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The Case of Sherem

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CHAPTER FIVE

THE CASE OF SHEREM



Early in Nephite history, toward the end of the sixth century BC, “there came a man among the people of Nephi, whose name was Sherem” (Jacob 7:1). Sherem opposed the teachings of Jacob and sought out a confrontation with Jacob (v. 2). At this time, Jacob was well known in the city of Nephi; he was a seasoned temple official, having been ordained at a young age by his brother Nephi to be a priest and a teacher in the newly built temple in the Nephite capital city.

It is unknown where Sherem came from, but it would not appear that he was a complete outsider to the Nephite community, for he addressed Jacob as “brother” (v. 6). Nevertheless, this term is somewhat ambiguous and need not imply that Sherem and Jacob were closely related, since the Hebrew word for brother, *’āch*, and its Semitic cognates can mean many things, ranging anywhere from full blood brother (Genesis 4:8–11; 25:26; compare 2 Nephi 2:1) to half brother (Genesis 42:3–7; 2 Samuel 13:4) to kinsman (Genesis 14:14–16)¹ or fellow countryman (Deuteronomy 17:15; compare 2 Nephi 6:2). Moreover, “sometimes *’āch* is used as a polite address to strangers,” but, more significantly, it was used anciently “in diplomatic correspondence between allies, as perhaps in Nu[mbers] 20:14 and certainly in 1 K[ings] 9:13 (Solomon speaking to Hiram) and 20:32 (Ahab speaking of Ben-hadad).”² Thus, although the word *brother* in Jacob 7:6 might

1. Zeev W. Falk, *Hebrew Law in Biblical Times: An Introduction*, ed. John W. Welch, 2nd ed. (Provo, UT: Brigham Young University Press; Winona Lake, IN: Eisenbrauns, 2001), 112–13 (“The status of the foreigner must have become a problem during the patriarchal age. A person’s rights and duties were at that time dependent upon the blood relationship and upon his belonging to a family, clan, or tribe. Everybody was everybody’s ‘brother’ and entitled to his protection and redemption in case of need”).

2. Helmer Ringgren, “*’ach*,” in *Theological Dictionary of the Old Testament*, ed. G. Johannes Botterweck and Helmer Ringgren, trans. John T. Willis, rev. ed. (Grand Rapids, MI: Eerdmans, 1974), 1:188–93, quotation on p. 191.

imply that Sherem was a member of Jacob's extended family or that he came from one of the other Nephite tribes (Nephites, Josephites, or Zoramites), it would not appear that Jacob and Sherem were very close relatives, especially in light of Sherem's lack of success in gaining an audience with Jacob (Sherem having "sought much opportunity" to speak with him, v. 3) and also in view of the very serious accusations that will follow (v. 7).

Instead of having family or tribal connections, Sherem may have addressed Jacob as a brother in their covenant community of Nephites, Jacobites, Josephites, and Zoramites.³ Thinking along the lines of Amos 1:9-10, which speaks of the destruction that will come from God on those who break "the brotherly covenant" (*berith 'āchīm*), Sherem may have prefaced his accusations with this "brotherly" appellation in order to instill in Jacob a sense of duty to rectify what Sherem perceived to be Jacob's offenses against the Israelite or Nephite covenant community. Beyond that, the use of the term *brother* in this exchange seems to present Jacob and Sherem as being of "equal rank" professionally, in the community, or somehow as "covenant partners."⁴ Be that as it may, the intensity and seriousness of the controversy that ensued between Sherem and Jacob give assurance that some previous civil bond existed between them that Sherem deemed Jacob had broken or violated.⁵

Sherem was intelligent, eloquent, and persuasive (Jacob 7:4), abilities that link him to the educated people in the small city of Nephi and probably to the royal group controlled by the kings who succeeded Nephi in the land of Nephi. Sherem's strident defense of the law of Moses as the source of righteousness would have appealed to royal administrators, who perhaps supported or even were the source of Sherem's political points of view. Because Zoram had been a servant to a public official in Jerusalem, it is enticing to think that Sherem may have been a Zoramite or may have had Zoramite ties.⁶ At least Sherem's pro-legalistic posture conforms with

3. Later in the Book of Mormon, the term *brother* is used to imply a relationship of shared faith or suffered hardship (Alma 34:3; 56:2, 45; 58:41).

4. Ringgren, "'āch," 188.

5. As Pietro Bovati, *Re-Establishing Justice: Legal Terms, Concepts and Procedures in the Hebrew Bible* (Sheffield, England: JSOT Press, 1994), 30, points out, juridical disputes such as Sherem's claims against Jacob necessarily presuppose a previous juridical bond between the parties: "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 juridical 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."

6. A. Keith Thompson, "Who Was Sherem?" (private communication), has articulated and justified this view. Zoram certainly had connections with the plates of brass and had ties to the royal house in Jerusalem. Interestingly, if Sherem was in fact a Zoramite, then the rift between the

the justifications used by Laman and Lemuel in the Old World when they argued in defense of the people in the land of Jerusalem on the ground that they “were a righteous people; for they kept the statutes and judgments of the Lord, and all his commandments, according to the law of Moses” (1 Nephi 17:22), a view that Zoram may also have readily embraced, given his background. Legalistic arguments such as these, of course, were on a collision course with the prophetic worldview of Jacob, who stood in the tradition of Lehi, Nephi, and the prophets in Jerusalem.⁷ An ideological clash similar to the one that had previously pitted certain powerful forces in Jerusalem against the prophets Jeremiah and Lehi, even to the point of involving formal or informal criminal legal charges (Jeremiah 26:8–9; 1 Nephi 1:20),⁸ seems to have resurfaced in the New World a generation later in the form of Sherem’s accusations against Jacob.

Legally Grounded Religious Issues

Although Sherem’s accusations did not result in a legal proceeding as such—no court was ever convened, no elders were assembled to sit in judgment, and no human witnesses were called to testify—his accusations were legally grounded. His allegations arose out of several compelling legal issues that would have confronted any ancient Israelite who did not understand or accept the doctrine of Christ when presented with the specific revelations and prophecies given by Lehi, Nephi, and Jacob concerning Jesus Christ as the coming Messiah. How could a person in the city of Nephi talk of Christ, rejoice in Christ, preach of Christ, and prophesy of Christ (as Nephi boldly declares was done, 2 Nephi 25:24–26) without seeming to commit the crimes of worshipping other gods (Exodus 20:3)? How could a person introduce new revelations without appearing to lead people into other paths (Deuteronomy 13:5) or without running the risk of prophesying falsely under the law of Moses (vv. 20, 22)? Can the Nephite revelations about the coming Messiah be harmonized with the old revelation of the law through Moses? What did Nephi mean when he spoke of “the deadness of the law” (2 Nephi 25:27), and is that an unbecoming and unlawful way to speak of the law of God? Nephi had said,

 Zoramites and the Nephites that erupted into warfare in the days of Alma had roots as far back as the contention between Sherem and Jacob.

7. For an extended discussion of this prophetic worldview, see John W. Welch, “Getting through Isaiah with the Help of the Nephite Prophetic View,” in *Isaiah in the Book of Mormon*, ed. Donald W. Parry and John W. Welch (Provo, UT: FARMS, 1998), 19–45.

8. 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), 337–56.

“Notwithstanding we believe in Christ, we keep the law of Moses” (v. 24); but how should the balance be maintained between believing in Christ and keeping the law of Moses, how does the belief in Christ translate into specific rules or interpretations of the ritual or civil law, and who has the authority to decide how this synthesis will be defined and implemented? These precise problems may have been residual issues from Lehi’s day back in Jerusalem, where his life was threatened because of the things that he said he had seen and heard and read in the heavenly book, “manifest[ing] plainly of the coming of a Messiah, and also the redemption of the world” (1 Nephi 1:19). Lehi’s teachings actually may have been more compatible with the older religious views that had prevailed during the First Temple period than with the views of the Deuteronomic reformers who transformed Israelite religion during and after the reign of King Josiah during Lehi’s lifetime, as Margaret Barker has argued.⁹ Although it is difficult to know exactly how the book of Deuteronomy was being interpreted and employed by various religious and political factions in Lehi’s Jerusalem, Barker’s work shows, at a minimum, that Lehi’s and Nephi’s teachings would have given rise to lively legal issues and religious controversies in the days of Lehi, Nephi, Jacob, and Sherem.

If we take Sherem’s arguments at face value, he essentially resisted the messianic clarifications introduced by the revelations of Lehi and Nephi. He preferred a system of legal rules based on the law of Moses, especially as enforced by certain provisions in the book of Deuteronomy, without any foreshadowing in light of messianic expectation.

Although Sherem’s personal motivations remain obscure, he may have contested Jacob’s doctrines and interpretations of the law for thoroughly pious reasons. Sherem claimed to believe in “the scriptures” (Jacob 7:10)—namely, in the plates of brass containing the law of Moses. His emphasis on the written word probably indicates that he rejected the oral law and limited his view of authoritative law to provisions found in the written record. Still, he would have believed in the scriptural God of Abraham, Isaac, and Jacob, and he probably rested his opposition to Jacob on such

9. For a discussion of the writings of Margaret Barker concerning the Israelite tradition that emphasized, on the one hand, the temple, angels, sacrifice, atonement, divine kingship, covenant, wisdom, heavenly ascent, and revelation, which contrasted with the legalistic reformers who elevated the role of the law to a position of primacy, see Kevin Christensen, “The Temple, the Monarchy, and Wisdom: Lehi’s World and the Scholarship of Margaret Barker,” and Margaret Barker, “What Did King Josiah Reform?” in Welch, Seely, and Seely, *Glimpses of Lehi’s Jerusalem*, 449–542; see also Barker, “Joseph Smith and Preexilic Israelite Religion,” in *The Worlds of Joseph Smith: A Bicentennial Conference at the Library of Congress*, ed. John W. Welch (Provo, UT: Brigham Young University Press, 2006), 69–82.

passages as “Thou shalt have no other gods before me” (Exodus 20:3). He resisted religious change that required additions to the written law, arguing strenuously that the law of Moses was “the right way” and that its observance should not be converted “into the worship of a being which . . . shall come many hundred years hence” (Jacob 7:7). He considered the law of Moses sacred, and he viewed Jacob’s messianic orientation as divergent and heretical. Sherem may well have cited in his argument such provisions as Deuteronomy 4:2, “Ye shall not add unto the word which I command you, neither shall ye diminish ought from it.” While Jacob could have responded by explaining that this limitation was typically included in many ancient laws, treaties, or revelations simply to signify the completeness of the document or speech in which it appears,¹⁰ Sherem could still have invoked the rhetoric of Deuteronomy 4:2, much as it had been used by the Deuteronomic reformers who sought to control the worship of Jehovah exclusively in their strictly centralized legal and religious system.

