed (Jeremiah 26:21–23). Regarding the deaths of righteous prophets, see 2 Chronicles 36:15–16 and Matthew 23:37.

55. Goldin, *Hebrew Criminal Law*, 76; and Joseph M. Baumgarten, “The Duodecimal Courts of Qumran, Revelation, and the Sanhedrin,” *Journal of Biblical Literature* 95, no. 1 (1976): 73. The Great Sanhedrin, as distinguished from the small sanhedrins, had jurisdiction over alleged false prophets. Haim H. Cohn, “Bet Din,” in Elon, *Principles of Jewish Law*, 562; TB *Sanhedrin* 1:1, 16a. It appears, however, that the small sanhedrins carried out the functions of the great court in capital cases, which would include the trying of false prophets if the larger court was inaccessible.



Nephites would have known specifically of these jurisdictional technicalities, the conduct of the people in turning Abinadi over to King Noah was consistent with these precedents and with Noah's prior order, and thus they acted correctly in deciding to deliver Abinadi to the king and his priests to be judged.

### **Taken, Bound, and Carried**

After the people had determined that Abinadi was in the wrong (Mosiah 12:9, 14), they delivered him to King Noah. Following a practice routinely repeated in the legal cases in the Book of Mormon, the populace "took him and carried him bound before the king" (v. 9). This same language appears in the arrests of Korihor; the Ammonites in the city of Jershon "took him, and bound him, and carried him before Ammon" (Alma 30:20), just as in the city of Gideon he was "taken and bound and carried before the high priest" (v. 21). That this threefold formulaic expression reflects a widespread customary practice among the Nephites and Lamanites is confirmed by other reports. The people of Ammonihah "took . . . and bound . . . and took [Alma and Amulek] before the chief judge" (14:4). When Ammon entered the land of Ishmael, the Lamanites "took him and bound him, as was their custom . . . and carr[ied him] before the king" (17:20; see Mosiah 7:7). Later, Nephi, the son of Helaman, was "taken and bound and brought before the multitude" for interrogation (Helaman 9:19). This Book of Mormon practice may have derived from the biblical instruction that a complainant should "take hold of the defendant and bring him before the court."<sup>56</sup> Why or how they bound Abinadi, or how long he remained bound, is not clear. If they bound his feet, perhaps readers should understand that the people literally carried these defendants into court.

### **The Judicial Roles of the King and Priests**

One of the most interesting aspects of the trial of Abinadi is the interaction between King Noah and his priests. At some times in the trial, Noah appears to have been in control, while his priests served in an advisory capacity; in other respects, the priests seem to have been in charge, formulating the precise allegations and determining the ultimate outcome. These concurrent roles may reflect the fact that two charges had been brought against Abinadi, and each called for different judicial treatment.

Pursuant to an important legal directive attributed to King Jehoshaphat in 2 Chronicles 19:11, one may surmise that the king in ancient

56. Falk, *Hebrew Law in Biblical Times*, 58, following Deuteronomy 21:19.

Israel had power over “all the king’s matters,” while the priests had jurisdiction in “all matters of the Lord,” or religious concerns.<sup>57</sup> It appears that a similar division of legal responsibilities also existed among the Nephites, based either on something like Jehoshaphat’s precedent or on Nephi’s conferral of royal authority on some (Jacob 1:9) and priestly authority on others (2 Nephi 5:26). Thus one may infer that Noah had power over Abinadi’s first alleged offense of lying about the king, while the priests would have had responsibility to resolve the charge that he had prophesied falsely. Moreover, where Noah was the injured party and was also “a hierarchical superior,” he had the natural ability to “act as both plaintiff and judge, bringing the defendant before his own court, as Saul had done with Ahimelech” (1 Samuel 22:11–16).<sup>58</sup>

Under such a traditional division of legal duties, Noah essentially had administrative control. He had authority to convene the court: “He commanded that the priests should gather themselves together,” and his purpose was to “hold a council with them what *he* should do” (Mosiah 12:17; emphasis added), which Noah understood broadly. Noah also had the power to command his priests to follow his orders. When Noah became incensed at Abinadi’s unequivocal accusation that he and his priests were idolaters (vv. 33–37), Noah commanded his priests to seize Abinadi and take him away and kill him (13:1). Likewise, Noah “caused” his servants and guards to pursue Alma when he was expelled and fled from the court; and he “caused”

57. See Welch, “The Trial of Jeremiah,” 346–47. Falk, *Hebrew Law in Biblical Times*, 47, notes: “Originally the priests were perhaps satisfied with the jurisdiction in religious matters.” See Elliot N. Dorff and Arthur Rosett, *A Living Tree: The Roots and Growth of Jewish Law* (Albany: State University Press, 1988), 62–64; and Keith W. Whitelam, *The Just King: Monarchical Judicial Authority in Ancient Israel* (Sheffield, England: JSOT Press, 1979), 202–3. Keith W. Whitelam, “King and Kingship,” in *Anchor Bible Dictionary*, 4:44, says, “The king was the central symbol of the social system. His prime function was the establishment and maintenance of order throughout the kingdom. The king’s functions as warrior (1 Sam 8:20), judge (1 Sam 8:5; 2 Sam 12:1–15; 14:1–24; 15:1–6; 1 Kgs 3; 21:1–20; 2 Chr 19:4–11), and priest (1 Sam 13:9–10; 14:33–35; 2 Sam 6:13, 17; 24:25; 1 Kgs 3:4, 15; 8:62; 9:25; 12:32; 13:1; etc.) are all interrelated elements of this fundamental task. They were all essential to the maintenance of a divinely ordained order which was conceived of in cosmic terms and covered all aspects of a society’s and individual’s existence.” See further William F. Albright, “The Judicial Reform of Jehoshaphat,” in *Alexander Marx Jubilee Volume* (New York: Jewish Theological Seminary of America, 1950), 61–82; M. Lahav, “Jehoshaphat’s Judicial Reform,” in *Yaacov Gil Jubilee Volume*, ed. Y. Hoeherman, M. Lahav, and Z. Zemarion (Jerusalem: Rubin Mass, 1979), 141–48; Gosta W. Ahlström, *Royal Administration and National Religion in Ancient Palestine* (Leiden: Brill, 1982), 54; and Wilson, “Israel’s Judicial System,” 243–48 (arguing that “there is no compelling reason to question the general accuracy of the account” in 2 Chronicles 19 as a description of the legal system during the monarchical period, 245).

58. Raymond Westbrook, “Biblical Law,” in *An Introduction to the History and Sources of Jewish Law*, ed. N. S. Hecht et al. (Oxford: Oxford University Press, 1996), 10; see Bovati, *Re-Establishing Justice*, 34, 176.

them to hold Abinadi for three days in prison (17:3–6). At the end of the hearing, the king again “counseled with his priests” (17:6). The fact that Noah counseled with his priests, even regarding the crime of cursing his person or lying about him, may indicate that he was not regularly involved in judicial affairs. He did not act patiently with the judicial process, for he behaved impetuously throughout the entire case (e.g., 13:1).

While Noah appears to be in charge of the court, functioning as its sole voice and ultimate decision maker, in the end he was deeply influenced by the opinions of the priests (Mosiah 17:11–12). The role of these priests was not merely advisory. They were actively involved in the trial, conducting the direct examination of the accused (12:19–20) and seeking a basis whereby “*they* might have wherewith to accuse him” (v. 19; emphasis added). Given their line of interrogation against Abinadi, it appears that they were seeking evidence to support a conviction on the grounds of false prophecy, an offense over which priests normally would have had jurisdiction.<sup>59</sup> Similarly, it was the priests who eventually formulated the religiously based charge of blasphemy that Noah announced as the verdict of the priests’ formal deliberations: “Having counseled with his priests, . . . he said unto him: Abinadi, *we* have found an accusation against thee” (17:6–7; emphasis added). After Abinadi rebuffed that charge, Noah himself was “about to release” Abinadi, but it was the priests who “lifted up their voices against [Abinadi] and began to accuse him” with yet another charge (vv. 11–12). Thus the priests had great power in this proceeding to conduct the examination of the accused, to advise the king, to raise accusations on their own initiative based on words Abinadi had spoken in their presence, and even to contravene the decision that Noah was leaning strongly toward making. Ultimately, it was the priests themselves who fashioned and conducted the execution of Abinadi: “And it came to pass that *they* took him and bound him, and scourged his skin with faggots, yea, even unto death” (v. 13; emphasis added). In the end, therefore, it was “the priests who caused that he should suffer death by fire” (Alma 25:9). They were the more blameworthy (Mosiah 7:28) after Noah released Abinadi and “delivered him up [to the priests] that he might be slain” (17:12).

This confluence of royal and priestly jurisdiction accurately reflects what is known about the judicial roles of the king and the Israelite priests in ancient Israel.<sup>60</sup> The Levites are mentioned as officers and judges during the reign of King Solomon (1 Chronicles 23:4), although their precise

59. Cohn, “Bet Din,” 562–63.

60. Wilson, “Israel’s Judicial System,” 241–48.

legal functions are not stated. Regarding the judicial roles of the king, it is generally believed among biblical scholars that while the king in Israel did not function as a judge in day-to-day civil or criminal matters,<sup>61</sup> one of his ideal duties was “to guarantee the true administration of justice throughout the land.”<sup>62</sup> By the time of the Mishnah, the king held no judicial power whatever, except in military affairs or in the extraordinary case of someone disobeying or slandering him: “A king can neither judge nor be judged, he may not bear witness nor be witnessed against.”<sup>63</sup> Thus one would not expect King Noah to have been involved regularly in normal judicial proceedings—especially when those cases involved priestly affairs. The statement of King Zedekiah regarding the trial of Jeremiah, who was accused of false prophecy, corroborates this view: “For the king is not he that can do any thing against you” (Jeremiah 38:5).

Falk and de Vaux point out, however, that the king, especially in the early monarchy of Israel, was capable of functioning as if he were a plenary tribal judge in all kinds of cases.<sup>64</sup> Thus it would not have been unprecedented for Noah, especially in Zeniff’s small city-state in the land of Nephi, to assume the role of judge as he saw fit; but based on Noah’s impatience and awkwardness with the process, this role seems to have been an unusual one for him. Kings in early Israel could take jurisdiction or refuse it on a case-by-case basis; one assumes that King Solomon could easily have sent the two women arguing over one baby back to their village so that the town elders could resolve the dispute. Thus when the people turned Abinadi over to Noah, they acknowledged and expected that the king would “do with him as seemeth [him] good” (Mosiah 12:16).<sup>65</sup> It would be consistent with Noah’s selective observance of the law of Moses generally (v. 28) for him to take a case or ignore the matter based largely on expedience. Evidence indicates that kings like Noah, however, typically and understandably took jurisdiction over cases involving military matters, suits involving the crown or the royal family, and affairs in the capital

61. For a good discussion of the role of the king in this judicial system, see Boecker, *Law and the Administration of Justice*, 40–49. Boecker concludes that the judicial powers of the king in ancient Israel were always limited and perhaps eliminated during the Deuteronomic reforms in the seventh century BC (Deuteronomy 16:18; 17:8–12).

62. Whitelam, *Just King*, 37. See Wilson, “Israel’s Judicial System,” 242: “The king is directly responsible for maintaining justice in the land and assuring all citizens equal access to the courts.” See further Mafico, “Judge, Judging,” 3:1106.

63. TB *Sanhedrin* 2:1, 18a.

64. 1 Samuel 8:5; 2 Samuel 8:15; 12:1; 14:4; 1 Kings 3:9, 16; Psalm 72:1–4; Jeremiah 22:15–16. Falk, *Hebrew Law in Biblical Times*, 50; and de Vaux, *Ancient Israel*, 1:151.

65. Compare the conduct of the Greek soldiers who turned Helen over to Menelaus and gave him authority to do with her however he saw fit. Euripides *Trojan Women* 872–75.

city.<sup>66</sup> In no known historical instance, however, did the king in Israel act as a judge on his own motion.<sup>67</sup> Even the royal courts in Jerusalem appear to have acted only as a resource for local town courts in cases where the elders felt unsure about their action.<sup>68</sup> Thus while King Noah may well not have been involved in the routine judicial system of his land, when Abinadi's case arose in the capital city and involved the royal house itself, it was the kind of case that King Noah would almost have been forced to take part in once it had been brought to him.

### **Imprisonment Pending Trial or Judgment in Difficult Cases**

Noah put Abinadi in prison pending trial (Mosiah 12:17). Prisons had limited use in the administration of justice in ancient Israel and in the ancient Near East, although prisons were more extensively used in Egypt.<sup>69</sup> Their main function in Israel seems to have been the holding of accused persons pending trial or judgment, particularly when the laws or procedural rules were uncertain. Examples of the use of prisons to detain accused but untried individuals in the face of legal uncertainties are found in the case of the son of an Egyptian man and an Israelite woman who blasphemed during an altercation ("And they put him in ward, that the mind of the Lord might be shewed them," Leviticus 24:12) and in the obscure case of the man who was found gathering sticks on the Sabbath ("And they put him in ward, because it was not declared what should be done to him," Numbers 15:34). King Benjamin banned the use of dungeons in the land of Zarahemla (Mosiah 2:13), but prolonged imprisonment was common among the Jaredites and apparently also to a lesser extent among the Lamanites (Alma 23:2; Helaman 5:21) and the wicked people of Ammonihah (Alma 14:22–23).

### **Preliminary Council**

While Abinadi was being held, Noah met with his priests to discuss what should be done (Mosiah 12:17–18).<sup>70</sup> In light of the fact that Alma

66. Boecker, *Law and the Administration of Justice*, 42–45; and Wilson, "Israel's Judicial System," 242.

67. See generally Goldin, *Hebrew Criminal Law*, 83n11, citing Maimonides, *Hilkot Sanhedrin* 2:5.

68. Deuteronomy 17:8–12; and Boecker, *Law and the Administration of Justice*, 48–49. See also Raymond Westbrook, "Punishments and Crimes," in *Anchor Bible Dictionary*, 5:546–56.

69. On prisons generally, see Menachem Elon, "Imprisonment," in Elon, *Principles of Jewish Law*, 535–39; Haim H. Cohn, "Practice and Procedure," in Elon, *Principles of Jewish Law*, 581; Falk, *Hebrew Law in Biblical Times*, 59; Goldin, *Hebrew Criminal Law*, 38; Karel van der Toorn, "Prison," in *Anchor Bible Dictionary*, 5:468–69; David L. Blumenfeld, "The Terminology of Imprisonment and Forced Detention in the Bible" (PhD diss., New York University, 1977); and Olivia Robinson, "Private Prisons," *Revue Internationale des Droits de l'Antiquité* 15 (1968): 389–98.

70. Compare Bovati, *Re-Establishing Justice*, 240–41.

was soon able to attract a sizable group of converts to follow him and the teachings of Abinadi, Noah and his priests must have had reason to worry about the threat of Abinadi's growing popularity. Therefore, although they could have taken Abinadi and executed him immediately on the strength of the prior decree of Noah from two years earlier, they must have thought it would be more effective to find some way to embarrass Abinadi or to get him to disgrace himself. They may have begun their deliberations by conferring about what legal or political result they hoped to achieve in the case and specifically what kind of punishment they should seek to impose. Few alternatives existed under ancient Israelite law in this regard. Long-term imprisonment was probably not an option.<sup>71</sup> Monetary fines or payment to compensate for the wrong (*kofer*) would have been improper under the law of Moses.<sup>72</sup> Banishment (*herem*) was a possibility, but it appears to have been rarely invoked,<sup>73</sup> and it would not have prevented Abinadi from sneaking back into the city yet again in another disguise and creating further disturbances or infractions. Beating or flogging were distinct possibilities (Deuteronomy 25:1–3), but this punishment was normally used for disobedience.<sup>74</sup> Likewise, penal slavery would have been inappropriate under biblical law.<sup>75</sup> Only two obvious options remained open: either to let Abinadi go free<sup>76</sup> and leave his fate to the divine judgment of God or to impose the death penalty. The death penalty was the most common

71. Punishments available under Hebrew criminal law are discussed elsewhere. In contrast to the laws of ancient Israel's ancient neighbors, biblical law seems to have allowed fewer long-term options to courts and judges. The basic possibilities were death (by stoning, hanging, burning, or slaying with the sword), flogging, or banishment. Torture, mutilation, and prolonged incarceration are virtually absent from the biblical law codes and historical accounts.