By taking such a restrictive position regarding Jacob’s more expansive teachings, Sherem would have had a legal or moral duty under laws such as Leviticus 5:1 or Deuteronomy 13:6–11 (at least as he could have understood or rationalized the rules behind those provisions) to either take legal action against Jacob or risk falling under the wrath and judgment of God.¹¹ As Jacob Milgrom explains, Leviticus 5:1 requires any person having knowledge of a crime to step forward in response to a public call for information about the wrongdoing; otherwise “he must bear his punishment,” an expression that “implies that the punishment will be meted out by God, not by man.”¹² Deuteronomy 13 requires a person who hears

10. “Identical warnings are found in wisdom literature concerning the completeness of God’s work, . . . and are also attested in treaty literature of the ancient Near East . . . [and] in Mesopotamian literature concerning prophecy.” Moshe Weinfeld, *Deuteronomy 1–11* (New York: Doubleday, 1991), 200. For example, the epilogue to the Code of Hammurabi curses any subsequent ruler who might “alter the judgments that I rendered and the verdicts that I gave.” Martha T. Roth, *Law Collections from Mesopotamia and Asia Minor*, ed. Piotr Michalowski (Atlanta: Scholars Press, 1995), 135.

11. Sherem likely viewed himself as protecting the social order by bringing accusations against Jacob. Those who initiated juridical actions such as this one “undertake for society the task of prosecuting the evildoer.” Bovati, *Re-Establishing Justice*, 69.

12. Jacob Milgrom, *Leviticus 1–16* (New York: Doubleday, 1991), 293–95. See also generally Raymond Westbrook, “Punishments and Crimes,” in *The Anchor Bible Dictionary*, ed. David Noel Freedman and others, 6 vols. (New York: Doubleday, 1992), 5:546–56. For a detailed examination of Leviticus 5:1, see Bruce Wells, *The Law of Testimony in the Pentateuchal Codes* (Wiesbaden: Harrasowitz, 2004), 54–82. Although, as Wells rightly argues, this verse refers primarily “to a person who is under obligation to testify but refuses to do so” (p. 55), this requirement is still part of a larger legal system that obligated all members of the community to be vigilant in protecting and promoting the law-abiding status of the society overall. See, for example, Bovati, *Re-Establishing*

anyone enticing people to “go and serve other gods” to be the first to step forward and put that person to death, even if the offender should happen to be a “brother,” a son, daughter, wife, friend, or an entire community.¹³ Accordingly, Ze'ev Falk has concluded: “In cases of public apostasy it was considered the duty of everyone present to take the law into his own hands, and punish the offender.”¹⁴

Although it would become clear in the end that Sherem was mistaken and “deceived” (Jacob 7:18), these legal provisions and religious obligations in the books of Moses probably ensured that, at the outset, Sherem was taken seriously; he would have been perceived by people in his day as being serious and sincere, as well as religiously and rationally motivated. He is later called a “wicked man” (v. 23) but not an anti-Christ; that label in the Book of Mormon is given only to Korihor.¹⁵ If one categorically lumps Sherem, Korihor, and Nehor together as stereotyped anti-Christ, important distinctions between the actions and motives of the three become so blurred that the actual issues in controversy, the stakes at risk, the

Justice: “It is necessary that whoever is aware of the crime should speak out, denouncing the guilty party” (p. 62). “Anyone who becomes aware of a misdeed becomes, by that very fact, a potential accuser of the guilty party. This general principle holds good especially for Israel, which does not distinguish between citizens appointed ‘*ex officio*’ to carry out the task of denouncing crimes (public ‘officials’) and anyone else, who may but is not obliged to do so” (p. 70n15).

13. See Paul E. Dion, “Deuteronomy 13: The Suppression of Alien Religious Propaganda in Israel during the Late Monarchic Era,” in *Law and Ideology in Monarchic Israel*, ed. Baruch Halpern and Deborah W. Hobson (Sheffield, England: Sheffield Academic Press, 1991), 147–216, especially 165.

14. Falk, *Hebrew Law in Biblical Times*, 69, citing Exodus 32:27 (where Moses orders the Levites to “slay every man his brother, and every man his companion” who was engaged in the apostasy of worshipping the golden calf) and Numbers 25:7–8 (where Phineas slays an apostate Israelite and a Midianitish woman). See Westbrook, “Punishments and Crimes,” 5:546–56.

15. Significant differences exist between the cases of Sherem, Nehor, and Korihor, as will be discussed further in chapter 10 below, where these three cases are compared. For present purposes, one should note that Sherem was less sophisticated and less extreme than Korihor, and Sherem’s assertion that he knew there never would be a Christ contradicts “his own argument that no one could ‘tell of things to come.’” Russell M. Frandsen, “Antichrists,” in *Encyclopedia of Mormonism*, ed. Daniel H. Ludlow (New York: Macmillan, 1992), 1:45. Moreover, Sherem was deceived only by the “power of the devil” (Jacob 7:18), whereas the devil appeared to Korihor “in the form of an angel” who taught him exactly what to say (Alma 30:53). Of course, Sherem manifested several characteristics of an anti-Christ (denying the need for Christ, using flattery, accusing church leaders of teaching false doctrine, having a narrow view of reality, misreading scriptures, and seeking a sign), as Robert Millet has pointed out in “Sherem the Anti-Christ,” in *The Book of Mormon: Jacob through the Words of Mormon: To Learn with Joy*, ed. Monte S. Nyman and Charles D. Tate Jr. (Provo, UT: Religious Studies Center, Brigham Young University, 1990), 175–91; and I do not doubt that Jacob rightly saw Sherem as a “wicked man” (Jacob 7:23), but these similarities are offset by a number of differences. See Duane F. Watson, “False Christs,” in *Anchor Bible Dictionary*, 2:761.

various procedures utilized, and the different results obtained in each case either become lost or are rendered inexplicable.

Triggering Open Conflict

It may be that Sherem was brought to the point of confronting Jacob in a legal mode because Jacob had been a publicly outspoken and provocative priest and teacher. Jacob had apparently struggled against the Nephite political rulers who had succeeded Nephi. In public he had spoken sharply against the men of the city of Nephi (Jacob 1:15–2:35), chastising them for becoming “hard in their hearts” (1:15) and decrying their pride and immorality. Jacob had accused them of misunderstanding the scriptures and rationalizing their behavior: “The word of God hurdens me because of your grosser crimes. For behold, thus saith the Lord: This people begin to wax in iniquity; they understand not the scriptures” (2:23; emphasis added). Jacob had especially condemned those (probably among the leading royalty) who had justified their infidelity by claiming that it was a royal prerogative to act as King Solomon, who had taken many wives (2:23).¹⁶ As with many of Solomon’s wives and concubines, some of the women in the city of Nephi may likewise have been foreign women.¹⁷ Jacob’s words comprise strong reprimands and accusations against some of the men of the city of Nephi. The strength of his words was elevated especially when he combined them with priestly declarations about ridding his garments of their blood and sins (1:19; 2:2). No doubt these sharp reproofs had made Jacob unpopular in certain powerful circles that had already emerged within this small and newly established community. Perhaps representing the interests of those people who had political reasons to want Jacob’s power weakened, Sherem made his move against the now aged Jacob.¹⁸

16. Contrary to the history of the kings in Israel, Deuteronomy 17:17 actually prohibited these rulers from taking too many wives: “Neither shall he multiply wives to himself, that his heart turn not away.” The Nephite leaders had evidently violated this rule, for Jacob criticized them for turning their hearts away from their wives and causing many hearts to die, “pierced with deep wounds” (Jacob 2:35; see 3:7).

17. For a discussion of the population and demographics of this community, see John L. Sorenson, “The Composition of Lehi’s Family,” in *By Study and Also by Faith*, ed. John M. Lundquist and Stephen D. Ricks (Salt Lake City: Deseret Book and FARMS, 1990), 2:174–96; and James E. Smith, “How Many Nephites? The Book of Mormon at the Bar of Demography,” in *Book of Mormon Authorship Revisited: The Evidence for Ancient Origins*, ed. Noel B. Reynolds (Provo, UT: FARMS, 1997), 255–91.

18. Jacob was apparently fairly old at the time of this incident. He had already said farewell to his people (Jacob 6:13) and after that had survived “some years” (7:1). Shortly after the death

Sherem's strategy was an attempt to turn the tables on Jacob, by accusing *him* of perverting the scriptures, desecrating the law, and committing a number of other offenses (7:7). Such accusations clearly would have had profound political, religious, and legal ramifications.

Commencement of the Proceeding

Several points indicate that Sherem's complaints against Jacob had direct legal implications. Jacob's statement "and after this manner did Sherem contend against me" (Jacob 7:7; emphasis added) offers evidence that the ancient reader or hearer would have understood Sherem's action in a fully legal context, for the English word *contend* is very likely a translation of the Hebrew word *rib*, "to strive, contend, or raise a controversy." Although this word can refer to any kind of physical conflict or verbal disputation, it is particularly used in introducing or commencing lawsuits in biblical texts: "In most cases *rib* involves litigation."¹⁹ Its use in connection with an actual lawsuit appears to be indicated in Proverbs 25:8, "Go not forth hastily to strive" (emphasis added), that is, to bring a lawsuit. The word *rib* clearly refers to lawsuits "within thy gates" (Deuteronomy 17:8), appearing regularly in texts establishing rules regarding legal proceedings, witnesses, and judges (e.g., Exodus 23:2–6; Deuteronomy 19:17; 25:1; 2 Chronicles 19:8–10). Indeed, it has been said that "if there were contemporary records extant of ancient Israel's court proceedings or of speech about them, this word [*rib*] would surely be found" there.²⁰ The accuser in a *rib* in the Old Testament typically had personal knowledge of the alleged violation before he commenced his accusation,²¹ which compares well with Jacob 7:6, "for I have heard and also know." Verbs of motion in the Hebrew accounts often signify the commencement of a *rib*.²² Sig-

of Sherem, futile efforts were made to convert the Lamanites (v. 24), and then Jacob "began to be old" (v. 26) and concluded his record.

19. Helmer Ringgen, "*rib*," in Bottwerweck et al., *Theological Dictionary of the Old Testament*, 13:475. This word often "takes on legal-judicial significance," frequently with God acting as accuser and judge; see Robert D. Culver, "(*rib*) strive, contend," in *Theological Wordbook of the Old Testament*, ed. Robert Laird Harris, Gleason L. Archer Jr., and Bruce K. Waltke (Chicago: Moody, 1980), 2:2159. The same source states that the Greek counterpart in the Septuagint, *krino*, is likewise a word "with prevalently legal judicial overtones." For further discussion of the so-called prophetic lawsuit (*rib*) with God as party and judge, see John W. Welch, "Benjamin's Speech as a Prophetic Lawsuit," in *King Benjamin's Speech: "That Ye May Learn Wisdom,"* ed. Stephen D. Ricks and John W. Welch (Provo, UT: FARMS, 1998), 167–73. See also Bovati, *Re-Establishing Justice*, 31–32, 51.

20. Culver, "(*rib*) strive, contend," offering Proverbs 25:8 as evidence.

21. Bovati, *Re-Establishing Justice*, 71.

22. Bovati, *Re-Establishing Justice*, 221 (citing Judges 21:22; Proverbs 25:8; Isaiah 66:15–16).

nificantly, Jacob indicates that Sherem “sought much opportunity that he might *come* unto [him]” and was ultimately successful, as he “*came* unto [Jacob]” and began to voice his accusations (vv. 3, 6; emphasis added). Thus it seems that Jacob purposefully used the words *contend against* to describe Sherem’s conduct.²³

Several biblical scholars find it likely that lawsuits in ancient Israel began when one party approached the other and announced something like, “I have a controversy [*rib*] with you” (compare Hosea 4:1).²⁴ If these words were spoken at the town gate or at some other public place, a body of city elders would assemble quite spontaneously and proceed to hear and decide the matter. The opponent or accuser would first state his case: “He contends [verb—*rib*] against [the accused], stating the offence.”²⁵ “Often the plaintiff’s case must have sounded very good, for the Hebrew sage observes that he who states his case [*rib*] first (i.e., the plaintiff) seems right until the other (i.e., the defendant) comes to examine him (Proverbs 18:17).”²⁶

However, Sherem’s controversy did not materialize into a traditional, judicial lawsuit. No elders or judges are mentioned in Jacob’s account because, as this proceeding developed, it never had any need for non-party witnesses to be called or a verdict to be pronounced. Still, Sherem’s accusations and supporting evidences were specifically formulated and introduced (Jacob 7:6–7). His words were intended to be very threatening, “to shake [Jacob] from the faith” (v. 5). To dislodge the beliefs of an established priest like Jacob, more than a few rhetorical questions or philosophical inquiries would have been required. Sherem needed to prove that Jacob was wrong, not in a modern rational sense, but in the sense of violating the laws of God. Such proof would shake Jacob, the leading priest in the temple of Nephi, out of his position in the Nephite ritual hierarchy or household of faith since he would be denounced, removed, and punished. To all who heard Sherem’s bill of particulars, the case against

23. The words *contend* and *contentions* appear 143 times in the Book of Mormon. Like their Hebrew counterpart *rib*, these words can refer to wars and contentions, physical fighting, political uprisings, and general or legal disputations. All forms of “contentiousness,” including lawsuits, are condemned by the Savior (3 Nephi 11:29; 12:25).

24. For an interesting possible reconstruction of a typical legal action in ancient Israel, see Donald A. McKenzie, “Judicial Procedure at the Town Gate,” *Vetus Testamentum* 14 (1964): 100–104; the quotation is from p. 102. See also Robert R. Wilson, “Israel’s Judicial System in the Preexilic Period,” *Jewish Quarterly Review* 74, no. 2 (1983): 229–40; and Ludwig Köhler, *Hebrew Man: Lectures Delivered at the Invitation of the University of Tübingen, December 1–16, 1952*, trans. Peter R. Ackroyd (New York: Abingdon, 1956), appendix entitled “Justice in the Gate,” 127–50.

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

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

Jacob probably sounded potent and persuasive until Jacob answered and “confound[ed] him in all his words” (v. 8).

There are reasons to think that Sherem confronted Jacob in a public place like the city gate, temple courtyard, or a gathering place where such controversies were normally heard.²⁷ If Jacob and Sherem had simply conversed in private, without public witnesses, the pro-Sherem portion of the populace could have suspected foul play when Sherem fell helplessly to the ground, and there would have been less reason for him to make a *public* retraction (Jacob 7:17, 19) of his denial of the Messiah (v. 9) without giving the people more of an explanation of what had happened. Moreover, legal trials usually involved the public. Moses commanded, “All the congregation shall stone him” (Numbers 15:35), the accusation of Naboth occurred “in the presence of the people” (1 Kings 21:13), and the trial of Jeremiah was witnessed by “all the people” gathered against him (Jeremiah 26:9). At a minimum, Sherem’s position on these issues must have been known to others in the community, so his confrontation with Jacob carried the weight of more than merely a private conversation or disagreement.

- Pietro Bovati has provided readers with the most detailed analysis of controversies reported in the Bible that are of the same type as Sherem’s controversy. Bovati calls these actions “juridical” rather than “judicial” because no judge was involved in them.²⁸ Although these juridical actions were less formal than judicial proceedings,²⁹ they nevertheless all followed a consistent overall pattern and employed recurring verbal expressions. As Bovati has very informatively and convincingly shown, in broad terms they began with an accusation that demanded justice. That accusation could take the form of declarations or interrogatives. The accuser’s purpose was to try to convince the other party of the errors or foolishness of his position and to induce a change. The proceeding often took the form of a dialogue in which the accused responded either by acknowledging his error or by countering with accusations against his accuser. Ultimately, unless a reconciliation was reached, the juridical dispute escalated into a more formal judicial proceeding or, in some cases, the parties resorted to violence or strife. The underlying objective of such a confrontation, therefore, was to attempt to avert hostilities and to restore peace and equanimity between the parties and amidst the affected society as a whole.

27. See Köhler, *Hebrew Man*, 127–32.

28. Bovati, *Re Establishing Justice*, 30–166.

29. Such disputes often took the form of an accusatory, narrative dialogue. Bovati, *Re Establishing Justice*, 72–74.

"I declare"

"No man
knoweth"

For these and further reasons developed below, it is quite clear that Sherem's accusations set in motion the first stage of a classic juridical controversy. With this understanding in mind, the following legal dimensions of this otherwise religious text in Jacob 7 come to light.

Sherem's Accusations

Sherem raised several specific allegations against Jacob.³⁰ Interestingly, such accusations or allegations in the Hebrew Bible take one of two forms, either "interrogative" or "declarative,"³¹ with the declarative form often using the word *behold* (*hinnēh*) to signal "the appearance of the punitive sanction."³² In Sherem's case, the accusation was declarative: "Behold, I, Sherem declare . . ." (Jacob 7:7). Sherem's accusations involved the three crimes of (1) causing public apostasy, (2) blasphemy, and (3) false prophecy, as follows:

Ye have *led away much of this people* that they *pervert* the right way of God, and *keep not* the law of Moses which is the right way; and *convert* the law of Moses into the worship of a being which ye say shall come many hundred years hence. And now behold, I, Sherem, declare unto you that this is *blasphemy*; for no man knoweth of such things; for he *cannot tell of things to come*. (Jacob 7:7; emphasis added)

Each of Sherem's accusations can be traced to specific provisions in pre-exilic Israelite legal texts.

Causing public apostasy. It was a serious offense under the law of Moses to lead people or a city into apostasy.³³ While *being* an individual apostate in and of itself was probably not a punishable legal offense under biblical, Nephite, or Jewish law,³⁴ *leading other people* into apostasy was recognized as a serious infraction under legal rules in the Bible and the

30. These points are discussed briefly in my FARMS Update, "Sherem's Accusations against Jacob," *Insights* 11, no. 1 (January 1991): 2. See also Bovati, *Re-Establishing Justice*, 75.

31. Bovati, *Re-Establishing Justice*, 75.

32. Bovati, *Re-Establishing Justice*, 86–87.

33. See Michael D. Guinan, "Mosaic Covenant," in *Anchor Bible Dictionary*, 4:905–9. See also Westbrook, "Punishments and Crimes," 5:546–56.

34. Specific violations of the law, however, were of course punishable. Rules such as "an Israelite, although a sinner, is still an Israelite" (Babylonian Talmud [hereafter TB] *Sanhedrin* 44a) and the fact it was "not within the power of a Jew . . . to renounce his Jewishness" indicate that apostate belief alone was not punishable. Ben Zion Schereschewsky, "Apostate," in *The Principles of Jewish Law*, ed. Menachem Elon (Jerusalem: Keter, 1975), 377. Compare Alma 1:17–18, "the law could have no power on any man for his belief," but for misconduct the people were "punished."

Talmud.³⁵ The laws in Deuteronomy 13 condemn to death any person, whether a prophet or brother or son or wife, who says to “the inhabitants of their city, . . . Let us go and serve other gods, which ye have not known” (v. 13; see vv. 2, 6). “Thou shalt not consent unto him, nor hearken unto him; . . . but thou shalt surely kill him” (vv. 8–9).

This was the essence of Sherem’s first claim against Jacob, namely, that he had “led away” many of the people into apostasy (Jacob 7:7). Sherem elaborated his accusation further by alleging that Jacob had caused the people to pervert the right way of God, not to keep the law, and to convert the law into the worship of an *unknown god*. Sherem could have given no better enumeration of the criteria of apostasy.³⁶ Indeed, the law of Moses was equally specific. Deuteronomy uses the same word, *way (derekh)*, in defining this crime as trying to thrust the people “out of *the way* which the Lord thy God commanded thee to walk in” (Deuteronomy 13:5; emphasis added). In Deuteronomic theology and in the Psalms, “the way of God” referred to the Torah, or the commandments and statutes that defined the full state or condition coming from God’s covenant with his people, and the highway of salvation that freed Israel from bondage.³⁷ Turning people away from the right way entailed perversion of the entire law and covenant. Moreover, Sherem’s point that Jacob had converted the observance of the law of Moses into the worship of an *unknown* future being seems to have been based precisely on the Deuteronomic prohibition against turning to serve new gods “which ye have *not known*” (vv. 2, 6, 13; emphasis added). Thus it appears that Sherem accused Jacob quite specifically of having illegally led the people into a state of apostasy by turning them away from the law to worship an unknown being. These allegations were not merely vague or ethical criticisms; they were well-formulated accusations, logically derived from specific provisions of the ancient law found on the plates of brass.

Blasphemy. Another capital offense under the law of Moses was blasphemy (Exodus 20:7; Leviticus 24:10–16), a crime that figures prominently and expressly in the cases of Sherem and Korihor and to a limited extent

35. “If a beast which does not know any difference between good and evil is stoned because of the mischief it caused, *a fortiori* must a man who caused another to commit a capital offense be taken by God from this world.” Sifra, Kedoshim, 10:5, quoted in Haim H. Cohn, “Penal Law,” in *Principles of Jewish Law*, 470.