72. Ancient Israelite law did provide for the satisfaction of certain offenses through the payment of monetary fines, but these were all offenses against property, such as theft. See, for example, Exodus 22:1, 4; and Goldin, *Hebrew Criminal Law*, 61. Talmudic law also allowed monetary compensation for shaming a person (*boshet*), and rabbis at various times determined fixed amounts to pay in compensation for such acts. See Mishna *Bava Kamma* 8:6; and Shalom Albeck, "Damages," in Elon, *Principles of Jewish Law*, 332.

73. Excision (*karet*), being "cut off from the people," is mentioned often in the Bible, for example, Leviticus 20:18. Goldin, *Hebrew Criminal Law*, 41nn22–26, notes, "In the Scripture, there are twenty-one offenses which merit the punishment of *karet*." The offenses of which Abinadi was accused were usually not punished in this way.

74. The punishment of flagellation, mentioned in Deuteronomy 25:1–3, was typically given only upon the transgression of Mosaic prohibitory law. See Goldin, *Hebrew Criminal Law*, 49–53; and Westbrook, "Punishments and Crimes," 5:546–56.

75. Penal slavery applied only to those guilty of theft or other destruction of property. See Goldin, *Hebrew Criminal Law*, 57–58; and Muhammad A. Dandamayev, "Slavery," in *Anchor Bible Dictionary*, 6:58–65.

76. Hezekiah did not punish Micah even though he had prophesied evil against Jerusalem (Jeremiah 26:18–20).

punishment prescribed for serious offenses against God or one's superiors under the law of Moses.<sup>77</sup>

Noah and his priests probably also discussed the charges and how to conduct the trial. They would have needed to decide which of the two charges to address first. They decided to begin with false prophecy. They had a better chance of success in arguing with Abinadi about interpretive prophetic issues, especially since his prophecies made two years ago had not come to pass, than in trying to prove that Abinadi was mistaken in his condemnation of Noah, whose conduct would not have been legally easy to defend or politically wise to expose. Indeed, the facts were not on Noah's side.

Another concern would have been the need for witnesses. No Israelite could be convicted of a capital crime without two witnesses (Numbers 35:30; Deuteronomy 17:6), and this rule would have been known to the priests of Noah since they purported to observe the law of Moses. Some priests may have argued that this requirement had already been satisfied since the people had witnessed against Abinadi and had simply turned him over to the king for sentencing. But others must have concluded that further evidence was needed against Abinadi, for they sought in their interrogation to obtain "wherewith to accuse him" (Mosiah 12:19). No further witnesses were ever called against Abinadi on the charge of false prophecy because this accusation was soon dropped, and with respect to the later charges of blasphemy (17:7–8) and reviling (v. 12) arising out of Abinadi's unambiguous statements during the trial, the priests themselves could serve as firsthand witnesses.

Noah and the priests may also have discussed whether they should try to extract a confession from Abinadi before they executed him and, if so, what form the confession should take.<sup>78</sup> As seen above in the discussion of Sherem's case, Israelite law preferred that a person not be put to death until an acknowledgment of guilt had been extracted.<sup>79</sup> Consequently, Noah and his priests may have conferred about what might be said or done to convince the determined Abinadi to admit that he was wrong.

Israelite law did not give the accused the right to remain silent.<sup>80</sup> In assessing statements by the accused, the typical court found it necessary

77. Haim H. Cohn, "Capital Punishment," in Elon, *Principles of Jewish Law*, 526; and Westbrook, "Punishments and Crimes," 5:546–56.

78. See Bovati, *Re-Establishing Justice*, 94–109, for an exploration of the different forms of confessions.

79. See citations above regarding Sherem's confession. Goldin, *Hebrew Criminal Law*, 133.

80. "The rule against self-incrimination dates only from talmudic times." Haim H. Cohn, "Confession," in Elon, *Principles of Jewish Law*, 614. See Aaron Kirschenbaum, *Self-Incrimination in Jewish Law* (New York: Burning Bush Press, 1970), 25–33.

to consider the accused's demeanor<sup>81</sup> and his declaration of innocence, especially when made under oath. Perhaps hoping that Abinadi would recognize the error of his ways and confess, or alternatively seeking further evidence against him, Noah's priests planned to ask Abinadi at least one question (Mosiah 12:20–24) that they hoped would lead him to acknowledge his guilt and error. Mosiah 12:19 explains that Noah and his priests "began to question him, that they might cross him." Apparently they planned thereby to expose a contradiction in Abinadi's teachings and thus convince him—and the people—of the error of his ways.<sup>82</sup>

### Confrontation by the Priests

Abinadi was then brought before the court to answer questions raised by the priests. Little is known about the priests of Noah or how they normally functioned. They probably had religious as well as judicial powers, particularly in ascertaining the veracity of witnesses and administering evidentiary procedures (Numbers 5:15–27; Deuteronomy 17:9; 19:17–18; 21:5). In addition, they served, as did all Nephite priests, as teachers of the people (Mosiah 12:25, 28). Reading and teaching the law to the people was indeed one of the duties of the priests and the king of Israel (Deuteronomy 31:9–13).

King Noah consecrated his own priests after dismissing the priests who had been ordained by his father, Zeniff (Mosiah 11:5). In the record, the priests facing Abinadi are often called "the priests of Noah" or "his priests" (vv. 4, 14; 13:1; 17:6), indicating that the body was closely affiliated with the royal palace and its temple precinct. In Zeniff's reign, such priests in the land of Nephi may have enjoyed greater independence from the king than under Noah's regime, for the text implies that in putting "his priests" into power, Noah significantly changed the affairs of the kingdom (11:4), though it was customary for new priests to be installed and personnel to be reconstituted as a part of each new king's coronation (6:3; compare 2 Chronicles 19:5–6). Noah's priests were supported by taxes (Mosiah 11:3–6). They spoke "flattering things" to the public (v. 7),

81. Rashi, *ad Gemara* 36b–37a, explains that the judges sat in a semicircle "to be afforded an opportunity to closely observe [the witnesses'] faces." Goldin, *Hebrew Criminal Law*, 112n16. See *TB Sanhedrin* 4:2, 36b.

82. It was the duty of the court to examine thoroughly a witness or accuser, especially to expose any contradictions in his testimony (similar is the priests' attempt to "cross" Abinadi in Mosiah 12:19). Maimonides says the judges must "probe into their accuracy and refer them back to previous questions so as to make them desist from or change their testimony if it was in any way faulty." Haim H. Cohn, "Witness," in Elon, *Principles of Jewish Law*, 610. This was standard practice not only here but also in the searching examination of Korihor, of Alma and Amulek (esp. Alma 11:35, where a conflict in the testimony is purportedly exposed), and of Nephi (Helaman 9:19).



although no indication is given of what they said. The fact that Abinadi accused them of leading the people into idolatry indicates they had control over the temple in the city of Nephi. They had special seats set above the rest and behind a public pulpit, apparently located in the temple precincts (vv. 10–12).

The intriguing question regarding the number of Noah's priests can only be answered tentatively, but there are some clues, both in ancient practice and in the text itself. In the biblical period, "priests in general . . . were mentioned in the plural," which accorded with typical ancient Near Eastern practice.<sup>83</sup> The text never says how many priests served in Noah's temple or court, but the fact that the warrior Gideon instantly associated the priests of Noah with the abduction of twenty-four of the Lamanite daughters as soon as he learned how many young women had been taken, causing the Lamanites to come back on the attack against the city of Nephi, certainly suggests that there were about twenty-four priests on Noah's court (Mosiah 20:5, 17–18). Noah, of course, is not to be counted among those who carried off the young Lamanite women, since he had already been put to death by his own priests (19:20); but the vacancy created when Alma was expelled from the court (17:3–4) would probably have been filled with a replacement either during or shortly after the trial.

Evidence from several periods of history indicates that the numbers twelve or twenty-four (two times twelve) were often associated with judicial bodies or functions in ancient Israel.<sup>84</sup> In the biblical period, courts were established in each of the twelve tribes (Deuteronomy 16:18). Later literature in the *Manual of Discipline* from Qumran asserted that when Jehoshaphat appointed "Levites, priests and elders" as judges (2 Chronicles 19:8), he appointed twelve in each group.<sup>85</sup> The Davidic tabernacle and Solomonic temple services were in continuous operation with twenty-four courses of priests (1 Chronicles 24:3–18), and when David appointed his prophetic cantors, he established twenty-four orders, each with twelve members (25:1–31). Twenty-four priests are shown as a group in one depiction of Ramses's court in Egypt,<sup>86</sup> and David and Solomon may have patterned their own priestly organizations after this numerical feature.

83. Falk, *Hebrew Law in Biblical Times*, 48.

84. This subject is briefly discussed in John W. Welch, "Number 24," in *Reexploring the Book of Mormon*, ed. John W. Welch (Salt Lake City: Deseret Book and FARMS, 1992), 272–74. Recall also the twenty-four commandments in Exodus 22–23, discussed above in chapter 3.

85. 1QS 2:1–3, in *Texts Concerned with Religious Law*, part 1 of *The Dead Sea Scrolls Reader*, ed. Donald W. Parry and Emanuel Tov (Leiden: Brill, 2004), 211.

86. The Ramses exhibit at Brigham Young University (1985–86) contained an item showing a group of twenty-four priests. In addition, in Egypt the land "was divided into Nomes, each with

Thus, although direct evidence of duodecimal courts in pre-exilic Israel is lacking, indirect and culturally related evidence gives the number twenty-four presumptive judicial significance in Lehi's day and before.

In the Dead Sea Scrolls from Qumran, the evidence for courts of this number becomes much clearer. In that legal system, judicial disputes were brought before a court called "the council of the community."<sup>87</sup> This deliberative body was composed of two panels of twelve—twelve priests and twelve laymen—for a total of twenty-four judges. The commentary, or pesher, on Isaiah 54:11–12 found at Qumran states that these twenty-four judges were to "give light by the judgment of the Urim and Thummim."<sup>88</sup>

Further judicial significance for the number twenty-four appears in the New Testament Apocalypse, where it is prophesied that twenty-four elders will judge the world. In that book, these twenty-four elders are mentioned twelve times (Revelation 4:4, 10; 5:5, 6, 8, 11, 14; 7:11, 13; 11:16; 14:3; 19:4; compare *2 Enoch* 4:1). Similarly, in ancient Babylon, twenty-four star-gods were said to judge the world.<sup>89</sup>

Of more direct relevance to legal practices and thus to Noah's court in the New World is the fact that early explorers in Central America reported that the indigenous king in highland Guatemala relied heavily on a council of twenty-four officials as he administered the affairs of state: "The supreme council of the monarch of Quiche was composed of 24 grandees, with whom the king deliberated on all political and military affairs. These counsellors were invested with great distinctions and many privileges. . . . The administration of justice, and the collection of the royal revenues, were under their charge."<sup>90</sup>

The possible connection between the priests of Noah and the number twenty-four (Mosiah 20:5, 17–18) is further corroborated by the fact that this number is significant throughout the Book of Mormon in judicial and testimonial contexts. The number of the gold plates of Ether was twenty-four, a fact that is repeatedly mentioned (8:9; Alma 37:21; Ether 1:2). These plates were seen as a "testimony" (Mosiah 8:9) of the "judgments of God" upon those people (Alma 37:30), and their contents were brought "to light" (*urim*) by the use of "interpreters" (Mosiah 28:13–16;

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a ruler or judge over it, and these judges in later times amounted to seventy-two," or three times twenty-four. J. Garnier, *The Worship of the Dead* (London: Chapman and Hall, 1904), 258.

87. 1QS 8:1, in *Texts Concerned with Religious Law*, 31.

88. Baumgarten, "The Duodecimal Courts," 59–78.

89. Diodorus Siculus, *Bibliotheca Historica* 2:31.2.

90. Domingo Juarros, *A Statistical and Commercial History of the Kingdom of Guatemala in Spanish America*, trans. John Baily (London: John Hearne, 1823), 189. I thank John L. Sorenson for drawing this source to my attention.

Alma 37:21–25).<sup>91</sup> Twenty-four survivors remained at the end of the final destruction of the Nephites to serve, in effect, as witnesses of the judgment of God upon their people (Mormon 6:11, 15). There were other survivors (v. 15), so perhaps these twenty-four somehow stood as a body of special witnesses. Together with the twelve apostles, the twelve Nephite disciples will act as final judges of the world (3 Nephi 27:27), for a total of twenty-four. The number twelve is likewise involved in the Book of Mormon in matters of judgment: God’s heavenly court, which passed judgment on Jerusalem in Lehi’s opening vision (1 Nephi 1:13), consisted of twelve members (v. 10).

Worth mentioning also is the number twenty-three, which was important in later Jewish courts. In rabbinic times, official courts consisted of three, twenty-three, or seventy or seventy-one judges,<sup>92</sup> which may offer some additional, although later, parallels to the priests of Noah. The number twenty-four, which was found frequently in biblical times, was reduced by one in Pharisaical Judaism, perhaps to avoid the possibility of a tie vote; thereafter, the number twenty-three became a common element in judicial bodies under Jewish law.<sup>93</sup> In the Second Temple period, the largest Jewish court was the Great Sanhedrin, whose number was associated with the seventy elders who went up onto Mount Sinai with Moses (Exodus 24:1, 9; Numbers 11:16–17).<sup>94</sup> Members of the large Sanhedrin sat in three rows (two of twenty-three and one of twenty-four). Although only one Great Sanhedrin was ever authorized in Judaism<sup>95</sup>—particularly to hear cases of religious crimes, to interpret scripture, and to regulate ritual<sup>96</sup>—smaller local sanhedrins functioned if the large court was inaccessible. Any city with a population of 120 families (or 230 people) could

91. Compare the peshet on Isaiah 54:11–12 mentioned above. Juarros, *Statistical and Commercial History*, 384, also refers to the use of a similar oracle by the indigenous people of Guatemala: “The judges quitted their seats, and proceeded to a deep ravine, where there was a place of worship, wherein was placed a black transparent stone, of a substance much more valuable than the *chay* [obsidian]; on the surface of this tablet the Deity was supposed to give a representation of the fate that awaited the criminal. . . . This oracle was also consulted in the affairs of war.”

92. Cohn, “Bet Din,” 561–62.

93. See Mishnah *Sanhedrin* 4:1 and the talmudic discussion in TB *Sanhedrin*, 17a.

94. See generally Anthony J. Saldarini, “Sanhedrin,” in *Anchor Bible Dictionary*, 5:975–80.

95. Sidney B. Hoenig, *The Great Sanhedrin* (Philadelphia: Dropsie College, 1953), 62; TB *Sanhedrin* 1:1, 2a. The Sanhedrin initially functioned in Jerusalem; see James E. Priest, *Governmental and Judicial Ethics in the Bible and Rabbinic Literature* (New York: KTAV, 1980), 92. After the Romans destroyed Jerusalem in AD 70, the Great Sanhedrin moved to various locations and continued to act as the Jewish Supreme Court. Hoenig, *Great Sanhedrin*, xiii; and Priest, *Governmental and Judicial Ethics*, 92.

96. See Hoenig, *Great Sanhedrin*, 86–89.

organize a “small sanhedrin” of twenty-three members,<sup>97</sup> representing one of the three panels that comprised the Great Sanhedrin. Noah’s court may have reflected similar backgrounds or influences in its configuration.

Thus Noah’s court likely consisted of twenty-four priests who would have taken particular interest in hearing cases involving religious offenses or rebellious elders. Although the origin of the Great Sanhedrin in Jerusalem and the related rise of small sanhedrins in outlying towns in Palestine is obscure and is not specifically evidenced as far back as Lehi, several interesting parallels between the functions of those small sanhedrins and Noah’s court of apparently similar size seem noteworthy. The similarities may have developed independently among the Jews and Nephites, or they may have sprung from common roots associated with the older courts or concourses of twenty-four. In particular, the Jewish courts of twenty-three had authority over capital cases, and possibly over the imposition of flogging.<sup>98</sup> They had the power to execute rebellious elders,<sup>99</sup> something like the kind of case presented to the court in the trial of Abinadi.

### The Roles of the Parties and Participants

In the trial of Abinadi, nothing indicates that any lawyers were present, either as prosecutors or as advocates for the accused. This is consistent with ancient legal practice. All people in ancient Israel were expected to know the law (Deuteronomy 31:12), to do justice, and, especially for the adult men, to be involved in the judicial process. Because “biblical law requires that ‘the two parties to the dispute shall appear before the Lord, before the priests or magistrates’ (19:17), i.e., in person and not by proxy,”<sup>100</sup> private lawyers were not employed in this legal system to represent the

97. TB *Sanhedrin* 17b; Baumgarten, “The Duodecimal Courts,” 73; and Priest, *Governmental and Judicial Ethics*, 91. Baumgarten explains that the figure 120 stands for twelve panels of ten, each panel representing one of the twelve tribes. See TB *Sanhedrin* 1:1, 2a, for alternative minimum populations that could support a small sanhedrin and the methods used to arrive at those figures. The number 230 is derived from twenty-three minyans of ten. The number twenty-three may have been used because there were this many judges seated on each of the three semicircular rows when the Great Sanhedrin convened.

98. Cohn, “Bet Din,” 562; Baumgarten, “The Duodecimal Courts,” 73; and Priest, *Governmental and Judicial Ethics*, 91. On flogging or scourging, see note 166 below.

99. See Hoenig, *Great Sanhedrin*, 98–99. This crime was in later times defined as advocating schismatic opinions with an intent to act contrary to the majority. Normally, however, mere statements were not enough to prove an intent to act contrary to the community majority. Although Abinadi’s opinions were clearly critical, schismatic, and provocative, there is no reason to believe that he advocated overthrowing the king or any other action. Thus the crime of being a rebellious elder never figures expressly in the trial of Abinadi.

100. Haim H. Cohn, “Attorney,” in Elon, *Principles of Jewish Law*, 573.

defendant or to advocate a certain result.<sup>101</sup> This practice was apparently followed in all matters, whether we would consider them to be criminal or civil in nature.<sup>102</sup> Accordingly, Abinadi appeared and spoke in person.

In proceedings before these ancient bodies, no official functionary served in the modern role of prosecuting attorney. For example, under Jewish law, in a case tried by a small or large sanhedrin, one of the judges was designated to record all of the arguments for acquittal, while another recorded those for conviction.<sup>103</sup> As such, the members of the court did not necessarily act during the hearing or investigation as impartial, detached judges. This practice appears to stem from the early biblical period. Judges and witnesses were not viewed as neutral, detached testifiers, as McKenzie argues: “These witnesses are not in any sense merely objective informants. Their role is similar to that played in a modern lawsuit by the advocate for the defence and the counsel for the prosecution.”<sup>104</sup> In a similar fashion, the priests of Noah took an aggressive role in the trial of Abinadi, with some of them leading out as accusers.

In cases involving offenses against the public, such as the prosecution of the false prophecy charge against Abinadi, ancient Israelite or Jewish courts typically “initiated the proceedings and dispensed with prosecutors” after being prompted to action by witnesses.<sup>105</sup> Likewise, witnesses were called, as necessary, by the sanhedrins. In later Jewish practice, any person desiring to speak in defense of the accused was, in theory, “allowed and even encouraged to do so”;<sup>106</sup> but there is no evidence of this practice in biblical times. Obviously, no witnesses in Abinadi’s defense volunteered or were summoned by Noah’s court.

In terms of physical positioning, it appears that Abinadi remained standing throughout his trial.<sup>107</sup> The priests, however, were seated (see

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101. Dov I. Frimer, “The Role of the Lawyer in Jewish Law,” *Journal of Law and Religion* 1, no. 2 (1983): 297–305. Falk, *Hebrew Law in Biblical Times*, 59, however, assumes that an accused could be accompanied on certain occasions by counsel standing on his right hand, citing Psalm 109:31, but it is unclear whether the Lord is viewed in this verse as legal counsel, as an accuser of those who have wronged the poor, or as a judge.

102. “The rule is that parties must litigate in person and may not be represented.” Cohn, “Practice and Procedure,” 575 (see p. 577), and “Attorney,” 573. This rule applied unless representation was necessary to avoid injustice.

103. TB *Sanhedrin* 36b–37a.

104. McKenzie, “Judicial Procedure at the Town Gate,” 102.

105. Cohn, “Practice and Procedure,” 581.

106. Cohn, “Practice and Procedure,” 581. The expulsion of Alma from the court is therefore all the more egregious.

107. The image of standing before the judgment bar of God and standing as a witness would appear to reflect the normal practice in the city of Nephi (Mosiah 16:10; 17:10).

Proverbs 20:8; Job 29:7; Ruth 4:2) and had to “stand forth” when they attempted to lay their hands on him (Mosiah 13:2).<sup>108</sup> Seats for judges were prominent in the gates of ancient Israelite cities, and no physical feature of the Nephite justice system is more prominent than is the governmental judgment seat, which is mentioned forty-seven times in the Book of Mormon.<sup>109</sup> Because the seats that Noah had built for himself in his palace and for his high priests and priests in his temple (11:9–11) are mentioned conspicuously in the narrative prologue to the trial of Abinadi, one would surmise that this proceeding took place in one or both of those venues.<sup>110</sup> King Noah was actively involved in the trial of Abinadi, which likely comports with biblical law practice. While the king did not have a place on the Great Sanhedrin (although the high priest did) during rabbinic times,<sup>111</sup> a reasonable speculation is that before 47 BC the law did not forbid kings from taking a place as leader of the Sanhedrin.<sup>112</sup>

### The Direct Examination of Abinadi

When Noah’s court convened and brought Abinadi before them, he was examined by the priests who sought to “cross him, that thereby they might have wherewith to accuse him” (Mosiah 12:19). As mentioned above, it was normal in biblical and rabbinic courts for some of the witnesses or members of the small sanhedrin to act as prosecutors. Thus it is not surprising to see some of the priests of Noah diligently and aggressively inquiring in order to root out any evidence of wrongdoing. It seems excessively harsh, however, for them to have started with arguments on the side of the prosecution. The rabbinic courts, for example, began with arguments for acquittal.<sup>113</sup> The priests of Noah may have been ignorant or malicious in proceeding as they did. On the other hand, speaking last, as Abinadi did, is usually a forensic advantage. In any event, the priests may have begun the proceeding by interrogating Abinadi because the people had already in effect declared him guilty, thereby removing any potential presumption of his innocence.

108. See also Bovati, *Re-Establishing Justice*, 231–33.

109. Welch, “The Trial of Jeremiah,” 348–49.

110. Later, in Jerusalem, members of the Great Sanhedrin had particular seats (which is, again, similar to the use of the ornate seats by Noah’s priests). Members of the Jewish court sat in three semicircles in descending order of age, with the leader at the center and the members alternating closest to him on both sides from the oldest down to the youngest. Hoenig, *Great Sanhedrin*, 56; TB *Sanhedrin* 4:2, 36b; and Goldin, *Hebrew Criminal Law*, 112n16, citing Rashi, *ad Gemara*, 36b.

111. Hoenig, *Great Sanhedrin*, 54; and TB *Sanhedrin* 2:1, 18a.

112. See Hoenig, *Great Sanhedrin*, 186; and de Vaux, *Ancient Israel*, 1:378, stating that after the exile, the high priest took the place of the king.

113. Goldin, *Hebrew Criminal Law*, 107; and Cohn, “Practice and Procedure,” 582.

It appears that the priests intended, by their direct examination, to catch Abinadi in conflict with scripture.<sup>114</sup> In essence, they quoted to him from Isaiah 52 and selectively asked him why he bore tidings of doom and destruction when Isaiah had declared that the beautiful and true prophet brings good tidings and publishes peace: “How beautiful upon the mountains are the feet of him that bringeth *good* tidings” (Mosiah 12:20–22; emphasis added). The priests’ further quoting of Isaiah affirmed that redeeming Jerusalem was a cause for great joy: “They shall see eye to eye when the Lord shall bring again Zion; break forth into joy” (vv. 22–24). Moreover, whereas Isaiah had invited Zion to “put on thy beautiful garments” (Isaiah 52:1), Abinadi had valued Noah’s life as a garment in a furnace (Mosiah 12:3, 10). Whereas Isaiah had spoken in glowing terms of the people, that no more would “come into thee the uncircumcised and the unclean” (Isaiah 52:1), Abinadi had condemned the people as wicked and worthy of destruction (Mosiah 12:8–9). And while Isaiah had assured Jerusalem of loosing herself “from the bands of thy neck” (Isaiah 52:2), Abinadi prophesied that the people “shall be brought into bondage” (Mosiah 12:2). This passage of scripture quoted to Abinadi by the priests could very well have been one of the theme texts that had been used often by Zeniff’s colony as they rejoiced over their redemption of the land of their inheritance and temple like Solomon’s (the temple in the city of Nephi was patterned after the temple of Solomon, which stood adjacent to Mount Zion). In the face of Isaiah’s prophecy and its apparent glorious fulfillment by Zeniff’s people, how did Abinadi dare to accuse both the king and his people of falling under God’s worst judgments?<sup>115</sup>

The priests of Noah may have tried to prove that Abinadi’s prophecies contradicted the word of God as spoken by Isaiah for two related reasons: they wanted to prove him wrong or show that he did not understand Isaiah correctly, and they probably wanted to prove that he was not speaking the word of the Lord and was therefore a false prophet. The definition of false prophecy in Deuteronomy 18 made it a capital offense to prophesy things in the name of the Lord “which I have not commanded him to speak” (Deuteronomy 18:20). Abinadi had clearly invoked the name of Jehovah as the source of his prophecy: “Thus has the Lord commanded me,”

114. Dana M. Pike takes this argument and places the logic and strategy of the priests of Noah in its larger context within Isaiah 52 in his essay “‘How Beautiful upon the Mountains’: The Imagery of Isaiah 52:7–10 and Its Occurrences in the Book of Mormon,” in *Isaiah in the Book of Mormon*, ed. Donald W. Parry and John W. Welch (Provo, UT: FARMS, 1998), 249–91, esp. 261–65.

115. For an explanation of the connections between Isaiah 52 and Isaiah 53 manifested in Abinadi’s extremely insightful response to his accusers, see John W. Welch, “Isaiah 53, Mosiah 14, and the Book of Mormon,” in Parry and Welch, *Isaiah in the Book of Mormon*, 293–312, esp. 294–97.

and “the Lord said unto me” (Mosiah 12:1, 2). In order to know “the word which the Lord hath not spoken,” the judges were to apply the following test: “If the thing follow not [literally ‘is not’], nor come to pass, that is the thing which the Lord hath not spoken” (Deuteronomy 18:22). One option, of course, was to wait and see if the prophecy came to pass. Another approach apparently was to test the prophecy against other texts known to be valid to see if the new prophecies “follow not” or “are not” in the sense that they are inconsistent with the established word of the Lord.<sup>116</sup>

### Abinadi’s Defense and Counterclaims

Abinadi’s rebuttal was an extensive and brilliant explanation of the true essence of redemption and how it brings good tidings to those who accept Christ (Mosiah 12:29–37; 13–16). His words comprise an intricate and elaborate commentary, or midrash, on the text from Isaiah 52 that the priests quoted. His position was based on solid ground, for Isaiah had also clearly stated that “they that rule over them make them to howl” (Isaiah 52:5); and, accordingly, Abinadi predicted that the people of Noah “shall howl all the day long” due to the influence of their wicked priests and leaders on them (Mosiah 12:4).

Casual readers might wonder if Abinadi’s speech was responsive to the specific question posed to him by the priests, but on close examination it is clear that his answer is constructed around specific words and phrases in Isaiah 52. For example, Isaiah 52:3 reads, “Ye shall be *redeemed* without money” (emphasis added), and Abinadi spoke frequently of God’s redeeming power (Mosiah 13:32; 15:9, 12, 23; 16:3–6, 15). After asking, “Who shall declare his [Christ’s] generation?” (from Isaiah 53:8), Abinadi explained that “when his [Christ’s] soul has been made an offering for sin he [Christ] shall see his seed” (Mosiah 15:10), for his seed are all the prophets and the righteous, and they shall be seen by Christ as “heirs of the kingdom of God” (vv. 11–13). Further, the prophets are they who have published peace, good tidings, and salvation, mentioned in Isaiah 52:7 (Mosiah 15:13–14). Thus Abinadi took Isaiah’s declaration “Thy God reigneth!” (Isaiah 52:7) and shifted it to read “*the Son* reigneth” (Mosiah 15:20; emphasis added), meaning that the Son had power over death. This brought Abinadi to testify not only that the righteous will be resurrected to

116. See Moses Bottenwieser, *The Prophets of Israel from the Eighth to the Fifth Century: Their Faith and Their Message* (New York: Macmillan, 1914), 31–32. This line of reasoning was first applied to Abinadi by David Warby; see David Warby and Lisa B. Hawkins, “The Crime of False Prophecy under Ancient Israelite Law,” FARMS Preliminary Report (Provo, UT: FARMS, 1983), recently revised and published as David W. Warby, “The Book of Mormon Sheds Valuable Light on the Ancient Israelite Law of False Prophecy,” *Studia Antiqua* (Summer 2003): 107–16.



stand before God (15:20–25) but also that *all* people will come forth to be judged (15:26–16:2), for the Lord’s salvation will be declared to all (15:28). Hence, the Lord’s “watchmen shall lift up their voice” (15:29), heralding the time when, as Isaiah said, “the Lord hath made bare his holy arm in the eyes of *all* the nations; and *all the ends of the earth* shall see the salvation of our God” (Isaiah 52:10; emphasis added), and so “every nation, kindred, tongue, people . . . shall confess before God that his judgments are just” (Mosiah 16:1). Indeed, Abinadi’s speech responded precisely and thoroughly to the priests’ interrogatory. His remarks were completely relevant to the strategy employed against him at this stage in his trial.

Abinadi also raised affirmative counterclaims, accusing the priests themselves of pretending to teach the people, of misunderstanding the spirit of prophecy, and of perverting the ways of the Lord (Mosiah 12:25–26). In effect, Abinadi accused the priests of lying about their own behavior, of denying true prophecy, and of leading people into apostasy, countering their claims but at the same time adding to the very charges brought against himself.