36. An apostate (*munar* or *meshumad*) has been traditionally defined as one who “denies the Torah and converts to another faith.” Schereschewsky, “Apostate,” 377. While the word *convert* obviously has a different meaning here than in Jacob 7:7, the underlying problem is the same, namely, denying the law and actively turning away from it in some other direction.

37. K. Koch, “*derekh*,” in Botterweck et al., *Theological Dictionary of the Old Testament*, 3:290.

in the trial of Abinadi.³⁸ Sherem raised this second charge against Jacob when he formally accused him, saying, “I, Sherem, declare unto you that this is blasphemy” (Jacob 7:7). While the precise history of the crime of blasphemy is obscure, there is good evidence that the offense of blasphemy in early biblical times embraced many forms of insolent or seditious speech, whether against God, against the king (1 Kings 21:10), or against another man,³⁹ and in some cases against holy places or things, including “the word of the Lord” (Numbers 15:31) or the law (a case of blaspheming the law is found in Acts 6:13). Sherem’s accusation is the earliest known application of the term *blasphemy* to the specific idea of redirecting the law into the worship of a future messiah, but his complaint fits easily under the ancient legal notion of insolent, contemptuous, or sacrilegious speech, which was broadly understood. Cases based on such a broad-ranging class of misconduct had to be defined and judged on a case-by-case basis, which may explain why Sherem says, “I declare unto you” that teaching of the Messiah in this way constitutes blasphemy (Jacob 7:7; emphasis added). An interpretation of the term was apparently needed to make it applicable to Jacob. This would also suggest that Sherem’s construction was his own and that he took responsibility for giving an innovative—if not expansive and reaching—meaning to the term *blasphemy*.

False Prophecy. Sherem’s words also seem to have advanced a claim of false prophecy. Deuteronomy 18:20 requires that a prophet be put to death if he speaks words in the name of the Lord that God has not commanded him to speak, or if he speaks “in the name of other gods” (emphasis added). One can understand how easily Jacob’s “preaching . . . the doctrine of Christ” (Jacob 7:6; emphasis added) could have been deviously characterized by Sherem as a form of speaking “in the name of” another god.⁴⁰ Nephi and Jacob had spoken emphatically about the name of Christ—about magnifying his name; about believing, praying, and baptizing in his name (2 Nephi 9:23–24; 25:13; 31:11; 32:9); and about worshipping the

38. See the discussions of blasphemy in the parts of this volume dealing with those cases. See generally Leonard W. Levy, *Treason against God: A History of the Offense of Blasphemy* (New York: Schocken Books, 1981); Haim H. Cohn, “Divine Punishment,” in *Principles of Jewish Law*, 523; “Capital Punishment,” in *Principles of Jewish Law*, 529; George Horowitz, *The Spirit of Jewish Law* (New York: Bloch, 1953), 183–85; and Westbrook, “Punishments and Crimes,” 5:549.

39. See examples given by Shalom M. Paul, “Daniel 3:29—A Case Study of ‘Neglected’ Blasphemy,” *Journal of Near Eastern Studies* 42, no. 4 (1983): 291–94, giving examples from the Middle Assyrian Laws (MAL A2:11–16) and other cuneiform inscriptions. See also J. Weingreen, “The Case of the Blasphemer (Leviticus XXIV 10ff.),” *Vetus Testamentum* 22, no. 1 (1972): 118–23; and Falk, *Hebrew Law in Biblical Times*, 71.

40. The “doctrine of Christ” is not only the doctrine *about* Christ but the doctrine *belonging* to Christ, received *from* Christ, and given *in the name of* Christ.

Father in his name (25:16; Jacob 4:5). If Sherem could persuade those who might act as judges to accept his interpretation of Deuteronomy, he could successfully condemn Jacob for speaking in a manner that was forbidden by law. Perhaps to avoid such accusations, the prophets of the Book of Mormon insisted emphatically that God and his Son are “but *one* God” (Alma 11:28–29, 35; emphasis added) and that “the doctrine of Christ” is one with “the only and true doctrine of the Father, and of the Son, and of the Holy Ghost, which is *one* God” (2 Nephi 31:21; emphasis added). Beyond teaching true doctrine, these declarations may have served an important legal function—to affirm that speaking “in the name of” Christ was not to be construed as speaking “in the name of other gods.”

Moreover, one test for whether a prophet had spoken truly or falsely in the name of the Lord was to see “if the thing follow not, nor come to pass” (Deuteronomy 18:22). Accordingly, one of Jacob’s defenses against the claim that he had committed the crime of false prophecy when he spoke of things far in the future could well have been “wait and see.” But it seems that Sherem tried to preclude Jacob from using this defense when he objected that Jacob had spoken of things too far distant in the future, of things to “come many hundred years hence.” When Sherem asserted categorically that “*no man knoweth of such things*” (Jacob 7:7; emphasis added), he may have been arguing that prophecies of such long-term nature should not easily be tolerated under the law. With shorter-term prophecies, at least one has the chance to verify them or prove their falsity within a reasonable period of time (consider, for example, the five-year prophecy of Samuel the Lamanite in Helaman 14:2).

Jacob’s Answer

Following Sherem’s accusations, it was Jacob’s obligation to answer, as silence would be construed as an admission of guilt or wrongdoing.⁴¹ Indeed, Jacob spoke up boldly, having the Spirit of the Lord, inasmuch that he “did confound him in all his words” (Jacob 7:8). Typically, strong language was used by the accused in denying guilt and vindicating himself. Indeed, the “protestation of innocence can be transformed into an accusation against the accuser,” turning the tables and now putting him on

41. In Micah 3:7, the wicked have no rebuttal: “They shall all cover their lips; for there is no answer of God.” According to Falk, *Hebrew Law in Biblical Times*, 59, “omission [i.e., not taking an oath] implied admission of guilt.” See the discussion of the legal implications of silence in connection with the trial of Alma and Amulek, discussed below; and compare Bovati, *Re-Establishing Justice*, 72, 93–94, 329–34.

the defensive.⁴² Asking two questions (vv. 9–10), Jacob framed the thrust of his response in the interrogative form, which was a common form of ancient response or accusation.⁴³ Modestly, Jacob did not include in the record further details about what he said to refute Sherem's theories—for example, casting doubt on Sherem's interpretation of the legal terms he had used, showing how confused his ideas were, rebutting him with scriptures regarding the coming of the Messiah, withstanding him with contrary testimony and perhaps an oath (“they truly testify of Christ,” v. 11), or causing him to become ashamed and embarrassed. These outcomes are all possible within the meanings of the possible Hebrew words behind the English word *confound*, a word often used in the Old Testament to describe the confusion, reproach, dismay, and shame suffered by people when their errors are exposed.

Sherem's Demand for a Divine Omen as Dispositive Evidence

Sherem's response to Jacob's rebuttal was ill-fated. He did not retract his allegations. A retreat would have been hard for him to accomplish without exposing himself to the serious charge of being a false accuser or false witness under Deuteronomy 19:16–21, for the punishment imposed on those who falsely initiated lawsuits was “then shall ye do unto him, as he had thought to have done unto his brother” (v. 19). Instead of withdrawing his accusations, Sherem challenged Jacob to produce divine evidence to support the testimony and answer that Jacob had given (Jacob 7:13).

Properly or officially consulting the gods through omens, divination, oaths, and ordeals was indeed a fairly normal practice in ancient Israelite and ancient Near Eastern trials,⁴⁴ though the tactic of appealing to divine evidence was removed from the judicial process in most cases in later Jewish

42. Bovati, *Re-Establishing Justice*, 114. In this connection, Bovati considers this turnaround to be “part of the very structure of a bilateral encounter,” citing the controversy between Laban and Jacob in Genesis 31 and the disputation between Saul and David in 1 Samuel 24 as examples.

43. Bovati, *Re-Establishing Justice*, 75, 77–78, 114. See Uaim H. Cohn, “Pleas,” in *Encyclopaedia Judaica*, ed. Fred Skolnik and Michael Berenbaum, 2nd ed. (Jerusalem: Keter, 2007), 16:229. For good examples of questions used in the juridical give-and-take between Laban and Jacob, see Genesis 31:26, 27, 28, 30, 36, 37.

44. Hans Jochen Boecker, *Law and the Administration of Justice in the Old Testament and Ancient East*, trans. Jeremy Moiser (Minneapolis: Augsburg, 1980), 81–82; Uaim H. Cohn, “Perjury” and “Ordeal,” in *Principles of Jewish Law*, 517, 524–25; and Falk, *Hebrew Law in Biblical Times*, 55–56. For example, Section 2 in the Code of Hammurabi calls for an ordeal when a person has been accused of sorcery but the accuser cannot prove it. See W. McKane, “Poison, Trial by Ordeal and the Cup of Wrath,” *Vetus Testamentum* 30, no. 4 (1980): 474–92.

law.⁴⁵ In the Deuteronomic law, however, God was assumed to be in the court (Deuteronomy 19:17), and it was widely held that “God’s presence in the court would sufficiently enlighten the minds of the judges to detect the falsehood of [any] testimony in time,” as Haim Cohn has explained.⁴⁶ The crucial text in this regard is found in Deuteronomy: “If a false witness rise up against any man to testify against him that which is wrong; then both the men, between whom the controversy is, shall stand *before the Lord*” (vv. 16–17; emphasis added). Thus Sherem’s conduct requesting Jacob to produce divine evidence was not a casual case of idle sign seeking, but rather followed a significant rule of ancient Israelite jurisprudence.

Divine evidence manifested the will of God in the matter, revealing a powerful dose of divine justice. Such evidence or divine justice was sought in ancient courts, especially when a sole defendant (such as Jacob) insisted upon his innocence but the plaintiff’s evidence had come up lacking (as had Sherem’s). Saul Berman, with respect to Jewish law generally, explains that in such cases where “the hands of the court are tied because of evidentiary or procedural principles,” the court is left little option but to “use the threat of divine retribution as a means of inducing the wrongdoer to remedy the injury of his own free choice.”⁴⁷ Divine evidence was also used, as was the case here, when no further witnesses could “be produced by either party,” in which case “the matter was referred, by Hebrew as well as by other laws, to divine decision.”⁴⁸

45. “From early rabbinic times, direct divine intervention in the legal process was rejected. Proof was required to satisfy human cognitive capabilities.” Bernard S. Jackson, “Susanna and the Singular History of Singular Witnesses,” *Acta Juridica* (1977): 39. See M. *Sotah* 9:9; Bernard S. Jackson, “The Concept of Religious Law in Judaism,” in *Aufstieg und Niedergang der römischen Welt*, ed. Hildegard Temporini and Wolfgang Haase (Berlin: de Gruyter, 1979), II.19.1:33–52; and Zeev W. Falk, *Introduction to Jewish Law of the Second Commonwealth* (Leiden: Brill, 1972), 1:113–14.

46. Cohn, “Perjury,” 517.

47. Saul Berman, “Law and Morality,” in Elon, *Principles of Jewish Law*, 155. See also generally Westbrook, “Punishments and Crimes,” 5:546–56. For further information on evidence, see Joseph M. Baumgarten, “On the Testimony of Women in IQSa,” *Journal of Biblical Literature* 76, no. 4 (1957): 266–69; Haim H. Cohn, “The Proof in Biblical and Talmudical Law,” in *La Preuve en Droit*, ed. C. Perelman and P. Foiriers (Bruxelles: Bruylant, 1981), 77–98; Warwick Elwin, *Confession and Absolution in the Bible* (London: Hayes, 1883); Zeev W. Falk, “Forms of Testimony,” *Vetus Testamentum* 11, no. 1 (1961): 88–91; “Oral and Written Testimony,” *Iura* 19 (1968): 113–19; Hugh Goitein, *Primitive Ordeal and Modern Law* (London: Allen and Unwin, 1923; Littleton, CO: Rothman, 1980); Irene Merker Rosenberg and Yale L. Rosenberg, “In the Beginning: The Talmudic Rule Against Self-Incrimination,” *New York University Law Review* 63, no. 15 (1988): 955–1050; Lawrence H. Schiffman, “The Qumran Law of Testimony (Damascus Document),” *Revue de Qumran* 8, no. 4 (1975): 4603–12; and Hendrik van Vliet, *Did Greek Roman-Hellenistic Law Know the Exclusion of the Single Witness?* (Franker, Netherlands: Wever, 1980).

48. Falk, *Hebrew Law in Biblical Times*, 50.

The most common method of drawing divine directions into an ancient legal proceeding was through oaths, curses, and imprecations. As Cohn states, a “widespread method of ascertaining God’s judgment was the curse . . . : he who takes the oath before God brings God’s curse on himself if he perjures himself (compare 2 Chronicles 6:22–23).”⁴⁹ Parties to ancient Near Eastern lawsuits were often required to swear an oath at a temple to confirm the truth of an allegation or to bring a dispute to closure (compare Exodus 22:11).⁵⁰ In the same way, oaths were sworn at Israelite temples in connection with legal proceedings. Indeed, the dedicatory prayer for the Temple of Solomon specifically asked God to hear judicial oaths made in that holy place and to judge disputants: “If . . . the oath come before thine altar in this house: then hear thou in heaven, and do, and judge thy servants, condemning the wicked, to bring his way upon his head [in other words, do to him what he wickedly wanted to happen to the person he had accused]; and justifying the righteous, to give him according to his righteousness” (1 Kings 8:31–32; compare 2 Chronicles 6:23). The temple in the city of Nephi may well have served similar functions, for it was expressly modeled “after the manner of the temple of Solomon” (2 Nephi 5:16).⁵¹ Thus Jacob, as the priest of that temple, could have expected Sherem’s demand that the case be submitted to divine judgment by seeking some manifestation of the will of God concerning the matter.⁵²

When oracular or divine evidence was forthcoming, it was typically viewed as conclusive and irrefutable. Thus there is evidence in Jewish law that when a case was in doubt, one of the parties would be urged to assume divine judgment upon himself “if he wish[ed] to fulfill his duty in the sight of heaven.”⁵³ Indeed, Falk concluded that, “in the absence of proof, the accused had to take an oath or undergo another form of ordeal, and omission to do so implied admission of guilt.”⁵⁴ Thus for several reasons,

49. Cohn, “Ordeal,” 524. Falk, *Hebrew Law in Biblical Times*, 50–51: “Such rulings were obtained after trial by ordeal, by taking the risk that a curse would fall upon the guilty party, by taking an oath or by lot.” See Douglas Stuart, “Curse,” in *Anchor Bible Dictionary*, 1:1218–19.

50. See the discussion in Boecker, *Law and the Administration of Justice*, where one lawsuit begins, “On oath to the king!” (p. 23). Boecker notes that “the oath was the decisive form of proof in the legal assembly” (p. 26) and that in biblical law the oath was taken only by the accused (p. 35–36); see also pp. 108, 129–30, 168–69.

51. For more information on temples, see William A. Ward, “Temples and Sanctuaries: Egypt,” in *Anchor Bible Dictionary*, 6:369–72.

52. “Because, as Creator of the world, God is universal, it is he who judges the nations with justice, requiting every person justly (Gen 15:14; 1 Sam 2:10; Ps 76:89; 110:6).” Temba L. J. Mafico, “Judge, Judging,” in *Anchor Bible Dictionary*, 3:1106.

53. Berman, “Law and Morality,” 155, citing BM 37a.

54. Falk, *Hebrew Law in Biblical Times*, 59.

Sherem's case was the very kind of case that would have demanded that the parties produce some form of divine evidence, and the issues raised by Sherem would have been conclusively established if the Lord had indicated his approval of Sherem's assertions.

The best-known instance of divine judgment in the law of Moses is found in Numbers 5:11–31, outlining a procedure whereby a husband who jealously suspected his wife of committing adultery but had no witnesses to prove it could bring her to the temple and have her undergo what most scholars view as a type of ordeal in which God became the judge.⁵⁵ The priest would write the words of a curse on a scroll and blot the words with bitter water and then give her that bitter water to drink. If she was innocent, the water would have no effect, and the husband was not guilty of raising a false accusation. If she was guilty, this procedure brought a curse upon her and “the Lord doth make [her] thigh to rot, and [her] belly to swell”; she was thereby condemned. A historical precedent for the use of another ordeal in Israelite law can be found when Moses burned and ground up the golden calf, sprinkled the powder on water, and commanded all who worshipped the calf to drink it (Exodus 32:20).

These texts show that seeking oracular signs would have been a likely, if not the only, legal strategy open to Sherem since his suit had quickly arrived at a standoff with his accusations on the one hand and Jacob's denial and rebuttal on the other. With no other witnesses that could be called to testify on the matter, Sherem did perhaps the only thing he could do by moving that the case be submitted to God's judgment when he asked, “Show me a sign” (Jacob 7:13).

Jacob's Compliance

Perhaps reluctantly, Jacob obliged Sherem because he had pressed the issue. As the leading priest and prophet in the city of Nephi, Jacob fashioned and administered the ordeal.⁵⁶ He was careful to declare his own neutrality in the procedure, so that God's judgment (rather than Jacob's) could be manifested, and to call upon God to show specifically that “he has power, both in heaven and in earth; and also, that Christ shall come” (Jacob 7:14). By asking God to show that Christ would come, Jacob made it clear that the explicit aim of the sign was to refute Sherem's third charge, that of false prophecy; at the same time, he also turned his defense into

55. Tikva Frymer-Kensky, “The Strange Case of the Suspected Sotah (Numbers V 11–31),” *Vetus Testamentum* 34, no. 1 (1984): 11–26; and Mafico, “Judge, Judging,” 3:1106.

56. For more information on ordeals in general, see Merlin D. Rehm, “Levites and Priests,” in *Anchor Bible Dictionary*, 4:304.

an accusation and called on God to settle the controversy, a well-attested juridical strategy in the ancient sources.⁵⁷

It is not common, of course, for a prophet to comply with a request for a sign, and Deuteronomy 13:1–5 precluded prophets themselves from using signs to establish their own truthfulness: “If there arise among you a prophet . . . and giveth thee a sign or wonder, and the sign or wonder come to pass, whereof he spake unto thee, saying, Let us go after other gods, . . . thou shalt not hearken unto the words of that prophet.” Signs such as those given by the priests of Pharaoh were still inadequate to prove that people should follow “other gods,” and witchcraft was sternly prohibited: “Thou shalt not suffer a witch to live” (Exodus 22:18). Indeed, Jacob showed his reluctance about invoking any sign-seeking procedure when he expressed concern that he himself might thereby be criticized for tempting or trying God (Jacob 7:14).⁵⁸ It is reasonable to ask, therefore, why Jacob would have continued to pursue a sign under such circumstances. There may be several reasons:

1. Sherem’s request was not a casual one. It was made in the context of a serious accusation, placing Jacob’s official standing and mortal life in jeopardy. Jacob’s defenses had been rejected by Sherem. Although Jacob was able to confound Sherem at first, Sherem responded by testifying that he knew there was no Christ: “I know that there is no Christ, neither has been, nor ever will be” (Jacob 7:9), therefore effectively implying that Jacob was a liar or had borne false witness. Jacob’s character, office, and testimony had been directly attacked. Turning to God in such a case was not a trivial or trifling matter.⁵⁹

2. Jacob was not the one who called for the sign. The rules prohibiting a prophet from coming forward and showing a sign in an effort to lead the children of Israel into apostasy or idolatry assume that the false prophet was the instigator of the oracular demonstration. Divination through the use of magic or oracles was commonly practiced in the ancient world, and thus the law of Moses was wise in warning the Israelites against anyone who came in the name of some other god, offering signs to lead them astray. Jacob, however, could not be accused of such an abuse, for he had not come offering any sign or wonder on his own behalf.

57. Bovati, *Re Establishing Justice*, 58–59.

58. See Köhler, *Hebrew Man*, 139–40, discussing the infrequent role of priests in Hebrew trials and surmising that allowing an oracle to decide the outcome of a case was viewed as “the last resort.”

59. Referring to the story of Achan in Joshua 7, Wilson writes, “This method of determining guilt by oracle is a dangerous one to use in any lineage trial and is usually avoided whenever possible.” Robert R. Wilson, “Israel’s Judicial System in the Preexilic Period,” *Jewish Quarterly Review* 74, no. 2 (1983): 237.

3. Jacob had legal and spiritual support for his compliance. When Jacob reasserted himself as a witness as well as a party, he marshaled the scriptures as evidence in his behalf (Jacob 7:10–11) and cited his personal experiences with the Holy Ghost as further testimony on his side of the case: “It has also been made manifest unto me by the power of the Holy Ghost” (v. 12).

4. Jacob had introduced the factor of divine manifestation. By testifying of that manifestation, Jacob effectively opened a way for Sherem to demand some corroboration of “this power of the Holy Ghost, in the which [Jacob claimed to] know so much” (Jacob 7:13). Having himself introduced the evidence of the Holy Ghost into the contest, Jacob could scarcely object to Sherem’s motion that Jacob now somehow support his introduction of such divine evidence by providing the sign requested by Sherem.