Interestingly, Abinadi never specifically charged Noah and the priests of the egregious offense of idolatry, even though this was clearly one of their sins (Mosiah 11:6). To make this point, Abinadi did not need to do any more than quote Exodus 20:3–4 (or Deuteronomy 5:7–8) to them: “Thou shalt have no other God before me. Thou shalt not make unto thee any graven image” (Mosiah 12:35–36). After Noah interrupted him on this very point, Abinadi withstood his accusers with the power of God. Abinadi then began again by repeating the prohibition against idolatry (13:12) and then completing his recitation of the Ten Commandments by way of further indictment.<sup>117</sup>

Abinadi also elaborately critiqued the narrow, strictly literal understanding of the law of Moses that apparently thrived in the colony of Zenniff. Noah’s priests appear to have observed the law of Moses, at most, only so far as the letter of the law was concerned. They unqualifiedly purported to “teach the law of Moses” (Mosiah 12:28), which would mean that they must have spent a fair amount of time constructing rationalizations to show that their extravagances and excesses were not literally against that law. But Abinadi showed that more was required in order to teach and live the law of God than merely meeting the letter of the law. From the teachings of Nephi and Jacob (2 Nephi 25:12–19; Jacob 4), the priests of

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117. For a close examination of the Decalogue and its use by Abinadi, see David Rolph Seely, “The Ten Commandments in the Book of Mormon,” in *Doctrines of the Book of Mormon*, ed. Bruce A. Van Orden and Brent L. Top (Salt Lake City: Deseret Book, 1992), 166–81.

Noah should have understood the same point already. Abinadi's direct question and assertion was a stinging condemnation: "Have ye done all this? I say unto you, Nay, ye have not. And have ye taught this people that they should do all these things? I say unto you, Nay, ye have not" (Mosiah 12:37). These words provoked a swift retort.

### Noah Calls Abinadi "Mad"

Noah interrupted Abinadi's testimony at this point and ordered that Abinadi be removed and killed, "for he is mad" (Mosiah 13:1). Abinadi withstood the people who attempted to carry out this order by speaking "with power and authority from God" as his face shone like Moses's "while in the mount of Sinai" (vv. 2–6).

No insanity defense existed under biblical law. Even a "mad" person could be punished if he had broken the law.<sup>118</sup> By calling Abinadi mad, Noah was clearly not conceding that Abinadi was insane and therefore unfit to stand trial. More specifically, being "mad" (*shāg'*) was a derogatory label often used to describe the ravings of false prophets in the Old Testament; for example, Hosea 9:7 reads, "The prophet is a fool, the spiritual man is mad."<sup>119</sup> In the ancient world, madness in the sense of mental illness was usually explained as the result of evil spirits (e.g., Mark 3:22); if a man were to speak by the power of some spirit other than the spirit of God, then it stood to reason that he was speaking through the power of the evil one and thus would necessarily be a false prophet (see Jeremiah 29:26). Assuming that Noah knew something of this language or logic and that he had such ideas in mind as he spoke, he was using the word *mad* to strengthen the false-prophecy charge and was urging the court to move quickly to convict and execute Abinadi for being dangerous and bewitched: "Slay him; for what have we to do with him, for he is mad" (Mosiah 13:1).

Noah's reaction was predictable, for he had made up his mind in this regard two years earlier. The fact that Abinadi's legal chances were poor no matter what he said in his defense contributed to a lack of decorum on both sides at trial. Besides Noah's outburst, Abinadi's conduct cannot be considered very orderly either. He launched immediately, after only one question, into a lengthy statement, never giving the judges a chance to develop the issues or ask another question. To have held the floor, Abinadi must have

118. Falk, *Hebrew Law in Biblical Times*, 69.

119. Victor P. Hamilton, "shāg', be mad," in *Theological Wordbook of the Old Testament*, ed. R. Laird Harris, Gleason L. Archer Jr., and Bruce K. Waltke (Chicago: Moody, 1980), 2:2328. See also 2 Kings 9:11.

been extremely animated as he, filled with the Spirit of God, recited the law and heaped contemptuous accusations upon the priests and Noah.

### **Abinadi's Appeal to God as His Witness**

It was typical for defendants in antiquity to appeal to God to verify their innocence.<sup>120</sup> This appeal often took the form of an oath: "The oath existed in Hebrew law only on the part of the accused. . . . An accused person could exculpate himself with an oath. . . . The oath brought the divinity into the process of legal investigation."<sup>121</sup> Similarly, in Noah's proceeding Abinadi appealed to God to verify his innocence and truthfulness in several ways. Abinadi vowed that God would smite his accusers if they dared to lay their hands on him (Mosiah 13:3). He further testified that the Lord had sent him to prophesy against the people (v. 26), and he appealed to the priests themselves to acknowledge that he had spoken the truth: "Yea, ye know that I speak the truth" (12:30).

Noah and his priests, however, were intransigently committed to their royal prerogatives and rationalizations. Their political views may have drawn support from the administrations of the kings of Israel, especially that of Solomon, with his powers, priests, wives, temple, and grand public works. Abinadi countered that incorrect model of kingship by arguing that the true type of all things mentioned in the law was the eternal king (Mosiah 13:31, 33). He also testified "concerning the coming of the Messiah, . . . that God himself should come down among the children of men" (vv. 33–34).

Next, as I have discussed in greater detail elsewhere,<sup>122</sup> Abinadi quoted Isaiah 53, which immediately follows the passage that the priests had challenged Abinadi to explain. After explaining how that text speaks of the ultimate redemption (Mosiah 15:8–9), he explained the phrases of Isaiah 52:7–10 in that light. "[H]is generation," or God's seed, are "whosoever has heard the words of the prophets" and "all those who have hearkened unto their words, and believed that the Lord will redeem his people" (Mosiah 15:10–11); the prophets are they "who have published peace, who

120. After an accused had been convicted and even sentenced to death, he could procure a re-hearing of sorts merely by proclaiming, "I have somewhat to argue in favor of my acquittal." TB *Sanhedrin* 6:1, 42b. If he swore by God of his innocence, so much greater his claim of innocence.

121. Boecker, *Law and the Administration of Justice*, 35. For more information on vows, see George W. Buchanan, "Some Vow and Oath Formulas in the New Testament," *Harvard Theological Review* 58, no. 3 (1965): 319–26; Zeev W. Falk, "Notes and Observations on Talmudic Vows," *Harvard Theological Review* 59, no. 3 (1966): 309–12; Samuel Rosenblatt, "The Relations between Jewish and Muslim Laws concerning Oaths and Vows," *American Academy for Jewish Research* (1936): 229–44; and Lawrence H. Schiffman, "The Law of Vows and Oaths (Num. 30, 3–16) in the *Zadokite Fragments* and the *Temple Scroll*," *Revue de Qumran* 15, nos. 1–2 (1991): 199–214.

122. Welch, "Isaiah 53, Mosiah 14, and the Book of Mormon," 294–301.

have brought good tidings” (v. 14); “how beautiful are the feet of those that are still publishing peace” and of “the founder of peace, yea, even the Lord” (vv. 16, 18). The watchmen on the towers are those who will lift up their voices at the time when the salvation of the Lord “shall be declared to every nation” (vv. 28–29). Finally, Abinadi asserted that “all shall see the salvation of the Lord,” that all “shall confess before God that his judgments are just,” and that God’s judgments shall stand against all those—such as the wicked priests—who remain in carnal and sensual sin and in rebellion against God (16:1–5), having been “warned of their iniquities” and yet refusing to repent (v. 12). It is hard to imagine a more sophisticated and insightful analysis of the complexities of Isaiah 52 and 53.

Strong statements such as these would have made the typical Israelite judge extremely wary of passing judgment incorrectly or unrighteously for fear of offending God. As discussed in chapter 3 above, the duty to “judge righteously” was incumbent upon all who served as judges in Israel.<sup>123</sup> Jehoshaphat admonished his judges: “Deal courageously, and the Lord shall be with the good” (2 Chronicles 19:11). Strong provisions in the code of judicial responsibility required judges under the law of Moses to “keep . . . far from a false matter; and the innocent and righteous slay thou not: for I will not justify the wicked” (Exodus 23:7). The Psalms are full of strong pronouncements praising those who judge righteously and condemning those who do not (e.g., Psalm 33:5; 67:4; 71:4; 99:4). Thus it is understandable that Abinadi’s words had a sobering effect at least on some of the people. Abinadi’s quotation of the Ten Commandments, his power through God to resist the priests when they tried to restrain him, and his explication of Isaiah 53 constituted a brilliant forensic performance, a *tour de force*, a remarkable discourse under any circumstance. But it was all the more astounding and meaningful coming from a man who was on trial for his life and who needed to respond articulately and persuasively, on the spot, to the specific question put to him by his adversaries, the priests. They became hesitant to interfere (Mosiah 13:5), and they remained silent until Abinadi concluded his message.

### **Noah’s Command**

When Abinadi completed his lengthy testimony, Noah again commanded the priests to take Abinadi and kill him: “The king commanded

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123. For more information on judgment, see Ze’ev W. Falk, “‘Words of God’ and ‘Judgments,’” *Estratto da Studi in onore di E. Volterra* 6 (1969): 155–59; Eberhard Klingenberg, “Judgment and Settlement in Court in Jewish and Comparative Legal History,” *Jewish Law Annual* 8 (1989): 135–45; and Leon Morris, “Judgement and Custom,” *Australian Biblical Review* 7 (1959): 72–74.

that the priests should take him and cause that he should be put to death” (Mosiah 17:1). If Noah was expressing here a verdict regarding the false prophecy charge, he was probably acting out of order in voicing his opinion so quickly. Since King Noah was the senior authority in the court and was bound to act under the rule of law (Deuteronomy 17:19), his vote should probably have been heard last, especially if he was seriously interested in taking counsel from his priests.<sup>124</sup> The explanation given for this conventional rule was that the younger judges should speak first because otherwise they might be unduly influenced to follow the opinions of their older colleagues if the senior members of the court spoke preemptively.<sup>125</sup>

It seems more likely, however, that Noah’s order shifted the focus of the trial away from the false-prophecy charge and over to the second cause of action against Abinadi: that he had lied about the king and his lifestyle filled with debauchery. While Noah could see that the priests had made no headway on the false-prophecy charge (which is never mentioned again in the account after this point, apparently having been dropped from the trial), Noah could still assert uncontested jurisdiction over the other charge, namely, that Abinadi had lied about the king. Noah alone could issue a verdict without further deliberation on that matter because it was jurisdictionally one of “the king’s matters” (2 Chronicles 19:11).

The idea that Noah shifted the focus of the trial in precisely this manner is supported by the thrust of Alma’s defense, which was based on his personal knowledge “concerning the iniquity which Abinadi had testified against them” (Mosiah 17:2). In other words, Alma knew that Abinadi had not lied about the iniquity of the king and his priests. Therefore, it is likely that Noah’s order calling for Abinadi’s execution would have stood, except for Alma’s daring intervention.

As it happened, Noah’s order was not carried out. But what kind of verdict was this that could be rebutted and ignored by the court or the priests? Perhaps it was not intended to be a final order. Indeed, the concept of a “final judgment” probably did not exist in the ancient world. If a person was willing to go to a temple or to the gate and swear an oath of innocence, for example, charges could be dropped,<sup>126</sup> and presumably

124. At least in rabbinic times the leader of the Sanhedrin and the eldest members voted last. Cohn, “Practice and Procedure,” 582.

125. Cohn, “Practice and Procedure,” 582.

126. For example, Pir’i-ilishu, an Amorite soldier, was given the opportunity to go to a public place and take an oath in order to avoid a penalty. Henry Frederick Lutz, *The Verdict of a Trial Judge in a Case of Assault and Battery* (Berkeley: University of California, 1930), plate 4, pp. 379–81, cited in Martha T. Roth, “Mesopotamian Legal Traditions and the Laws of Hammurabi,” *Chicago-Kent Law Review* 71, no. 1 (1995): 31.

other forms of reconciliation or settlement could intervene after the court had reached its decision and before a sentence had been carried out. Under later Jewish law, court verdicts did not become “final” until they were actually being carried out: “As long as the sentence has not been carried out, the judgment is subject to revision.”<sup>127</sup> Thus it is not exceptional or irregular that the debate about Abinadi’s fate continued even after Noah had said that he should be put to death.<sup>128</sup> The court continued by allowing Alma to speak, by expelling Alma and putting Abinadi in prison, and by declaring a three-day recess (Mosiah 17:2–8).

### **Alma’s Defense of Abinadi**

As mentioned above, it was usual in Jewish law for some members of the court to speak on behalf of the accused. “The deliberations [of the judges] must always start with a view propounded in favor of the accused,”<sup>129</sup> although this was interpreted in the Talmud to mean that the court only had to ask the accused “whether he could adduce any evidence in rebuttal, or [to] reassur[e] the accused that if he was innocent he had nothing to fear.”<sup>130</sup> While it is unknown what procedures or protocols may have normally been used in this regard in Nephite or ancient Old World courts, a similar role of viewing the case favorably toward the accused may have been actually assigned by the court to Alma (although, given the prevailing attitude of these judges, perhaps this assignment was made with the expectation that Alma would not take his assignment quite so seriously). Or perhaps, as would seem more likely, Alma took this role upon himself, sensing that justice demanded that someone should speak in defense of Abinadi. In either event, Alma was obligated as a judge under the law of Moses to view the charges honestly and thus in a light favorable to the accused. As noted above, the instructions given by King Jehoshaphat set the general standard for judicial responsibility in ancient Israel: “Thus shall ye do in the fear of the Lord, faithfully, and with a perfect heart. . . . Deal courageously, and the Lord shall be with the good” (2 Chronicles 19:9, 11). Jehovah’s code of judicial conduct found in Exodus 23:1–3 and 6–8 similarly prohibited judges from perverting justice: “Thou shalt not follow a multitude to do evil; . . . the innocent and righteous slay thou

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127. Cohn, “Practice and Procedure,” 583.

128. See Wilson, “Israel’s Judicial System,” 242, to compare King Noah’s influence with that of Saul in 1 Samuel 22.

129. Cohn, “Practice and Procedure,” 582; and TB *Sanhedrin* 4:1, 32a.

130. Cohn, “Practice and Procedure,” 582; TB *Sanhedrin* 4:1, 32b; TJ *Sanhedrin* 4:1, 22a; and Yad, *Sanhedrin* 10:7.

not” (vv. 2, 7).<sup>131</sup> Alma acted in accordance with these venerable codes of judicial conduct as he rose courageously to speak, acting faithfully out of personal conviction of the truthfulness of Abinadi’s case. He “believed the words which Abinadi had spoken . . . ; therefore he began to plead with the king” (Mosiah 17:2).

The need for the presentation of arguments in favor of the defense was strongly felt under Jewish law. During the rabbinic period, if a guilty verdict in a capital case before the Great Sanhedrin was unanimous, that was ground for a mistrial since talmudic law required the judges to reach a “clear majority,” which implied that there must be a minority: “If no such majority has emerged, the case is adjourned to the next day. . . . Where the whole court is unanimous that the accused be convicted, proceedings are adjourned and deliberations continued until at least one judge changes his view and votes for an acquittal.”<sup>132</sup> This rule, however, probably would not have applied in the smaller Jewish courts, where eventually it was held that achieving “unanimity was as good as, or even better than, a majority.”<sup>133</sup> Alma’s unwillingness to concur in the conviction of Abinadi destroyed the possibility of the court achieving a unanimous consensus, and his fervor would have been very unsettling to Noah and the other priests. They may have remembered the gruesome divine punishment of King Ahab under similar circumstances for his miscarriage of justice against the innocent Naboth (1 Kings 21–22).

The most potent legal aspect of Alma’s defense of Abinadi was that it forced King Noah to drop the charge that Abinadi had lied about the king. Although the text is silent on this point, it appears that Alma spoke out boldly and irrefutably concerning the iniquities of Noah and his priests (who otherwise would not have sought to kill Alma). If so, Alma’s argument probably stressed the truthfulness of what Abinadi had said about the king and his government, for Alma “knew concerning the iniquity which Abinadi had testified against them” (Mosiah 17:2). By emphatically corroborating the truth of Abinadi’s words, Alma effectively negated and refuted the charge that Abinadi had lied.