5. Both parties thus found themselves in a bind, each needing support for their accusations against each other. The entire process was at a logical impasse. By accusing Jacob on several counts, particularly of apostasy, Sherem forced Jacob’s hand too. The charges of apostasy and blasphemy placed the very status and reliability of Jacob’s testimony in legal doubt. “Jewish law holds the testimony of an apostate to be unreliable, since he disavows the whole of the Torah and is therefore liable to be untruthful.”⁶⁰ Thus, ascertaining God’s will may have been the only logically consistent way to obtain competent evidence on the issue, for if Sherem assumed that his accusation of apostasy was true, then he had no choice but to object to the admissibility of everything Jacob, as an apostate, would say.

6. Resorting to divine judgment in this situation was not only logical but also natural and suitable. Under ancient Israelite law, divine punishment applied specifically to cases of reproaching the Lord or despising the word of the Lord (Numbers 15:30–31), which would include “public blasphemy” and “offenses [that] are mostly of a religious or sacerdotal

60. Schereschewsky, “Apostate,” 378. For more information on testimony, see James A. Friend, “Do Not Testify according to the Majority” (in Hebrew), *Biblioteka Mezhduimarnanika* 26 (1981): 129–36; Chiam Milikowsky, “Law at Qumran – A Critical Reaction to Lawrence H. Schiffman, *Sectarian Law in the Dead Sea Scrolls: Courts, Testimony, and the Penal Code*,” *Revue de Qumran* 12, no. 2 (1986): 237–49; Jacob Neusner, “By the Testimony of Two Witnesses in the Damascus Document IX, 17–22 and in Pharisaic Rabbinic Law,” *Revue de Qumran* 8, no. 2 (1973): 197–217; Lawrence H. Schiffman, *Sectarian Law in the Dead Sea Scrolls: Courts, Testimony, and the Penal Code* (Leiden: E. J. Brill, 1975); Hendrick van Vliet, *No Single Testimony: A Study on the Adoption of the Law of Deut. 19:15 par. into the New Testament* (Utrecht, Netherlands: Kemink and Zoon, 1958); and Ben Zion Wacholder, “Rules of Testimony in Qumranic Jurisprudence: CD 9 and 11Q [Torah 61],” *Journal of Jewish Studies* 10, no. 2 (1989): 163–74.

[priestly] character.”⁶¹ Accordingly, Jacob expressly named heaven and earth as the ultimate domain of this stage of their trial by ordeal: “If God shall smite thee, let that be a sign unto thee that he has power, both in heaven and in earth; and also, that Christ shall come” (Jacob 7:14).⁶²

In sum, Sherem’s accusations were all of a religious or sacral nature, one of them being a charge of public blasphemy. Thus he could have expected, in addition to any judicial punishment meted out by a court against Jacob, that God himself would additionally and independently take action against Jacob for such transgressions and offenses against God.⁶³ By the same token, Jacob could have been seen as obstructing justice if he had refused to seek God’s will in the matter. As the case unfolded, of course, the requested sign was given; God smote Sherem (Jacob 7:15).

Manifestation of Divine Punishment

As Jacob asked that the will of the Lord be done, “the power of the Lord came upon [Sherem], insomuch that he fell to the earth” (Jacob 7:15). The record does not say exactly what had happened to him. Sherem was not struck dumb; unlike Korihor⁶⁴ he continued to speak. He may have been

61. Cohn, “Divine Punishment,” 523. Numerous provisions under the law of Moses were not enforced by human courts but were left to God, who would “cut off” the offender. Many of these crimes deal with acts committed in private, making their detection, conviction, or punishment quite unfeasible. See, for example, Leviticus 7:25–27; 17:10–14; 23:29–30; 26:14–43; Deuteronomy 27:14–26; 28:15–68. For more information, see George Wesley Buchanan, “The Courts of the Lord,” *Vetus Testamentum* 16, no. 2 (1965): 231–32; Catherine Chin, “Job and the Injustice of God: Implicit Arguments in Job 13:17–14.12,” *Journal for the Study of the Old Testament* 64 (1994): 91–101; P. Dacquino, “La formula ‘Giustizia di Dio’ nel libro dell’ Antico Testamento,” *Rivista Biblica (Italiana)* 17 (1969): 103–19, 365–82; Tikva S. Frymer-Kensky, “The Judicial Ordeal in the Ancient Near East,” 2 vols. (PhD diss., Yale University, 1977); Baruch Halpern, “Yahweh’s Summary Justice in Job XIV 20,” *Vetus Testamentum* 28, no. 4 (1978): 472–74; J. Ruwet, “Misericordia et Iustitia Dei in Vetere Testamento,” *Verbum Domini* 25 (1947): 35–42, 89–98; Peretz Segal, “The Divine Verdict of Leviticus X 3,” *Vetus Testamentum* 39, no. 1 (1989): 91–95; Konrad Stock, “Gott der Richter: Der Gerichtsgedanke als Horizont der Rechtfertigungslehre,” *Evangelische Theologie* 40, no. 3 (1980): 240–56; Gerhard von Rad, *Old Testament Theology*, trans. D. M. G. Stalker, 2 vols. (New York: Harper and Row, 1962–65); and Timothy M. Willis, “Yahweh’s Elders (Isa 24,23): Senior Officials of the Divine Court,” *Zeitschrift für die alttestamentliche Wissenschaft* 103, no. 3 (1991): 375–85.

62. The heavens and the earth were typically called upon by the Hebrew prophets to stand as witnesses against the wicked. See Isaiah 1:2 and Hosea 2:21. The calling of witnesses in “prophetic lawsuits” is discussed in John W. Welch, “Benjamin’s Speech as a Prophetic Lawsuit,” 225–32. In Jacob 7:14, Jacob did not call upon the heavens and the earth as witnesses against Sherem, but he still named these two spheres of being as the venues for the sign to be given to Sherem.

63. Cohn, “Divine Punishment,” 523.

64. For a discussion of the sign seeking and curse of Korihor, together with the use of curses in the ancient Mediterranean to debilitate opponents, especially in a litigation setting, see chapter 9 below on the trial of Korihor.

paralyzed by God to prevent him from going about among the people, or he may have been hit with such divinely inspired astonishment that when he fell he was seriously injured. All we know is that after falling to the ground, Sherem had to be nourished for “many days” (v. 15) but never recovered.

The fact that Sherem survived for several days would have tended to exculpate Jacob from any legal liability for his death and exclude him as the legal cause of Sherem’s demise, for biblical law held that a tort was not the proximate or culpable cause of death if the injured party survived for a day or two after the injury.⁶⁵ For Sherem’s death, God alone was responsible.

Surely, the people in the city of Nephi interpreted the outcome of this case solely as a manifestation of God’s judgment. Sherem himself spoke to the people in terms of the “eternal [i.e., divine] punishment” he would suffer, and he feared that he would have to bear his awful sin forever (Jacob 7:18–19). His concerns and phraseology may have arisen from the words most frequently used in the Torah to describe God’s punishment, unequivocally stating that the victim of divine judgment must “bear his guilt” or “hear his iniquity” (e.g., Leviticus 5:1; 7:18; 17:16; 20:19; 24:15; Numbers 5:31), sometimes coupled with the expression “lest ye die” (Exodus 28:43; Numbers 18:32). Thus Sherem’s fate was directly and solely the result of his unsuccessful submission to a divine ordeal. The judgment of God came in a way that was direct, immediate, and out of the hands of society.⁶⁶

Sherem’s Confession

Shortly before his death, Sherem requested that a public assembly be convened so that he could speak to the people. The people were given one day’s notice (“gather together on the morrow,” Jacob 7:16), and apparently a formal public announcement was sent out to the entire populace. The assembly met so that Sherem could publicly confess his error and retract his previous teachings. Confession marked the end of a *rib*.⁶⁷ As Sherem

65. Compare Exodus 21:20–21 regarding the survival of a slave for a day or two after a beating; all the more would this be the case with the survival of a free citizen. Consider also the concept of causation in Jewish law generally. See David Daube, “Direct and Indirect Causation in Biblical Law,” *Vetus Testamentum* 11, no. 3 (1961): 246–69.

66. “Judicial ordeals are distinguished by two important and interrelated aspects: the god’s decision is manifested immediately, and the result of the trial is not in itself the penalty for the offense. . . . Not only does God decide whether [the party] is guilty, but even the right of punishment is removed from society and placed in the hands of God. . . . The individual . . . puts himself under divine jurisdiction, expecting to be punished by God if the oath-taker is guilty.” Frymer-Kensky, “The Strange Case of the Suspected Sotah,” 24. This represented an acknowledgment of God’s ultimate sovereignty, as the parties (literally) “prayed” for relief; see *Encyclopaedia Judaica*, 3:751; 5:708.

67. Bovati, *Re Establishing Justice*, 94.

was known for his skillful use of words (v. 4), it should not go unnoticed that his statement is elegantly chiasmic⁶⁸ and therefore could have been carefully prepared in advance:

He spake plainly unto them and denied the things which he had taught them, and confessed the Christ, and the power of the Holy Ghost, and the ministering of angels. And he spake plainly unto them, that he had been deceived by the power of the devil. And he spake of hell, and of eternity, and of eternal punishment. And he said,

I *fear* lest I have committed the unpardonable sin,
for I have *lied* unto God;
for I denied *the Christ*,
and said that I believed *the scriptures*;
and *they* truly
testify of *him*.

And because I have thus *lied* unto God
I greatly *fear* lest my case shall be awful; but I confess unto God.
(Jacob 7:17–19)

In this confession, Sherem spoke plainly, clearly retracted his past erroneous assertions, and made an affirmative declaration embracing Jacob's theology. This fits the prototypical form of the ancient confession; the typical options open to an accused in a juridical proceeding who wished to confess his guilt were (1) to make an outright confession; (2) to say, "I have sinned"; or (3) to declare, "You are (in the) right."⁶⁹ Interestingly, Sherem's confession reflects all three of these conventions: He made an explicit confession, saying "I confess unto God" (Jacob 7:19); he openly "denied the things which he had taught" and admitted that he had "lied" and sinned (vv. 17–19); and he "confessed," even echoing Jacob's oath-bound word *truly* (v. 11) in affirming that the scriptures *truly* testify of Christ (v. 19).