As a further consequence of his bold statement, Alma’s defense of Abinadi effectively took the matter out of the king’s jurisdiction and left standing only the false-prophecy charge, over which the priests had primary responsibility. But on that claim, the priests had made no headway

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131. See further J. W. McKay, “Exodus XXIII 1–3, 6–8: A Decalogue for the Administration of Justice in the City Gate,” *Vetus Testamentum* 21, no. 3 (1971): 311–25.

132. Cohn, “Practice and Procedure,” 583.

133. Cohn, “Practice and Procedure,” 583.

in their feeble attempt to cross Abinadi in his words. On this charge, it would seem that they lacked sufficient votes to convict, and so they abandoned the charge of false prophecy completely.

### A Young Man

Moreover, Alma was the first of the priests to indicate his opinion in the case. He voted “not guilty” and urged that Abinadi be acquitted and released absolutely without any punishment whatsoever: Let him “depart in peace” (Mosiah 17:2). The text mentions at this point that Alma was “a young man.” This appears to be significant, for the youngest members of the Sanhedrin were required to vote first in capital cases decided by that body.<sup>134</sup> As mentioned above, this was to protect the younger members from being unduly influenced by the senior members of the court.<sup>135</sup> Perhaps a similar practice was followed in Noah’s court, which would help explain why Alma was able to get the floor and keep it long enough to make clear his open opposition to the obvious preferences of the king.

### Alma’s Expulsion from the Court

Alma’s impassioned plea enraged Noah. Perhaps this was especially because two witnesses (Abinadi and Alma) now adamantly testified against Noah and his practices, sufficient to raise a serious indictment against the king himself: “At the mouth of two witnesses . . . shall the matter be established” (Deuteronomy 19:15). Moreover, there was little hope of having Alma change his opinion, for Exodus 23:2, consistent with ancient Near Eastern practice (Code of Hammurabi, section 5), sternly warns judges against changing their opinions: “Neither shalt thou speak in a cause to decline after many to wrest judgment”; that is, a judge should not be swayed or coerced by the majority.<sup>136</sup> Either Abinadi was wrong and therefore culpable, or else he and Alma were right and Noah was guilty. Assuming that the body of the priests was, to some extent, independent from the king (kings were not immune from judicial process under ancient Israelite law, Deuteronomy 17:19),<sup>137</sup> concerns for his

134. TB *Sanhedrin* 4:1, 36a. Incidentally, the name *Alma* may mean “young man” in Hebrew, so there may be a play on words in Mosiah 17:2.

135. Cohn, “Practice and Procedure,” 582.

136. See Falk, *Hebrew Law in Biblical Times*, 60; compare Code of Hammurabi, section 5, which imposes a twelvefold penalty and disqualification as a judge in future cases in the event that a judge alters his decision in a case after it has been rendered and deposited in a sealed document.

137. The Mishnah states unequivocally, “The King can neither judge nor be judged, he may not bear witness nor be witnessed against.” TB *Sanhedrin* 2:1, 18a. However, the Tosefta *Sanhedrin* 4:2 claims: “If he have transgressed a positive or negative command he is treated as an



own political well-being could well have triggered Noah's violent response against Alma's apparent insubordination. Also, Alma may have had a prior reputation for sympathizing with Abinadi and his previous prophecies (it seems unlikely that Alma would have been unaware of Abinadi's prophecies delivered two years earlier); the fact that Alma was able to attract a following so quickly after Abinadi's death would strongly indicate that a segment of the population in the city of Nephi, perhaps led informally by Alma, was already inclined to agree with Abinadi. Based on such concerns and likely circumstances, Noah caused Alma to be expelled from the court and sent his personal servants (apparently not officers of the court) with instructions to kill Alma.<sup>138</sup> Alma managed, however, to escape.

Members of the Sanhedrin and presumably judges in other ancient courts could be removed in certain cases, but nothing in Alma's account would give Noah grounds for Alma's removal in this case, let alone for attempting to execute him. Much as we today impanel alternate jurors who can replace jurors unable to continue serving on the panel, sanhedrins regularly had additional elders who could step in and sit on the court should the need arise.<sup>139</sup> Therefore, expelling Alma from the court would not necessarily have reduced the number of judges who passed judgment on Abinadi, nor would it have been grounds for a mistrial or a delay. But Noah's seeking to slay Alma—if this order was based only on Alma's expression of a dissenting judicial opinion—was certainly extra-legal and extraordinary.

### **Three Days in Prison**

Abinadi was next bound and cast into prison for three days while the priests and Noah deliberated further over the case (Mosiah 17:5–6). It was typical “according to ancient Jerusalem custom” for the conference of the judges to be conducted in private.<sup>140</sup> But why was the trial of Abinadi interrupted for so long and precisely for this length of time?

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ordinary commoner in every respect.” Goldin takes a middle ground, explaining that only a king belonging to the house of David may act in a judicial capacity or be put on trial. The rationale is that the king “would not submit to the decision of the court.” Goldin, *Hebrew Criminal Law*, 83–84n11, citing Maimonides, *Hilkot Sanhedrin* 2:5, for support that this was the prevailing law.

138. The text refers to Noah's servants. Either Noah had completely corrupted the judicial system, or the “servants” sent to slay Alma were personal servants sent to seek personal, and not official, vengeance.

139. Hoenig explains that a judge who wished to leave the court first had to ascertain whether a quorum of twenty-three would remain in his absence. Hoenig, *Great Sanhedrin*, 105.

140. Cohn, “Practice and Procedure,” 578.

Three legal reasons might explain this delay in Abinadi's trial. First, Abinadi may well have entered the city of Nephi on or around Pentecost.<sup>141</sup> First, if the three days after Abinadi's speech were holy festival (and therefore Sabbath) days, the court would have been precluded from reconvening sooner.<sup>142</sup> Indeed, Pentecost appears to have been a three-day event in the late spring or early summer each year on the ancient Israelite calendar, for that festival commemorated the three days when the people of Israel sanctified themselves for the appearance of the Lord to Moses on Mount Sinai when the Ten Commandments were issued. The Lord summoned the people with the promise that on "the third day the Lord will come down in the sight of all the people upon mount Sinai" (Exodus 19:11); "and it came to pass on the third day" that God answered Moses (vv. 16–19).

Second, it was considered improper, at least under rabbinic jurisprudence, for courts to try a person on any given day for more than one capital offense.<sup>143</sup> It is possible that a similar tradition had developed and was observed in Nephite law, although there is no direct evidence of any such legal requirement in early biblical times. Having failed to catch Abinadi in any conflict with the scriptures, and having been thwarted by Alma's unexpected defense from pressing further their accusation of prevarication, Abinadi's accusers would have been compelled to abandon both charges. They may have felt bound by some procedural sense of justice to delay the trial, or they may have simply sensed the pragmatic need to regroup and to wait for another day to try again on another claim.

Third, Jewish law also prohibited a court from entering a guilty verdict on the same day on which the testimony was heard.<sup>144</sup> It is possible that the Nephites observed a similar practice, but the evidence is not decisive. Nehor's execution may have occurred a day or two after his trial, for his death is reported in a verse that begins "and it came to pass" (Alma 1:15), possibly indicating a passage of time. Similarly, enough time elapsed between Paanchi's conviction and his execution that his followers could meet during the interval and send a delegate to assassinate Pahoran

141. See my discussion of Abinadi and Pentecost in Welch, *Reexploring the Book of Mormon*, 135–38, and in the excursus that follows this subsection.

142. Because it would be improper to reconvene on the Sabbath or a festival day—even to announce the verdict—the Sanhedrin never met on the eve of such days. TB *Sanhedrin* 4:1, 32a; Hoenig, *Great Sanhedrin*, 106n7; and Cohn, "Practice and Procedure," 580. This rule has a basis in the most ancient laws of the Sabbath. See generally Gerhard F. Hasel, "Sabbath," in *Anchor Bible Dictionary*, 5:849–56.

143. Cohn, "Practice and Procedure," 581.

144. Hoenig, *Great Sanhedrin*, 106; and Cohn, "Practice and Procedure," 580.

(Helaman 1:9). Interestingly, under Islamic law, the punishment for apostasy is death, but some Muslim jurists argue that “the apostate must be given a period of time in which to recant and return. . . . The Hedaya recommends three days of imprisonment before execution.”<sup>145</sup>

Possibilities such as these suggest that the three-day hiatus in the trial of Abinadi may not have been merely strategic or malicious on the part of Noah and his priests, but may reflect an observance by the court of procedural formalities or religious requirements.

### **Did Abinadi Appear in the City of Nephi on Pentecost?**

An important part of the law of Moses, and one that ties in closely with Abinadi’s quotation of the Ten Commandments, required the observance of certain holy days each year (e.g., Exodus 23:14–19).<sup>146</sup> Fifty days after Passover on the ancient Israelite calendar was the festival of Pentecost, or Shavuot (Weeks), which commemorated Moses’s receiving the Ten Commandments at Sinai. For several reasons, it appears that Abinadi entered the city of Nephi around the time of Pentecost. Not only does he quote the Ten Commandments to Noah and his priests, but he also draws on many religious themes that were distinctively associated with the Pentecost season in ancient Israel. Understanding this likely festival background to Abinadi’s words adds yet another dimension to the legal backgrounds of the trial of Abinadi, as the following excursus briefly explains.

Shavuot marked the concluding phase of Passover.<sup>147</sup> It was also an agricultural holiday sometimes called the Day of the Firstfruits (Numbers 28:26). It was a pilgrimage festival, with a “holy convocation” (Leviticus 23:21) rejoicing in the bounty of the spring, especially the new wheat (Deuteronomy 16:9–12; 26:5–11). Just as Passover marked a time of poverty and bondage for Israel, Pentecost exulted in a time of bounty, with offerings of leavened bread baked from the new crop of wheat (Leviticus 23:17) and of the choicest firstfruits. At this same time of the year, Moses received the Ten Commandments on Mount Sinai (Exodus 19:1). Thus,

145. I am grateful to David F. Forte for drawing this point to my attention. See his “Apostasy and Blasphemy in Pakistan,” *Connecticut Journal of International Law* 10 (1994): 47, pointing out also that the Maliki school allows up to ten days for recantation.

146. For further discussion about the role of ancient Israelite festivals under the law of Moses and in the Book of Mormon, along with caveats and methodological comments applicable not only to King Benjamin’s speech but also to the narrative setting of the trial of Abinadi, see Terrence L. Szink and John W. Welch, “King Benjamin’s Speech in the Context of Ancient Israelite Festivals,” in Welch and Ricks, *King Benjamin’s Speech*, 149–58.

147. Abraham P. Bloch, *The Biblical and Historical Background of the Jewish Holy Days* (New York: KTAV, 1978), 179.

in antiquity, Pentecost probably also celebrated God's giving of the law to Moses. The connection between Pentecost and the giving of the law is well documented from the time of the Talmud,<sup>148</sup> but exactly when this connection was first established in ancient Israelite practice is a matter of historical debate. Moshe Weinfeld, however, argues convincingly that this connection was made very early in Israelite history, as evidenced by Psalms 50 and 81, which he concludes were the words of hymns sung at Pentecost.<sup>149</sup>

In this setting, several arguments can be marshaled to support the idea that the trial of Abinadi took place on or around Pentecost. In general, timing would have been important to Abinadi. He had already been expelled once from the city (Mosiah 11:26–29). Reentry on or near a festival day would have given him a ready audience, as virtually all of Abinadi's words deal with themes that would have been especially pertinent at the time of Pentecost. The following points suggest possible thematic connections between the account of Abinadi and Pentecost:

- When a bounteous grain season was at hand, Abinadi cursed the crops: he prophesied that the Lord would send destructive hail and dry winds upon the people and that insects too would “pester their land . . . and devour their grain” (Mosiah 12:6).
- While Israel's deliverance from bondage was being celebrated, Abinadi called upon Exodus terminology to proclaim that bondage will return: “They shall be brought into bondage; and none shall deliver them” (Mosiah 11:23), “and I will cause that they shall have burdens lashed upon their backs” (12:2, 5; compare Exodus 1:11).
- At precisely the time when Noah's priests would have been hypocritically pledging allegiance to the Ten Commandments and celebrating the giving of the law, Abinadi rehearsed to them those very commandments (Mosiah 12:33–36; 13:12–24). On any other day, this might have seemed a strange defense for a man on trial for his life, but not on Pentecost.
- Indeed, the connection with Pentecost could hardly have been made more graphically than when Abinadi's “face shone with exceeding luster, even as Moses' did while in the mount of Sinai, while speaking with the Lord” (Mosiah 13:5; Exodus 34:29–30).

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148. Bloch, *Biblical and Historical Background of the Jewish Holy Days*, 186–88; and TB *Shabbat* 86b. See also Raymond F. Collins, “Ten Commandments,” in *Anchor Bible Dictionary*, 6:383–87.

149. Moshe Weinfeld, “The Decalogue: Its Significance, Uniqueness, and Place in Israel's Tradition,” in *Religion and Law: Biblical-Judaic and Islamic Perspectives*, 26–32.

This is an obvious reference to the time when Moses received the law, probably the main event celebrated on Shavuot.

- A number of connections between Abinadi and Exodus 19 further involve him with Pentecost. For example, cursing Noah to be like a “garment in a hot furnace” recalls the fact that Mount Sinai became a furnace (Exodus 19:18) and that people whose garments were unclean were not “ready” for the coming of the Lord (vv. 10–15).
- The ancient festival appears to have been a three-day event (Exodus 19:11), which could explain why Abinadi’s trial was postponed for “three days” (Mosiah 17:6), as discussed above.
- At Sinai, the people had looked forward to an appearance of the Lord: on “the third day the Lord will come down in the sight of all the people” (Exodus 19:11). Abinadi’s testimony was that the Lord would come down again (Mosiah 15:1), an idea that King Noah and his priests found to be blasphemous (perhaps because they thought Abinadi was implying that this earlier time when the Lord came down was not enough).
- In addition, intriguing parallels exist between Psalm 50 and Abinadi’s piercing rebukes of the priests. If this psalm was known and used as a Pentecost hymn in Abinadi’s world as Weinfeld avers it was in ancient Israel, several of its lines would have found a haunting echo in Abinadi’s stinging prophetic words.
  - » For example, Psalm 50:2 begins, “Out of Zion, the perfection of beauty, God hath shined.” The irony would have been insufferable when “the Spirit of the Lord was upon [not Noah’s colony but upon Abinadi], and his face shone with exceeding luster” (Mosiah 13:5).
  - » Psalm 50:3 reads: “Our God shall come, and shall not keep silence.” Abinadi boldly affirmed the same, “that God himself shall come down” (Mosiah 15:1; see 17:8).
  - » In Psalm 50:4–7, God brings a metaphorical lawsuit to “judge his people” (v. 4; compare 82:1). Likewise, Abinadi’s words take this very form, that of a prophetic lawsuit.<sup>150</sup> The psalmist intones, “I will testify against thee” (50:7). Abinadi does precisely that.
  - » Psalm 50:8–14 makes it clear that the Lord prefers thanksgiving and devotion rather than sacrifices. To the same effect, Abinadi requires the commandments of God to be “written in your

150. See notes 18 and 22 above.

**Did Abinadi Prophecy against King Noah on Pentecost?**

Israelite Pentecost	Abinadi
Celebrating the first grain harvest	Cursed their grain (Mosiah 12:6)
Rejoicing in bounty	Sent hail, winds, insects (12:6)
Remembering deliverance from bondage in Egypt	Prophesied that the people would be brought back into bondage (11:21)
“Taskmasters to afflict them with their burdens” (Exodus 1:11)	“I will cause that they shall have burdens lashed upon their backs” (12:5)
Celebrating the giving of the Ten Commandments to Moses (Exodus 20)	Sternly recited the Ten Commandments given to Moses (12:34–36; 13:15–24)
Moses’s face shone (Exodus 34:29)	Abinadi’s face shone (13:5)
Mount Sinai became like a furnace (Exodus 19:18)	Prophesied that Noah’s life would be like a garment in a furnace (12:3)
Stern condemnation of abominations	Stern condemnation of iniquity (12:2, 37)
A three-day festival (Exodus 19:11)	Cast into prison three days (17:6)
“The Lord will come down in the sight of all the people” (Exodus 19:11)	The Lord will come among the children of men (15:1)
Liturgical use of Psalms 50 and 82	Use of elements from Psalms 50 and 82
“Our God shall come” (Psalm 50:3)	“God . . . shall come down” (15:1)
“What hast thou to do to declare my statutes?” (Psalm 50:16)	“What teach ye this people?” (12:27)
“[Thou] hast been partaker with adulterers” (Psalm 50:18)	“Why do ye commit whoredoms?” (12:29)
“I will testify against thee” (Psalm 50:7)	Abinadi testified against them (17:10)
Thanksgiving and devotion are better than sacrifice (Psalm 50:8–14)	Having the commandments “written in your hearts” is better than sacrifices (13:11, 30)
Sacrifices are not for nourishment (Psalm 50:12)	Sacrifices are to signify “types of things to come” (13:31)
In day of trouble, if righteous call upon him, he will deliver them (Psalm 50:15)	God will not hear the prayers of the wicked (11:25)
Qualifications required to “declare my statutes” (Psalm 50:16)	“If ye teach the law of Moses why do ye not keep it?” (12:29)
Condemn those who wrongfully become rich and commit whoredoms (Psalm 50:18)	Condemn those who wrongfully become rich and commit whoredoms (12:29)

Israelite Pentecost	Abinadi
“Tear you in pieces, and there be none to deliver” (Psalm 50:22)	“Shall devour their flesh” and “none shall deliver them” (Mosiah 12:2; 11:23)
“Shew the salvation of God” (Psalm 50:23)	Showing “salvation” of God (12:21, 24, 31, 32; 13:27, 28; 15:14, 18, 24–31; 16:1)
“Children of the most High” (Psalm 82:6)	“His seed” (15:10)
Death (Psalm 82:7)	Death (15:19–20)
Judged by God (Psalm 82:8)	Judgment by God (15:21–16:12)

hearts” (Mosiah 13:11). If God “were hungry,” he had no need for man to give him bullocks or goats, for all the world is already his (Psalm 50:12); therefore the purpose of sacrifice must be something else. As Abinadi explains, the laws of sacrifice were given as spiritual “types of things to come” (Mosiah 13:31).

- » Psalm 50:15 promises that, “in the day of trouble” if the righteous will call upon him, he “will deliver” them. Abinadi makes it clear that if the wicked people of Noah call upon God, “[he] will not hear their prayers, neither will [he] deliver them” (Mosiah 11:25).
- » Psalm 50:16–21 shows that Pentecost also became a day of stern admonition. People were chastised who rejected instruction and collaborated with lawbreakers: “What hast thou to do to declare my statutes, . . . seeing thou hatest instruction? . . . When thou sawest a thief, then thou consentedst with him, and hast been partaker with adulterers” (vv. 16–18). Transgressors were reprimanded publicly: “But I will reprove thee, and set them in order before thine eyes” (v. 21). Surely Abinadi reprovved and then set the teachings of the Lord in perfect order openly, before the very eyes of Noah and his priests.
- » A warning like Abinadi’s must have been especially potent on a day when the people were venerating the law. Psalm 50:16 asks what a person must do in order to teach the law, “to declare my statutes.” The implicit answer is that one must keep the law. This is exactly Abinadi’s point: “And again he said unto them: If ye teach the law of Moses, why do ye not keep it?” (Mosiah 12:29). Both Psalm 50 and Abinadi particularly condemn those who wrongfully become rich and those who commit whoredoms (Psalm 50:18; Mosiah 12:29).

- » Otherwise, God will “tear you in pieces, and there be none to deliver” (Psalm 50:22). This compares with Abinadi’s words, “and the vultures of the air, and the dogs, yea, and the wild beasts, shall devour their flesh” (Mosiah 12:2), and “none shall deliver them” (11:23).
- » Moreover, Psalm 50 ends with the assurance “to him that ordereth his conversation aright will I shew the salvation of God” (v. 23). Showing the “salvation” of God (Mosiah 12:21, 24, 31, 32; 13:27, 28; 15:14, 18, 24, 27, 28, 31) was exactly what Abinadi explicitly and comprehensively did. His closing statement even began with the headline “The time shall come when all shall see the salvation of the Lord” (16:1).
- Psalm 82, the other Pentecost psalm identified by Weinfeld, sings of the time when that salvation will be seen. Recognizing that “ye are gods, and all of you are children of the most High” (v. 6), the psalmist still reminds Israel that all people must “die like men” (v. 7). Nevertheless, all the earth will yet be judged (v. 8). Abinadi also expounds on the theme of “who shall be his seed?” (Mosiah 15:10)—namely, “all those who have hearkened unto [the prophets’] words, and believed that the Lord would redeem his people, and have looked forward to that day for a remission of their sins” (v. 11). He then speaks soberly about death and dying (vv. 19–20) and being raised to stand before God to be judged (15:21–16:12).

Taken together, these details all point to one conclusion: No other day on the ancient Israelite calendar fits the message, words, and experience of the prophet Abinadi more precisely or more appropriately than does the ancient Israelite festival of Pentecost. It is thus ironic that, at the very time when Noah and his people would have been celebrating the law, the most unfortunate judicial result in Nephite history should have taken place.

### **Noah Lodges the Further Accusation of Blasphemy**

When Abinadi was finally brought again before the king and the priests after the three-day recess, a new charge was raised. Abinadi was charged with blasphemy on the grounds that he had testified (Mosiah 13:34) that God would himself come down among the children of men (17:8). Noah also stipulated the punishment to be inflicted:<sup>151</sup> “Thou hast

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151. McKenzie, “Judicial Procedure at the Town Gate,” 102, states that in lodging his formal complaint the accuser should state “perhaps also the punishment which [the accused] should suffer,” citing Jeremiah 26:11.



said that God himself should come down among the children of men; and now, for this cause thou shalt be put to death unless thou wilt recall all the words which thou hast spoken evil concerning me and my people” (v. 8).

In ancient Israelite law, blasphemy was indeed a capital offense: “He that blasphemeth the name of the Lord, he shall surely be put to death” (Leviticus 24:16). In stating the charge of blasphemy against Abinadi, King Noah said, “We have found an accusation against thee, and thou art *worthy of death*” (Mosiah 17:7; emphasis added). Jeremiah was arraigned with the similar phrase “Thou shalt surely die” (Jeremiah 26:8), or “For this you must die.” The Hebrew expression used in Jeremiah’s case was *mot tamut*, literally “die a death,” and is related to the legal formula *mot yumat*, which is often used in legal contexts (e.g., throughout the Code of the Covenant in Exodus 21–23) to describe offenses for which a person is subject to the death penalty or is “worthy of death.”<sup>152</sup> Apparently this same formulation was used by King Noah as he stated this new charge against Abinadi.

Speaking disrespectfully or insolently about God (as the priests thought Abinadi had done) could easily have been taken as blasphemy under the law of Moses.<sup>153</sup> In the Old Testament, blasphemy is often associated with scornful, reproaching speech (Isaiah 37:6; Psalm 74:18) and improper, iniquitous forms of worship (Isaiah 65:7; Ezekiel 20:27). Thus the concept of blasphemy was broad enough to encompass any speech that was perceived as demeaning or defaming of God. To a priest who does not understand or accept the doctrine of the condescension of God (as taught in 1 Nephi 11:16–21), the idea of Deity coming down to earth and becoming mortal in order to suffer wounds, afflictions, chastisements, judgments, punishments, and death at the hands of insolent humans could easily appear to qualify as legally actionable blasphemous speech. The seriousness of the offense of blasphemy under Nephite law is seen on several occasions in the Book of Mormon, such as in the accusation raised by Sherem against Jacob (Jacob 7:7) and in the offense finally committed by Korihor (Alma 30:30).

152. See discussion and references in Welch, “Trial of Jeremiah,” 344–45.

153. On the crime of blasphemy, see further Karin Finsterbusch, “Christologie als Blasphemie: Das Hauptthema der Stephanusperikope in lukanischer Perspektive,” *Biblische Notizen* 92 (1998): 38–54; Rodney R. Hutton, “The Case of the Blasphemer Revisited, Lev. XXIV 10–23,” *Vetus Testamentum* 49, no. 4 (1999): 532–41; Hutton, “Narrative in Leviticus: The Case of the Blaspheming Son, Leviticus 24:10–23,” *Zeitschrift für Altorientalische und Biblische Rechtsgeschichte* 3 (1997): 145–63; Dennis H. Livingston, “The Crime of Leviticus XXIV 11,” *Vetus Testamentum* 36, no. 3 (1986): 352–54; H. Mittwoch, “The Story of the Blasphemer Seen in a Wider Context,” *Vetus Testamentum* 15, no. 3 (1965): 386–89; and Shalom M. Paul, “Daniel 3:29—A Case Study of ‘Neglected’ Blasphemy,” *Journal of Near Eastern Studies* 42, no. 4 (1983): 291–94.

Noticeably, unlike Jacob, Abinadi was not accused of speaking blasphemously against the law, even though he had said that “the time shall come when it shall no more be expedient to keep the law of Moses” (Mosiah 13:27). Apparently, Abinadi was careful enough to reaffirm his commitment to observing the law, telling the priests that “it is expedient that ye should keep the law of Moses as yet” (v. 27), and thus he did not leave himself open to a charge that he had perverted or abrogated the law of Moses as Jacob found himself so accused. Abinadi was only accused of speaking improperly or in a demeaning manner about God by declaring that the Messiah would be God (v. 33; see 7:27) and that Christ the Lord was “the very Eternal Father” (16:15) and, most of all, by saying “that God himself should come down among the children of men and take upon him the form of man” (13:34). These kinds of statements could well raise the issue of blasphemy in ancient times.<sup>154</sup>

### **Abinadi’s Final Opportunity to Recant**

This time Noah’s verdict and sentence were conditional. If Abinadi would recall all the evil he had spoken about Noah and the people, the charge of blasphemy would be dropped: “and now, for this cause thou shalt be put to death unless thou wilt recall all the words which thou hast spoken evil concerning me and my people” (Mosiah 17:8). This is a curious plea bargain for Noah to offer. Why should the crime of offending God be dropped if the offender withdraws his words not against God but against the king and his people? Noah’s deal may have rested on the idea that “certain sins against God could be wiped out by making amends to the priests.”<sup>155</sup> In any case, Noah and his priests had much to gain by getting Abinadi to recant. Since in antiquity maledictions like Abinadi’s were thought to inflict great palpable harm, Noah and his priests were probably willing if not anxious to compromise on their claim that Abinadi had offended God if they could get Abinadi to retract the threatening and ominous woes he had pronounced upon them and the people. Indeed, the legitimate functions of ancient Israelite courts included protecting the holiness and well-being of the community and preserving the purity of the religion. Therefore, if Abinadi were willing to lift the ominous cloud that still hung over these people, one of the main functions of the court,

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154. The issues and the literature concerning the crime of blasphemy are covered well in Darrell L. Bock, *Blasphemy and Exaltation in Judaism: The Charge against Jesus in Mark 14:53–65* (Grand Rapids, MI: Baker Books, 2000). For further information, see the discussion of blasphemy in the case of Sherem in chapter 6 of the present volume.

155. Falk, *Hebrew Law in Biblical Times*, 74.

from Noah's point of view, would be satisfied. Nevertheless, Noah's conduct here is despicable and wholly self-interested. His willingness to forget the charge that Abinadi had blasphemously offended God if Abinadi would simply withdraw his words is blatantly driven by selfish, unrepentant concerns.

It would seem that Noah's willingness to compromise himself put Abinadi in a strong bargaining position. Abinadi could have offered to recall all the evil he had spoken about Noah and his people, provided they would agree to change their ways. Perhaps Noah and his priests would have been sufficiently motivated to agree on some kind of settlement. It is doubtful, however, that the idea of negotiating such a compromise would have occurred to any of these parties at this moment. Abinadi felt that his message was set in stone by the will of the Lord, and he had no right as the Lord's messenger to change that message in the least respect,<sup>156</sup> especially for the selfish purpose of obtaining his own release. Noah, on the other hand, was equally unyielding and wanted unconditional vindication. He would not be inclined to modify his offer very much under any circumstance. The enforcement of justice in ancient Israel was usually severe (e.g., the trial of the blasphemer in Leviticus 24, the trial of the wood gatherer in Numbers 15, the execution of Achan in Joshua 7, and the trial of Naboth in 1 Kings 21 all ended in the death of the accused). There may have been some room for mercy and leniency, but typically not very much (2 Chronicles 19:6, 9), at least, it seems, until the rabbinic period.<sup>157</sup> To preserve the appearance of justice and mercy, Noah would need to give Abinadi a chance to recant and would want to

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156. On the duty of ancient messengers to deliver their master's message word for word, see John W. Welch, "The Calling of Lehi as a Prophet in the World of Jerusalem," in Welch, Seely, and Seely, *Glimpses of Lehi's Jerusalem*, 428.

157. For example, Goldin, *Hebrew Criminal Law*, 120n7. Rabbinic courts frequently pleaded with the accused hoping that a change of heart would make it unnecessary for them to carry out the execution. The overriding desire for mercy and leniency is explained by Danby: "One of the rabbinic canons was that their code must show 'mercy in judgement' in the highest degree. Their judicial body was regarded as best fulfilling its functions when it sought to act as 'counsel for the defence'; if there seemed to be no extenuating circumstances in the prisoner's favour, the judges were to do their utmost to find some. . . . The prisoner must be robbed of no chance which might in any way tell in his favour. This particular standpoint receives its strongest expression in *Mak-koth* I.10 [7a]: 'The Sanhedrin which condemns to death one man in seven years is accounted murderous. According to R. Eleazar Azaria, it would be a murderous court even if it condemned one man in seventy years. R. Tarphon and R. Akiba assert that if they had been in the Sanhedrin [i.e., when it possessed capital powers] no man would ever have been condemned to death by it.'" Herbert Danby, *Tractate Sanhedrin: Mishnah and Tosefta: The Judicial Procedure of the Jews as Codified towards the End of the Second Century A.D.* (New York: Macmillan, 1919), xiv-xv.

go far enough to appear that he had been merciful. He did not, however, go beyond the barest minimum in offering leniency to Abinadi.

### Abinadi Offers to Undergo Trial by Ordeal

Abinadi firmly refused to recall any of his words, even on pain of death: "I will not recall the words which I have spoken . . . for they are true. . . . Yea, and I will suffer even until death, and I will not recall my words, and they shall stand as a testimony against you. And if ye slay me ye will shed innocent blood,<sup>158</sup> and this shall also stand as a testimony against you at the last day" (Mosiah 17:9–10). In the trial of Jeremiah, the prophet did not retract his warning but informed the people that the Lord would spare them if they would "amend [their] ways and [their] doings, and obey the voice of the Lord" (Jeremiah 26:13).<sup>159</sup> At an earlier point, Abinadi's curses could have been avoided through repentance (Mosiah 12:8), but at this point in his trial Abinadi seems to have offered Noah no such relief. The prophets Abinadi and Jeremiah both stood adamantly by their words, and Jeremiah likewise had exclaimed, "If ye put me to death, ye shall surely bring innocent blood upon yourselves and upon this city, and upon the inhabitants thereof" (Jeremiah 26:12–15).