68. For an introduction to the main principles of chiasmus in ancient literatures, see John W. Welch, ed., *Chiasmus in Antiquity: Structure, Analyses, Exegesis* (Hildesheim: Gerstenberg, 1981; Provo, UT: Research Press, 1999), 9–15. Inverted, chiasmic structures (which follow a pattern that introduces a set of words in one order and then repeats them in the opposite order) can be particularly effective in legal settings: "[justice [chiasmically] demands, 'as thou hast done, it shall be done unto thee: thy reward shall return upon thine own head' (Obadiah 1:15; see also Jeremiah 17:10). . . . No literary device could better convey the 'measure for measure' balancing concept of talionic justice than does the literary equilibrium of chiasmus." John W. Welch, "Chiasmus in Biblical Law: An Approach to the Structure of Legal Texts in the Bible," in *Jewish Law Association Studies IV: The Boston Conference Volume*, ed. Bernard S. Jackson (Atlanta: Scholars Press, 1990), 10.

69. Bovati, *Re-Establishing Justice*, 94; see generally pp. 94, 103–5.

Although Sherem's confession follows these standard conventions to the hilt, his words seem to have been voluntary and sincere. Unlike Nehor's and Korihor's confessions (Alma 1:15; 30:51–53), Sherem's confession appears to have been entirely self-scripted. Sherem attributed his error to the devil and expressed his deep concerns about the eternal welfare of his soul because he had lied to the God who had already manifested his judgment upon him in the flesh and who would soon judge his "case" after his death.

Besides seeing in this admission of anxiety and guilt a sincere expression of regret, Jacob and the people probably saw Sherem's confession as fulfilling several legal functions. Obtaining a confession was a desired, if not a required, part of ancient Israelite criminal trials.⁷⁰ As early as the case of Achan, Joshua entreated the already-identified culprit to "give glory to the Lord God of Israel, and make confession unto him" (Joshua 7:19). Citing this ancient case as its source, the Babylonian Talmud devotes an entire section⁷¹ to the requirement that all convicts be asked to confess before they are executed (although by this time the element of glorifying God had been dropped): "When he is about ten cubits away from the place of stoning, they say to him, 'Confess,' for such is the practice of all who are executed."⁷² It was considered so necessary to obtain a confession that if the person being executed did not know what or how to confess, the people involved in carrying out the execution had to "instruct him [to say], 'may my death be an expiation for all my sins.'"⁷³

The purpose for such postverdict confessions was not to reverse the conviction. Pardon is not always possible or appropriate.⁷⁴ Sherem's case had already gone to divine judgment before any thought had been given to confession, and thus the procedure was legally, let alone physically, beyond the reach of clemency. Similarly, Achan was still executed, despite his full and honest confession detailing precisely what he had done (Joshua 7:20–21). However, the rabbis understood Achan's confession to have

70. Bovati, *Re-Establishing Justice*, 98–99.

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

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

73. *TB Sanhedrin* 6:3, 43b. For the biblical period, see Falk, *Hebrew Law in Biblical Times*, 52–55. In later Judaism, this confession came to be used as a deathbed prayer of confession, since all mankind are sinners. See Solomon Bennett Freehoff, *The Jewish Prayerbook* (Cincinnati: Commission on Information about Judaism, 1945); and Adolf Büchler, *Studies in Sin and Atonement in the Rabbinic Literature of the First Century* (London: Oxford University Press, 1928). See also *Encyclopaedia Judaica* 1:411 ("A dying man is presumed not to be frivolous on his deathbed, and his admissions are irrevocable").

74. Bovati, *Re-Establishing Justice*, 159.

improved his postmortal condition: "He who confesses has a portion in the world to come."⁷⁵ By confessing, even a convicted murderer hoped that his standing might be better before God. Surely Sherem hoped that his death would constitute an expiation of his sins before God, although he still knew he would die and he still feared the worst, for his sin was not only against man but also against God (Jacob 7:19).

Comporting with the ancient procedure, Sherem's confession both acknowledged his transgressions and extolled the powers of God. To glorify and acknowledge God, Sherem "confessed the Christ and the power of the Holy Ghost, and the ministering of angels" (Jacob 7:17). To admit his transgressions, Sherem "denied the things which he had taught," stated plainly "that he had been deceived by the power of the devil," and spoke of hell and eternal punishment (vv. 17–18).

The latter words in his confession, however, clearly indicate that Sherem feared that he still would have no part in the world to come.⁷⁶ This was because he had "lied unto God," presumably by swearing an oath, invoking the name of God, and averring that he believed the scriptures while at the same time denying the Messiah (Jacob 7:19). Having borne false witness against Jacob, Sherem deserved to die (Deuteronomy 19:16–19);⁷⁷ but having offended God, he knew his eternal case would be just as bad as his earthly situation, if not worse. As Eli commented regarding his sons who had caused the Lord's people to transgress, "If one man sin against another, the judge shall judge him: but if a man sin against the Lord, who shall intreat for him?" (1 Samuel 2:25). Being pardoned for sinning against God, sins that typically involved teaching religious falsehoods or serving false gods (Deuteronomy 20:18; Exodus 23:33), was difficult for the guilty party to count on,⁷⁸ as Sherem greatly feared.

A public confession was especially necessary in Sherem's case because he had proved himself to be a false accuser and, in effect, a false witness. Having initiated a false complaint against Jacob and having testified that he believed in the scriptures while denying the Messiah, Sherem became subject to the provisions of Deuteronomy 19:16–21, which require the

75. TB *Sanhedrin* 6:3, 13b. See Wilson, "Israel's Judicial System," 237–39, for a discussion of Achan's case.

76. The Talmud discusses the cases of several people who were said not to have a share in the world to come because of their wickedness, idolatry, and crimes against God. For example, see TB *Sanhedrin* 89a, 90a, 107b–108a, 111b.

77. While the commandment against bearing false witness (Exodus 20:16) prohibits lying in general, it condemns more specifically those who are false accusers or perjurers in formal legal proceedings (Exodus 23:1–2, 6–7).

78. Bovati, *Re-Establishing Justice*, 130.

unflinching punishment of all who “rise up against any man to testify against him that which is wrong” (v. 16).

Under this provision in the law of Moses, whose stringent enforcement Sherem himself had advocated, it was necessary for the people in a city to “put the evil away” from their midst (Deuteronomy 19:19). To do this, all the men in the community were commanded by law to “hear, and fear, and . . . henceforth commit no more any such evil” (v. 20). Specific examples of this practice are found in several situations involving public offenses. This ancient rule was interpreted in rabbinic times as requiring that “all convictions of perjury must be given wide publicity,”⁷⁹ preferably at a festival assembly,⁸⁰ so that all would know to disregard the words of the false witness. Also, according to later Jewish jurisprudence, “the punishment suffered by the criminal serves both as an expiation for the community at large and as an atonement for the murderer, provided, however, that he repents and makes full confession of his crime.”⁸¹

Sherem’s public confession fulfilled these requirements, manifesting that a similar understanding of the Deuteronomic law of false accusation and its accompanying oral traditions existed among the Nephites. All people in the land of Nephi were commanded to assemble, and there the multitude heard and “witnessed” (Jacob 7:21) what Sherem said. His case was given wide publicity. All the people feared, becoming “astonished exceedingly, insomuch that the power of God came down upon them, and they were overcome that they fell to the earth” (v. 21).

It is not clear, however, whether Sherem’s confession was given at a special assembly or at a regular, calendared festival convocation. The original intent of Deuteronomy 19:20 seems to have called for a special assembly, and indeed it appears that Sherem’s assembly was convened for the sole purpose of hearing his confession. It was called at his instigation, and with great urgency, as Sherem perceived the nearness of his own death (Jacob 7:16). On the other hand, taking into account that Jacob and his people waited many days before taking this public action (v. 15), and

79. Cohn, “Perjury,” 517. “Public announcements must be made for four [malefactors]: a *mesith*, a ‘stubborn and rebellious’ son, a rebellious elder, and witnesses who are proved *zomemin* [conspiring witnesses]; . . . it is written, And those which remain [shall hear and fear]” (TB *Sanhedrin* 89a); see Maimonides, *Yad, Eduh* 18:7.

80. The earliest practice reflected in TB *Sanhedrin* 10:6, 89a, was both to execute the false accuser and to proclaim his guilt on the next festival day following his conviction. On such a day the people of Israel would be gathered together where they could “hear and fear.”

81. Hyman E. Goldin, *Hebrew Criminal Law and Procedure* (New York: Twayne, 1952), 23, citing Maimonides, *Hilkot Testubah* 1:1. See also Westbrook, “Punishments and Crimes,” 5:546–56.

that Sherem's assembly was called in the same manner in which Benjamin convened the festival-like assembly for the coronation of his son Mosiah (compare v. 16 and Mosiah 1:10), and further considering the ritual way in which the people of Jacob seem to have responded to the manifestation of God's power among them (Jacob 7:21; compare Mosiah 4:1–2), Sherem's public assembly appears to be at least similar in some respects to a regular festival appearance of the people before the Lord, as was required three times a year under the Code of the Covenant (Exodus 23:14–17).

In either event, whether it was given at a regular or special convocation, the net effect of Sherem's confession was collective—to reconcile the people with their God: "Peace . . . was restored again among the people" (Jacob 7:23). Indeed, as Bovati has argued,⁸² the overriding purpose of all legal proceedings in ancient Israel was to restore the peace, to reestablish righteousness, "to restore justice."⁸³ Because "justice consists of a relationship between individuals," if a person has upset the peace of such human relationships, "then the inherent aim of a trial" is to "silence a person for good" in order to reestablish "justice itself."⁸⁴

In addition, more was involved in biblical jurisprudence than just *human* interrelations, and thus it is significant that Jacob 7:23 also declares that "the love of God was restored again among the people." By concluding his account with this important declaration, Jacob left with one final indication that the law of Deuteronomy 13 was indeed integral to Sherem's case. The reason given in Deuteronomy for the detection and punishment of false prophets, evil dreamers, and sign givers is this: by such exercises "the Lord your God proveth you, to know whether ye *love the Lord your God* with all your heart and with all your soul" (Deuteronomy 13:3; emphasis added). Having successfully passed through just such a serious test regarding the Nephites' understanding of the requirements of Deuteronomy 13 concerning their duty to go after no other gods, Jacob ends his record quite deliberately by confirming that the people of the city of Nephi were fully reestablished in the love and the blessing of the Lord.

Sherem's Death

In the end, Sherem died. The plain meaning of the English text is that he died without human intervention: "When he had said these words he

82. For the importance of reconciliation as a desired outcome of legal conflict, see Bovati, *Re-Establishing Justice*, 119–66.