Although ordeals are not mentioned as often in ancient Israelite law as they are in ancient Near Eastern law, they were normal parts of biblical jurisprudence, where they often served to validate the innocence of the accused.<sup>160</sup> Submitting to an ordeal was often an accused's last hope of establishing his innocence or vindicating his testimony. In Abinadi's

158. Blood unlawfully shed is "innocent blood" (Deuteronomy 19:10, 13; 27:25; 1 Samuel 19:5). The concept of innocent blood appears in the Book of Mormon in Alma 1:13; 14:11. Under the law of Moses, the ruling authorities had the duty "to prevent the shedding of innocent blood." Goldin, *Hebrew Criminal Law*, 22. For more information on trial by ordeal, see Godfrey R. Driver and John C. Miles, "Ordeal by Oath at Nuzi," *Iraq* 7 (1940): 132–38; F. Charles Fensham, "The Battle between the Men of Joab and Abner as a Possible Ordeal by Battle?" *Vetus Testamentum* 20, no. 3 (1970): 356–57; Meredith G. Kline, "Oath and Ordeal Signs," *Westminster Theological Journal* 27 (1964–65): 115–39; P. Kyle McCarter, "The River Ordeal in Israelite Literature," *Harvard Theological Review* 66, no. 4 (1973): 403–12; William McKane, "Poison, Trial by Ordeal and the Cup of Wrath," *Vetus Testamentum* 30, no. 4 (1980): 474–92; Julian Morgenstern, "Trial by Ordeal among the Semites and in Ancient Israel," in *Hebrew Union College Jubilee Volume (1875–1925)*, ed. David Philipson et al. (Cincinnati: n. p., 1925), 113–43; and Karel van der Toorn, "Ordeal Procedures in the Psalms and the Passover Meal," *Vetus Testamentum* 38, no. 4 (1988): 427–45.

159. The relevant part of the trial of Jeremiah is discussed in Welch, "The Trial of Jeremiah," 349–51.

160. Notably in the quasi-ordeal in Numbers 5 of the drinking of the bitter waters by the woman suspected of adultery. See the discussion above, in connection with Sherem. In the cases of Sherem and Korihor, the ordeal was used for a different purpose, namely, to substantiate witness testimony. See Bovati, *Re-Establishing Justice*, 335.

case, he offered to suffer whatever pain Noah desired to inflict upon him: “I will suffer even until death” (Mosiah 17:10). Abinadi also asserted that if he were to die in the ordeal, two witnesses would then remain against Noah: first, Abinadi’s words “[would] stand as a testimony,” and second, Abinadi’s innocent blood would “also stand as a testimony” (v. 10).<sup>161</sup>

Noah would have understood well the force of having these two witnesses stand against him.<sup>162</sup> Adding Alma’s testimony would make a total of three witnesses—enough to satisfy even the extra three-witness rule of Deuteronomy 19:15. Noah would also have comprehended the legal risk involved in allowing Abinadi to subject himself to a divine ordeal should he come out victorious: if Abinadi were vindicated by the suffering inflicted upon him, Noah would have to set him free, which would undoubtedly trigger civil unrest in the city of Nephi and bring an end to his political and religious regime. Noah was foiled and frustrated. His effort to rid himself and his city of Abinadi’s ominous prophecies had failed. The legal effect of Abinadi’s offer to endure whatever the king chose to inflict upon him was to assert again his total innocence and to require Noah to make the next move in the trial.<sup>163</sup> He chose not to submit the matter to some kind of divine determination or inquisition by ordeal.

### **Noah Almost Withdraws the Accusation**

Upon Abinadi’s refusal to recall any of his words, Noah’s accusation of blasphemy and his death sentence (Mosiah 17:7–8) became unconditional. Presumably Noah and the priests had agreed to accept that outcome before they brought Abinadi back into the court. Noah, however, fearing the seriousness of having Abinadi’s testimony confirmed by ordeal or by his innocent blood, virtually reversed the verdict and “was about to release” Abinadi, “for he feared his word; for he feared that the judgments of God would come upon him” (v. 11). Indeed, as seen above, a guilty verdict in a capital case before a Jewish court could always be reversed before the execution if further information came before the court and justified a reversal. Abinadi’s offer to endure an ordeal could well have been viewed by a court as constituting such additional information.

161. Jeremiah also threatened the judges in his case with the prospect of shedding innocent blood (Jeremiah 26:15).

162. Rabbinic authority held that the testimony of two witnesses, properly established, could stand as an alibi against even one hundred witnesses. See Goldin, *Hebrew Criminal Law*, 234–35n16, citing Makkot 1:7, 5b.

163. Merely by saying, “I have somewhat to argue in favor of my acquittal,” even if that claim were mere subterfuge, a convicted party could return to the court several times before he could be legally executed under rabbinic procedure. See Goldin, *Hebrew Criminal Law*, 132n5.

### **The Charge of Reviling the King**

Asserting a legal role separate from that of the king, the priests at this point resisted Noah's decision and would not allow the case to be dismissed: "But the priests lifted up their voices against [Abinadi], and began to accuse him" (Mosiah 17:12). Acting now in the role of accusers rather than judges,<sup>164</sup> they themselves introduced yet a further accusation into the trial, namely, that Abinadi had "reviled the king" (v. 12), the fourth legal charge brought against Abinadi.

Reviling the leader of one's people was doubtlessly considered to be impolitic, insolent, and in violation of the principles of the law of Moses: "Thou shalt not revile the gods, nor curse the ruler of thy people" (Exodus 22:28). Cursing one's ruler was closely associated with the crime of cursing God, or blasphemy (v. 28; 1 Kings 21:10, 13), the third accusation that had been brought against Abinadi. Abinadi had reviled the king when he cursed him in the public gathering (Mosiah 12:3) and when he asserted that his own words would be authenticated by ordeal and would stand as a testimony against Noah's iniquity (17:10). Abinadi thereby accused Noah of such wickedness that he would be consumed in the furnace, just as the unholy and impure members of the house of Israel were told that they would die if they broke through into the sacred space on Mount Sinai, which "was altogether on a smoke, . . . and the smoke thereof ascended as the smoke of a furnace" (Exodus 19:18). In other words, Abinadi's curse implied that Noah and the priests under him were unworthy to stand in the presence of God, which effectively nullified their right to officiate in God's temple that had been built by Nephi in the city of Nephi. Moreover, Abinadi reviled the king when he said that if the king were to kill him he would illegally shed innocent blood (Mosiah 17:10), for this denied the legitimacy of the king's official or legal actions. Abinadi's claims were offensive reproaches, if not approaching sedition or treason.

Most importantly in terms of bringing the trial of Abinadi to an end, to successfully convict Abinadi of reviling did not require the court to prove that he was lying. Only disloyalty and disrespect, not truth or falsehood, were now at issue. Truth would not appear to be a defense to this crime. It is not likely that Abinadi could have defended himself by claiming that he had had nothing but the king's best interests in mind. True as that might have been, his words still "curse[d] the ruler of [this] people."

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164. See Bovati, *Re-Establishing Justice*, 287–305, for a discussion of witnesses and accusers in a debate between accused and judge.

**Legal Charges Brought against Abinadi**

Charge	Evidence	Mosaic Law in Question
1. Lying (Mosiah 12:14)	Abinadi had said that the people had hardened their hearts and had committed evil abominations (Mosiah 12:1)	“Thou shalt not bear false witness” (Exodus 20:16) “Thou shalt not raise a false report” (Exodus 23:1) “Ye shall not . . . lie” (Leviticus 19:11)
2. False prophecy (Mosiah 12:14)	“He pretendeth the Lord hath spoken it” (Mosiah 12:12)	“The prophet [who] shall presume to speak a word in my name, which I have not commanded him to speak, . . . shall die” (Deuteronomy 18:20)
3. Blasphemy (Mosiah 17:7–8)	Abinadi had said that God himself would come down (Mosiah 7:26–28; 15:1–8)	“He that blasphemeth the name of the Lord, he shall surely be put to death” (Leviticus 24:16)
4. Reviling against the king (Mosiah 17:12)	With a simile curse, Abinadi said that Noah’s life would be as a garment in a hot furnace (Mosiah 12:3, 10–12)	“Thou shalt not revile the gods, nor curse the ruler of thy people” (Exodus 22:28)

In the end, it was for the offense of reviling that Abinadi was executed. Nevertheless, this charge was probably only a makeweight. When Limhi described the execution of Abinadi about twenty-five years after the fact, he told Ammon unequivocally that Abinadi was executed for allegations of blasphemy, not reviling:

And because he said unto them that Christ was the God, the Father of all things, and said that he should take upon him the image of man, and it should be the image after which man was created in the beginning; or in other words, he said that man was created after the image of God, and that God should come down among the children of men, and take upon him flesh and blood, and go forth upon the face of the earth—and now, because he said this, they did put him to death. (Mosiah 7:27–28)

Limhi’s disclosure would seem to indicate that the charge of reviling the king, which was closely related to blasphemy in any event, either was

introduced by the priests of Noah as a pretext or at least came to be understood as akin to blasphemy among Limhi's people.

In raising the final accusation of reviling, the priests cried out against Abinadi. Whether this was an orderly procedure or unruly action is not clear. They "lifted up their voices against him" (Mosiah 17:12). This wording could refer to orderly voting, to further argumentation, or to unorganized shouting. That they "began to accuse him" (v. 12) suggests the semblance of an orderly process.

### Abinadi's Conviction by the King

The words of the priests angered Noah once again: "Therefore the king was stirred up in anger against him" (Mosiah 17:12). The priests' charge that Abinadi had reviled the king and Abinadi's threat that innocent blood would stand against Noah appear to have been "matters of the king" over which Noah had the final word. Indeed, Noah alone entered the judgment against Abinadi and turned him over for execution: "He [Noah] delivered him up that he might be slain" (v. 12).<sup>165</sup>

### Execution

Abinadi was taken and bound, and his skin was "scourged . . . with faggots" (Mosiah 17:13)<sup>166</sup> until he "fell, having suffered death by fire"

165. See Bovati, *Re-Establishing Justice*, 344–63, in which he discusses the sentencing and execution stages of a trial.

166. Some discussion has arisen over the word *scourged* and whether it should be read as *scorched*. If *scourging* in this context means "whipping" and if by *faggots* we are to understand burning bundles of wood (or even bundles of wood to be burned), it is hard to imagine the process of Abinadi's execution. Was his skin whipped with these incendiary bundles? Robert Matthews suggests that "Abinadi's tormentors took burning torches and poked him with these, burning his skin until he died." See his "Abinadi: The Prophet and Martyr," in *The Book of Mormon: Mosiah, Salvation Only through Christ*, ed. Monte S. Nyman and Charles D. Tate Jr. (Provo, UT: Religious Studies Center, Brigham Young University, 1991), 102. This would be an odd procedure, yet Abinadi's death was novel: he was "the first that suffered death by fire because of his belief in God" (Alma 25:11).

Royal Skousen carefully marshals textual, semantic, and visual (or auditory) evidence to argue that the most reasonable reading of this text is "scorched his skin with faggots." Royal Skousen, "'Scourged' vs. 'Scorched' in Mosiah 17:13," *FARMS Update, Insights* 22, no. 3 (2002): 2–3; and his *Analysis of Textual Variants of the Book of Mormon: Part Three, Mosiah 17–Alma 20* (Provo, UT: FARMS, 2006), 1362–64. Indeed, the word *scorched* appears in verse 14, and so *scourged* could have been written in error in verse 13.

Hugh Nibley argued that the words *scourged* and *scorched* are etymologically identical (*Teachings of the Book of Mormon, Semester 2* [Provo, UT: FARMS, 1993], 109, 117), which dodges the textual issue but still leaves readers wondering if Abinadi was scourged (beaten, tormented), scorched (singed, burned), or both.

Robert F. Smith, in correspondence on March 30, 2002, adds that the *Oxford English Dictionary* (Oxford: Oxford University Press, 1933), 9:238–39, offers various spellings for *scorch*, including *scorge*, leading to the possibility that "we may even have a confluence in spellings and



(v. 20). The ultimate form of Abinadi's punishment is significant: he was burned, just as he had prophesied that Noah's life would "be valued even as a garment in a hot furnace" (12:3).<sup>167</sup> This customized form of punishment was evidently designed, fashioned, and introduced specifically by the priests, "who caused that he should suffer death by fire" (Alma 25:9). Moreover, faggots, or bundles of sticks used for fuel, were involved, perhaps because Abinadi had prophesied that the people would "have burdens [bundles of sticks?] lashed upon their backs" (Mosiah 12:5). Although a few recorded cases of actual burnings at the stake exist in late antiquity,<sup>168</sup> nothing in the Book of Mormon record indicates that Abinadi was burned while tied to a stake. Instead, it appears that Noah's priests tailored an unprecedented mode of execution for Abinadi alone that mirrored the evil that Abinadi had said would befall, and did indeed befall, King Noah. This unique and extraordinary punishment conformed with the talionic concepts of justice in ancient Israel and in the ancient Near East, where the punishments were individually designed in unusual cases to suit the crime.<sup>169</sup>

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meanings" here, namely, that Abinadi was both scorched and flogged "simultaneously or progressively." Webster's *American Dictionary of the English Language* (1828) allows that the meanings of *scourge* include to "punish with severity, to chastise," and to "torment or injure," and all of these meanings are possible.

Brant Gardner reported on an Aztec drawing with a caption that shows "a youthful miscreant being scourged with what are described as 'burning firebrands'" ("Scourging with Faggots," FARMS Update, *Insights* 21, no. 7 [2001]: 2–3), but the Book of Mormon gives the definite impression that Abinadi was not executed in some normal fashion, and so the relation between his execution and these Aztec punishments remains uncertain.

Lucy Mack Smith once said that she would stand by her conviction of her son's testimony even "if you should stick my flesh full of faggots, and even burn me at the stake." Richard L. Bushman, *Joseph Smith and the Beginnings of Mormonism* (Urbana: University of Illinois Press, 1984), 109. Foxe's *Book of Martyrs* reprints an original woodcut showing a righteous man being beaten with bundles of willow branches, but they are not burning. John Foxe, *Foxe's Book of Martyrs*, ed. G. A. Williamson (Boston: Little and Brown, 1965), 419. So what actually happened to Abinadi remains obscure except for the outcome, that he "suffered death by fire" (Mosiah 17:20), which was what he had prophesied (vv. 15, 18) and how his execution was later described (Alma 25:9, 11).

167. The book of Leviticus requires any "garment" that carries any of the plague of leprosy to be "burnt in the fire" (Leviticus 13:52, 57). Fire, in this case, was a means of removing impurity. In addition, "the daughter of any priest, if she profane herself by playing the whore, she profaneth her father: she shall be burnt with fire" (21:9). Just as a priest would burn the offerings, a daughter who profaned her priestly father would be burned.

168. See, for example, TB *Sanhedrin* 7:2, 52a; and Tosefta *Sanhedrin* 9:11a. This early practice was apparently changed by the talmudic authorities, who preferred mitigating the severity of the punishment and shunned any punishment that would mutilate the body. Goldin, *Hebrew Criminal Law*, 35.

169. See, for example, Goldin, *Hebrew Criminal Law*, 21; also H. B. Huffmon, "Lex Talionis," in *Anchor Bible Dictionary*, 4:321–22.

In early Israelite and later Jewish courts, executions were normally carried out immediately following the issuance of the final verdict,<sup>170</sup> as was the case here. Moreover, the accusers were required to carry out the execution: “The hands of the witnesses shall be first upon him to put him to death, and afterward the hands of all the people” (Deuteronomy 17:7). The accusers were given this task because “it is they who claim to have personal knowledge of his guilt, while others merely rely upon their statement.”<sup>171</sup> Floggings were further required to take place in the presence of the convicting judge (25:2).<sup>172</sup> In Abinadi’s case, his accusers, in the end, were the priests. They were the ones who brought up the charge and accused him of reviling the king (Mosiah 17:12). Thus it became the duty of the priests to carry out the execution, which they did: “And it came to pass that *they* took him and bound him, and scourged his skin with [burning] faggots, yea, even unto death” (v. 13). That the priests were the instigators and primary leaders in carrying out the execution of Abinadi, of course, does not rule out the participation of the general populace as well. They, too, were accusers of Abinadi (12:9–14) and thus were also interested participants. In the end, the people as a whole were collectively responsible before God for the death of this prophet, as King Limhi will later acknowledge (7:25–26, 28).