83. Bovati, *Re-Establishing Justice*, 342–43.

84. Bovati, *Re-Establishing Justice*, 312–43.

could say no more, and he gave up the ghost" (Jacob 7:20).⁸⁵ While this result may seem extremely harsh to modern readers, it was within normal expectations under ancient legal and religious precepts.⁸⁶ One man who had blasphemed, even though aggravated during an altercation, was publicly executed (Leviticus 24:23);⁸⁷ and another man who had been found gathering sticks on the Sabbath, perhaps to light a fire in worship of a false god, was stoned (Numbers 15:32–36).⁸⁸ Equally, divine judgment had once eradicated the wicked from the host of Israel when the earth opened up and consumed Dathan and Abiram and all their households (Deuteronomy 11:6). Often, "divine punishment is expressed in terms of simple death (e.g., Numbers 18:7) as well as of "bearing one's iniquity."⁸⁹ And thus it was in the case of Sherem, who in the end was called a "wicked man" (Jacob 7:23), a flagrant false accuser who bore the punishment for his wrongdoing.

The modern reader should not overlook the close linguistic connection in Hebrew between the proper noun *Satan* (found as a title for the devil in the Hebrew Bible as early as 1 Chronicles 21:1, with many additional occurrences in the Book of Moses) and the general word *satan*, meaning "adversary," "opponent," "accuser," or "plaintiff" (as in Job 1:6; 2:1). The proper name *Satan* is "commonly derived from the root *satan*, which means 'to oppose, to plot against.' The word thus basically connotes an adversary."⁹⁰ So when Sherem is described by Jacob as having "much power of speech, according to the power of the *devil*" (Jacob 7:4; emphasis added), one may conjecture that Jacob was commenting on or alluding to the power of Sherem's formidable skills *as a plaintiff* (a *satan*), as well as remarking about the source of those powers (Satan). Likewise, when Sherem was "deceived by the power of the devil" (v. 18), he was also partly deceived by his overconfidence in the adversarial process. On the other side of the same coin, Sherem was patently wicked (v. 23). Along with his other faults, he had been shown to be a false or malicious accuser (*ed hamas*) under Deuteronomy 19:21.

85. The possibility need not be entirely precluded, however, that this is a euphemism, meaning that Sherem completed his confession and then was executed.

86. For an even more drastic case, see the account of the sudden deaths of Ananias and Sapphira in Acts 5:1–11, who had lied not only to man but also to God.

87. Weingreen, "The Case of the Blasphemer," 118–23.

88. J. Weingreen, "The Case of the Woodgatherer (Numbers XV 32–36)," *Vetus Testamentum* 16, no. 3 (1966): 361–64.

89. Cohn, "Divine Punishment," 523.

90. Arvind Sharma, "Satan," in *The Encyclopedia of Religion*, ed. Mircea Eliade et al. (New York: Macmillan, 1987), 13:81.

One also assumes that a Nephite listener might have mused at the resemblance between Sherem's name and the Hebrew word *herem*. When a criminal was convicted of a capital offense, he was placed under a ban, a *herem*, meaning "the proscription of a man or thing for immediate or ultimate destruction, whether by way of punishment, . . . to please God, . . . or to prevent mischief."⁹¹ More than being seen as a mere loser or wrongdoer in the modern sense, Sherem had polluted his entire character with his litigious error: As Falk asserts, Israelite thought "did not conceive of crime as a singular phenomenon, but rather as a blemish upon the criminal's character that could be wiped out only by the appropriate sanction."⁹²

Even if Sherem somehow originally thought that his action was well motivated or that he was justified in his conduct, he had miscalculated and misjudged. The ancient Israelite mind included within its concept of sin and defilement many forms of error and misconduct. Thus, mistakenly touching the ark of the covenant was punishable at the hands of heaven, even if the culprit may have had good intentions (1 Samuel 6:6–8; 1 Chronicles 13:9–10). Sherem's offenses were not trifling ones. In modern law, perjury is hardly ever prosecuted, and bringing a frivolous or malicious lawsuit is rarely punished in any way because convictions in such cases are extremely hard to win; but this was not the case under the law of Moses or the laws of the ancient Babylonians. Under the laws of the ancient Near East, the crimes of perjury—namely, the bearing of false witness under oath or the failure to prove one's sworn accusation against another—were apparently vigorously prosecuted, and offenders were seriously punished.⁹³ Section 17 of the laws of Lipit Ishtar provided that "if a man, without grounds (?), accuses another man of a matter of which he has no knowledge, and that man does not prove it, he shall bear the penalty of the matter for which he made the accusation."⁹⁴ Section 3 of the laws of Hammurabi required: "If a man comes forward to give false testimony in a case but cannot bring evidence for his accusation, if that

91. Haim H. Cohn, "herem," in Elon, *Principles of Jewish Law*, 539–40. Proscribed men or things, like Sherem, were wicked, polluted, and taboo.

92. Falk, *Hebrew Law in Biblical Times*, 68.

93. For more information on perjury, see David Daube, *Witnesses in Bible and Talmud* (Oxford: Oxford Centre for Postgraduate Hebrew Studies, 1986); Joseph Plescia, *The Oath and Perjury in Ancient Greece* (Tallahassee: Florida State University Press, 1976); and Richard H. Underwood, "False Witness: A Lawyer's History of the Law of Perjury," *Arizona Journal of International and Comparative Law* 10, no. 2 (1993): 215–52.

94. Roth, *Law Collections*, 29.

case involves a capital offense, that man shall be killed.”⁹⁵ The same type of punishment was required by biblical law and elsewhere in ancient Near Eastern law: “Then shall ye do unto him [the false accuser], as he had thought to have done unto his brother” (Deuteronomy 19:19).⁹⁶ Apparently much the same rule applied to false witnesses as it did to false accusers, so much so that it is sometimes difficult to distinguish between these two closely related offenses. Boecker went so far as to claim that in ancient Near Eastern law “unproven accusations and unproven testimony are . . . regarded as equivalent to false accusations and false witness.”⁹⁷

Cases of false accusation were among the few instances under the law of Moses where talionic justice (measure for measure, “life shall go for life, eye for eye, tooth for tooth, hand for hand, foot for foot”) was mandated and clemency was not to be given: “Thine eye shall not pity” (Deuteronomy 19:21).⁹⁸ In Sherem’s case, he had contravened many important rules: he had accused Jacob of several capital offenses and had failed to prove any of them, he had lied and thus had borne false witness, and he had attempted to lead the people astray under evil influences and false pretenses (Jacob 7:3, 18). Sherem’s death, therefore, suited his crimes and conditions. His is a classic case where talionic justice and divine retribution were appropriately applied under ancient Israelite law.⁹⁹

The Legacy of Sherem’s Case

The outcome of Sherem’s case provided a landmark in Nephite history. It effectively decided that the priests (and not the rulers in the palace

95. Roth, *Law Collections*, 81; for more on capital punishment, see Edwin M. Good, “Capital Punishment and Its Alternatives in Ancient Near Eastern Law,” *Stanford Law Review* 19 (1967): 947–77.

96. Boaz Cohen, “Evidence in Jewish Law,” *Recueils de la Société Jean Bodin* 16 (1965): 108; Cohn, “Perjury,” 516–17; and Falk, *Hebrew Law in Biblical Times*, 73. In Neo-Babylonian law, in Lehi’s day, “the penalty that the false accuser was trying to inflict on the defendant was imposed on the false accuser.” Joachim Oelsner, Bruce Wells, and Cornelia Wunsch, “Neo-Babylonian Period,” in *A History of Ancient Near Eastern Law*, ed. Raymond Westbrook (Leiden: Brill, 2003), 2:965. In later Jewish law, the effect of the biblical law was limited by tendentiously holding that the word *witness* in Deuteronomy 19:16 was a collective term, so that the drastic injunction of Deuteronomy 19:19 was applied “not to one witness but to a group of two or more witnesses” only; see Goldin, *Hebrew Criminal Law*, 220.

97. Boecker, *Law and the Administration of Justice*, 81.

98. Under rabbinic law some sages softened this result, however, by arguing that the death penalty applied only when the perjurer was detected in the narrow window of time between when “a man had been sentenced on the strength of false testimony, but before he was executed” (Cohn, “Perjury,” 517), and by abolishing most forms of identical talionic penalties (Cohn, “Talion,” in Elon, *Principles of Jewish Law*, 525).

99. See generally H. B. Huffmon, “Lex Talionis,” in *Anchor Bible Dictionary*, 4:321–22; also Westbrook, “Punishments and Crimes,” 5:546–56.

or men in the general population) would have power in the city of Nephi to interpret the law; Jacob's prophetic interpretation of the law of Moses prevailed when God rejected Sherem and his legal and religious views. Coming during the crucial early years of the establishment of the Nephite monarchy and religious observances, this case validated the messianic teachings of Lehi, Nephi, and Jacob, and it strengthened the role of the prophets, temple priests, and consecrated teachers in construing the law. The outcome of Sherem's case validated the authority of the prophetic office and tradition, which had in fact come under attack and had been rejected already by some Nephites during Jacob's lifetime (Jacob 6:8).

Furthermore, from a strictly legal point of view, if they had been successful, Sherem's accusations would have had severe consequences and repercussions; his interpretations would have been taken very seriously by all people in the city of Nephi. This case not only reinforced the fact that the crime of falsely accusing any person of a capital offense under the law of Moses exposed oneself to punishment by death (Deuteronomy 19:18-21), but it also opened the way for faithful Nephite leaders to proclaim the gospel of Jesus Christ without the threat of legal complications or contentions.

No wonder Jacob chose to conclude his book with the case of Sherem. This account not only places a seal of divine ratification on Jacob's entire life and ministry but it also introduces the period that follows in Nephite civilization. During the next generation, Enos was able to "declare the word according to the truth which is in Christ . . . in all [his] days" (Enos 1:26), and "there were exceeding many prophets" among them who preached harshly, especially about "the duration of eternity, and the judgments and the power of God, and all these things—stirring them up continually to keep them in the fear of the Lord" (vv. 22-23). Then Jarom, with great continuing patience, was able to be "exceedingly strict" in observing the law of Moses and not blaspheming (Jarom 1:5), and also was able to teach "the law of Moses, and the intent for which it was given, persuading [the people] to look forward unto the Messiah, and believe in him to come" (v. 11). It was the case of Sherem, perhaps more than any other key event in early Nephite law, religion, or society, that had made it clear that the law was to be taken very seriously and, at the same time, had cleared the way for this entrenchment and ascendancy of the revelations, interpretations, and teachings of Lehi, Nephi, and Jacob among the Nephites.

The case of Sherem set the tone of righteous judgment underlying all that follows in the Book of Mormon. Sherem's wrongful accusations set the pattern of unrighteous judgment and abuse of process. On the

one hand, the essence of judging unrighteously is to be found in contentiousness, overconfidence, and showing disrespect for the Lord's anointed high priest. On the other hand, Jacob's success in faithfully and patiently withstanding Sherem's affront would become the model of righteous judgment, allowing justice to be manifest in the overt judgments and revelations of God.