The place of execution was normally outside the city walls.<sup>173</sup> Thus when Abinadi was “taken” prior to his execution, he was probably taken outside the city of Nephi, as occurred more explicitly in the execution of Nehor (Alma 1:1–15, on the top of a hill) and apparently in the execution of Zemnariyah (3 Nephi 4:28, on the top of a tree).

Scourging or beating was the normal form of punishment for disobedience in biblical law (Deuteronomy 25:2). Reviling the king may have been viewed as a form of royal disobedience, thus calling for some form of beating. Hence, we may suspect that Abinadi was not only burned but also scourged or beaten. When being flogged, the culprit was normally bound and required to lie on the ground. It is possible that the binding mentioned in Mosiah 17:13 reflects this standard Israelite practice. If this

170. TB *Sanhedrin* 6:1, 42b. The verdict and the execution were pronounced on the same day; testimony evidence was heard on the day or days before. See also Bovati, *Re-Establishing Justice*, 371–76.

171. Goldin, *Hebrew Criminal Law*, 136n17. See also McKenzie, “Judicial Procedure at the Town Gate,” 103; Falk, *Hebrew Law in Biblical Times*, 61; and Bovati, *Re-Establishing Justice*, 381–82.

172. De Vaux, *Ancient Israel*, 1:153.

173. Goldin, *Hebrew Criminal Law*, 30–31. See, for example, Leviticus 24:14, 23; Numbers 15:35–36; 1 Kings 21:13.

is so, it shows graphically that the priests of Noah were doubly severe on Abinadi, inflicting two forms of punishment at the same time. Beating was normally not to be excessive (Deuteronomy 25:3), and according to later law it was not to be administered in connection with capital punishment.<sup>174</sup> The scourging of Abinadi would therefore reflect an extreme punishment and probably a serious corruption of and departure from the normal principles of biblical and Jewish law.<sup>175</sup>

As the flames began to scorch him, Abinadi uttered his final curse upon Noah and his priests: “Behold, even as ye have done unto me, so shall it come to pass that thy seed shall cause that many shall suffer the pains that I do suffer. . . . And it will come to pass that ye shall be afflicted with all manner of diseases. . . . Yea, and ye shall be smitten on every hand, . . . and then ye shall suffer, as I suffer, the pains of death by fire” (Mosiah 17:15–18). Because Abinadi eventually “fell” (v. 20), he very well could have been standing when he issued his final testimony and curses. This is not an idle point. Had Abinadi struggled to rise up, after being beaten lying down, or had he remained standing during that torture? Either way, by standing Abinadi symbolically connoted his innocence. In Akkadian the phrase “to stand up” signifies “in a juridical context . . . the prevailing over an adversary in a lawsuit.”<sup>176</sup> By standing, he also gave greater testimonial and judgmental impact to his words.<sup>177</sup> It was typically said that judges in ancient Israel stood to read their verdicts.<sup>178</sup> To the very end, Abinadi carried out his divinely appointed mission of delivering the judgments of God upon Noah and his wicked followers.

174. See Goldin, *Hebrew Criminal Law*, 50n66, citing Rabbi Akiba in Makkot 3:1 (13b) and Maimonides, *Hilkot Sanhedrin* 18:1, for this view of Rabbi Akiba. Flogging or beating was a disciplinary punishment only, and not a form of capital punishment; Haim H. Cohn, “Flogging,” in Elon, *Principles of Jewish Law*, 532–33.

175. See, however, TB *Berakhot* 58a (9:1), as discussed by Jonah Fraenkel, “Ma’aseh be-R. Shila,” *Tarbits* 40 (October 1970): 33–35, 38–39.

176. Shalom M. Paul, “Unrecognized Biblical Legal Idioms in the Light of Comparative Akkadian Expressions,” *Revue Biblique* 86, no. 2 (1979): 237.

177. The Tosefta *Sanhedrin* 6:2 requires that “men must stand when they pronounce sentence, or bear witness, or ask for absolution from vows, or when they remove anyone from the status of priesthood or of Israelitish citizenship.” Many sources note the significance of judges standing. For example, it has been suggested that, in Acts 7:56, the standing Son of Man should be understood as judging those who stoned Stephen. Rudolf Pesch, *Die Vision des Stephanus* (Stuttgart: Katholisches Bibelwerk, 1966), 19–20. See Bovati, *Re-Establishing Justice*, 233–38, 376–80 (dealing with retribution).

178. McKenzie, “Judicial Procedure at the Town Gate,” 103: “When common agreement has been reached, they [the judges] rise (Psalm 3:8; 35:2) to give the verdict (Joel 3:14; 1 Kings 20:40).”

It is notable that Abinadi prophesied that the seed of the priests would “cause that many shall suffer the pains that I do suffer, even the pains of death by fire” (Mosiah 17:15), and that he condemned the priests to suffer the same fate as he: “Ye shall suffer, as I suffer, the pains of death by fire” (v. 18). As was seen in connection with the case of Sherem, the Israelite concept of justice called for false accusers to suffer the same punishment that they might wrongly inflict upon the accused (see Deuteronomy 19:16–21). Having wrongly executed Abinadi, Noah and his priests should suffer just as he had suffered according to the ancient concept of reciprocal justice. It was also common for ancient peoples to expect God to visit the sins of the fathers in some way upon their posterity,<sup>179</sup> and in this vein Abinadi predicts that the children of priests would use the same illegal punishment on others (Alma 25:5), implicitly prophesying that they will incur the same measure of God’s wrath as will the priests themselves and perhaps presaging the destruction by fire that came upon the wicked in 3 Nephi 9:11, especially on those who had killed the prophets.

Death by fire was rare under Israelite law, administered rarely in the cases of adultery involving a priest’s daughter (Leviticus 21:9) and as punishment for specific types of incest or whoredom.<sup>180</sup> In Babylonia, a looter who went into a burning house to put out the fire but instead stole property from that place would have been “thrown into that same fire.”<sup>181</sup> Thus the Book of Mormon accurately points out that the burning of Abinadi was introduced for the first time in Nephite law by the priests of Noah as a punishment for a religious offense and perhaps for any offense: “Abinadi was the first that suffered death by fire because of his belief in God” (Alma 25:11). This explicit reminder in the record purposefully points out the irregularity of this illicit mode of punishment.

In the end, Abinadi suffered a martyr’s death “because he would not deny the commandments of God, having sealed the truth of his words by his death” (Mosiah 17:20). Due to his piety and devotion to the Lord, he preferred death over disobedience, knowing that his blood would stand again as a testimony against his accusers at the last day.<sup>182</sup>

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179. Exodus 20:5; Numbers 14:18; Deuteronomy 23:2; see also the epilogue to the Code of Hammurabi.

180. Judah ordered that Tamar be burned for her whoredom (Genesis 38:24), perhaps reflecting pre-Mosaic practices in Israel. Under the Code of Hammurabi, section 110, a nun guilty of misconduct was put to death by burning, and under section 157, incest by a man with his mother after the death of his father was punishable by burning both the man and his mother.

181. Code of Hammurabi, section 25.

182. For more on martyrdom and witnessing, see chapter 8 on Alma and Amulek below.

**The Legacy of the Trial of Abinadi**

Without any doubt, the trial of Abinadi illustrates by negative example many principles of judging righteously. Noah and his priests put their hands together as wicked accusers; he and his leading priests had exerted pressure on younger judges to “follow a multitude to do evil,” had wrested judgment, and had slain “the innocent and righteous” (Exodus 23:1, 2, 6, 7). In contrast, judging righteously calls for humility, admitting error, avoiding excess, and not placing oneself above the law. Observing the letter of the law is not enough.

Interestingly, in many respects, the trial of Abinadi reflects quite extensively many procedural and substantive aspects of ancient Israelite law. Of all the trials in the Book of Mormon, this trial conforms the most closely to pre-exilic biblical law, as one would expect largely because the later legal trials recorded in the books of Alma and Helaman arose during the reign of the judges in the Nephite republic after the law reforms of King Mosiah. Living before any such reforms, Noah and his priests seem to have understood quite thoroughly the technical ancient legal distinctions between offenses such as slanderous speech, false prophesy, blasphemy, and reviling the leader of the people; and they evidently respected the jurisdictional rights of the variously aggrieved parties to press charges and seek justice concerning the alleged political, religious, or personal violations that may have affected them each respectively. Nothing in the trial of Abinadi is out of legal character with biblical law traditions in the late monarchical period.

While it is true that Noah and his priests acted in a coldhearted and self-indulgent manner and undoubtedly violated the spirit of many teachings and requirements of the law of Moses, it also seems that they expended great efforts in attempting to rationalize their conduct in order to preserve the appearances of living the law of Moses. Although certain irregularities are evident in this proceeding, it should be noted that the court of Noah seems to have tried to respect at least the outward appearances of law and order. They did not simply take Abinadi out and stone him or shoot arrows at him, as happened to certain other prophets such as Samuel the Lamanite; they at least tried to frame their arguments in a scriptural context. Though they observed a form of justice with a semblance of legality, they corruptly subverted the spirit and purpose of the law. For that very error, Abinadi had criticized Noah and his judges (Mosiah 12:29); and because of that deep-rooted perversion of justice, Abinadi was scandalously executed.

Abinadi's testimony and martyrdom left an enduring theological message and legal legacy on several counts.<sup>183</sup> His recitation of the Ten Commandments, with his face shining like the face of Moses at Sinai, affirmed that righteous people must live the laws of God strictly and with proper understanding and with the proper spirit. The key to understanding the performances and ordinances of the law of Moses was in seeing "that all these things were types of things to come" (Mosiah 13:31). In his own death, Abinadi bore afflictions similar to those foretold of the suffering servant in Isaiah 53, and the treatment Abinadi received foreshadowed the trials, suffering, and death of the Holy One of Israel himself. All of this reinforced the point that salvation does not come through the law as such and that the spirit of the law is in the Lord God who himself would come down in flesh and in power, eventually to bring a righteous judgment on all the people of the earth.<sup>184</sup> Thus the case of Abinadi put to rest the last vestiges among the Nephites of claims such as Sherem's that the law of Moses alone "is the right way" (Jacob 7:7) and that preaching one's belief in Christ was somehow blasphemous. Certain people in the Book of Mormon after Abinadi would continue to reject the idea that the atonement of Christ was necessary (Nehor), or that the divinity of Christ was logically possible (Zeezrom), or that the coming of Christ was knowable (Korihor)—but no longer would these dissenters argue that the doctrine of Christ was inconsistent with the law of Moses.

Abinadi's stature as a prophet of Christ was securely enhanced by the prompt and literal fulfillment of his prophecies about the fate of Noah and his priests. Abinadi prophesied that the people of Limhi would be hunted and driven, which soon came to pass (Mosiah 20:21). Abinadi prophesied that Noah and his priests would suffer death in a manner similar to the death they inflicted upon Abinadi; and before long Noah was burned to death by his men, who ultimately refused to follow him into cowardly escape (19:20), and almost all of the seed of Amulon and his fellow priests were killed by the Nephites in battle (Alma 25:4). The remainder asserted power over the Lamanites and "caused that many of the Lamanites should perish by fire because of their belief" (v. 5). Moreover, the Amulonites soon became closely allied with the Amalekites (perhaps the same group elsewhere called Amlicites?),<sup>185</sup> who were of the order of Nehor (21:4;

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183. For a general review of Abinadi's teachings and influence, see Robert J. Matthews, "Abinadi: Prophet and Martyr," *Ensign*, April 1992, 25–30; and "Abinadi: The Prophet and Martyr," 91–111.

184. Compare Mafico, "Judge, Judging," 3:1106.

185. John L. Sorenson, "Book of Mormon Peoples," in *Encyclopedia of Mormonism*, 1:194.

24:29), and took up arms against the Ammonite converts (24:2). Thus the seed of Amulon may stand behind the burning of the faithful women and children and sacred books in Ammonihah (14:8), which may have provoked the Lamanites to invade and destroy that city (25:2). In any event, Abinadi's prophecy that his executioners would cause others to die by fire and likewise suffer death by fire followed the seed of the priests of Noah into the next two or three generations.

Likewise, the Pyrrhic legal victory of Noah's priests in persuading him to put Abinadi to death for reviling the king seems to have set a precedent that especially encouraged the followers of Nehor to raise that same charge in later cases against other prophets who came with strong words of divine judgment against wicked rulers and administrators (Alma 12:4; 14:2, 5, 7). Although the crime of reviling the king would become inapplicable among the Nephites once they abandoned their use of kingship, the crime of reviling was modified and raised by the Nehorites in Ammonihah against Alma and Amulek, who were accused of reviling the laws and legal officers of the city (10:24; see chapter 8 below). Perhaps realizing the fate that eventually befell both the priests of Noah and the Nehorites in Ammonihah for wrongly using this legal strategy, the followers of Gadian-ton later were smart enough only (but still unsuccessfully) to attempt to get others to accuse the prophet Nephi of reviling the people and the law (Helaman 8:2; see chapter 12 below).

Abinadi's prophecies of doom and destruction also became archetypal and influential. Just as his prophecy that the unrepentant people of Noah and Limhi would have burdens lashed on their backs and would suffer pestilence and destruction was literally fulfilled, so Mormon remembered Abinadi as a true prophet of destruction.<sup>186</sup> While Mormon's account of the final destruction of the Nephites details the fulfillment of many prophecies of their doom, demonstrating that the power of the evil one was "wrought upon all the face of the land," Mormon states specifically that this lamentable condition particularly fulfilled "all the words of Abinadi, and also Samuel the Lamanite" (Mormon 1:19).

In terms of the ensuing religious and political history of the Nephites in the years that immediately followed Abinadi, the trial of Abinadi became a powerfully influential event in Nephite politics and government. Alma the Elder, whose conversion was based on the testimony of Abinadi, soon would establish a church organization in the land of Zarahemla based on covenants to God and not to the king. Alma the Younger and the four sons

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186. See Bovati, *Re-Establishing Justice*, 122, for a discussion of how war "expresses and resolves a legal controversy."

of Mosiah were extolled as missionaries who “did publish peace” (Mosiah 27:37), echoing Abinadi’s interpretation of Isaiah 52:7 in declaring that the Lord reigns. Alma’s experience in the court of Noah was the source of the fundamental distrust of kingship that finally led, about sixty years later, to the abandonment of kingship among the Nephites. The wickedness, abominations, iniquities, calamities, contentions, bloodshed, lawlessness, and perversions of King Noah are specifically cited by King Mosiah as the main evidence in persuading the people to choose by popular voice that “it is not expedient that ye should have a king or kings to rule over you” (Mosiah 29:16; see 29:17–23),<sup>187</sup> ushering in the reign of judges and a new chapter in the judicial history of the Nephites.

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187. For further evidence that the Book of Mormon recognizes Noah as a wicked king who suffered the judgment of God, see Goff, “Uncritical Theory,” 201–2, in which he compares the reigns of King Jeroboam, King Ahab, and King Noah. For example, a major character appears to all three kings in disguise (1 Kings 14; 20; 22; Mosiah 12:1); further, all three kings are idolatrous, walk in the way of wickedness, cause the people to sin, and put the prophet to death, and either the people or the wicked king is eaten by dogs and/or fowls. The fact that the same elements are recorded in each of these accounts perhaps is evidence of a Book of Mormon author consciously reflecting the typical qualities of a wicked king.



