



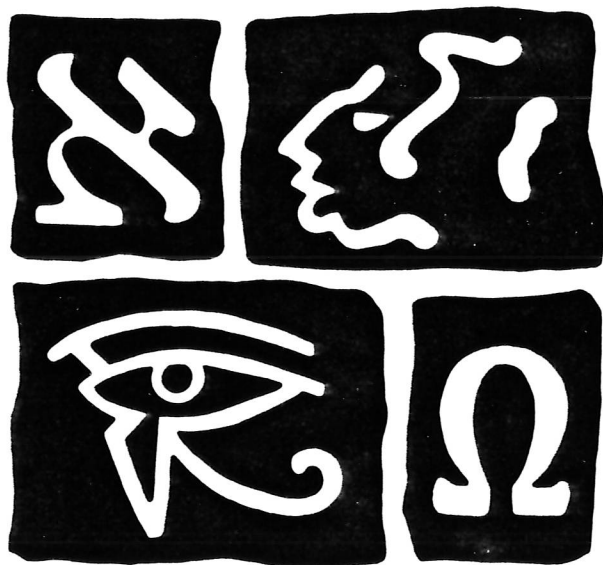
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FOUNDATION FOR  
ANCIENT RESEARCH &  
MORMON STUDIES

# Preliminary Report

PROPHETIC LAWSUITS IN THE HEBREW BIBLE  
AND IN THE BOOK OF MORMON

by  
Richard McGuire

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I. Form-critical Background

Form-criticism or form-critical research identifies and analyzes various types of literary forms or genres in an effort to better understand the content of those forms. In other words, identification of a particular mode of literary expression will help to clarify its intended meaning. Hermann Gunkel, a pioneer in the field of form-criticism in the Old Testament, observed that the Israelite prophets were much more dependent on fixed forms of speech than authors are today.<sup>1</sup> He maintained, accordingly, that form-criticism is a tool which can greatly enhance our understanding of biblical literature by helping the modern reader to see the literature of ancient Israel in its totality and in its functional relationship to the life and history of the Israelite people.<sup>2</sup>

One class of the biblical literary forms clearly recognized and thoroughly analyzed by Old Testament scholars is the group of prophetic speech forms. This group includes prophetic descriptions of the future, songs, poems, promises, threats, rebukes, historical review, parables, etc. This paper deals with one of these prophetic speech forms, the prophetic lawsuit (PL), also referred to as the judgment speech, the covenant lawsuit, or the trial speech. First, criteria will be discussed to determine when one may legitimately assert that a particular passage contains prophetic lawsuit language. All instances of a prophet accusing the people of having broken the law of God or employing legal language may not necessarily amount to a full utilization of the PL speech form. Second, PLs will be examined in the light of their possible settings in the real world or Sitze im Leben. Whenever the prophet can be viewed as delivering a PL, questions arise about what type of conventional trial the prophet might have been using as a pattern as he composed his speech, and about when or where the prophet then delivered his lawsuit message --

did he stand in the place where civil actions were normally heard or elsewhere? The final section of this paper will identify and analyze possible examples of prophetic lawsuits in the Book of Mormon.

Three criteria for any literary form are: 1) a specific content and mood, 2) a characteristic mode of expression, and 3) a particular situation or setting in which this form is appropriate. All three requirements are met by the PL,<sup>3</sup> although as will be pointed out later, the nature of the third in the case of the PL is a matter of some disagreement among the scholars.

## II. Content of the Prophetic Lawsuit

The PL is used by biblical writers to depict a legal dispute or controversy between Yahweh and the disobedient people of Israel. Through the prophet, God indicts his people as if in a legal proceeding. James Limburg confirms this premise by semantic scrutiny of the Hebrew verb "r-i-b", which means "to accuse" or "to have a complaint or dispute." Limburg asserts that whenever "r-i-b" is used in a PL it is bound by syntax to Yahweh. Therefore, the PL in particular is Yahweh's "r-i-b" or accusation against his people.<sup>4</sup>

The prophet's role in the PL is to be Yahweh's advocate. The prophet not only presents the indictment or accusation, and occasionally raises a possible defense, but also delivers the sentence against Israel. Yahweh has the dual role of prosecutor/plaintiff and judge.<sup>5</sup> Kirsten Nielsen explains,

"Yahweh appears as prosecutor [because] it is he who has been wronged. This wrong is understood by the prophets as a breach of the covenant which was originally established between Yahweh and his people. At Sinai, Yahweh promised to be Israel's god, while the people contracted to be his holy, and thus obedient, people. It is apparent in the lawsuit that Israel has abandoned the Covenant, which justifies Yahweh's prosecution of the people."<sup>6</sup>

Yahweh's role as judge must be understood in the same context.

"Yahweh himself is empowered to insure the keeping of the Covenant, and to keep the people up to the standards of its demands. Yahweh's dual roles are a consequence of belief in the Covenant."<sup>7</sup>

The language of the courtroom is thus used by the prophet as a metaphor in describing a conflict between Yahweh and Israel. Just as a modern audience would not miss the point if a contemporary prophet were to stand on the steps of a federal court building, accuse the world of breaking God's laws and subpoena the people to appear before God for trial, so the metaphorical literary power of the PL could hardly have been lost on the ancient Israelites.

Sentence, however, was not always passed immediately in the PL. Depending on the circumstances, Yahweh-as-judge can either pronounce the sentence appropriate to the charges, or by omitting the actual sentence he can express his willingness to suspend judgment or forgive his people, or some part of his people, if only they will repent.

Several scholars have observed how natural it would have been for the Old Testament prophets to use the PL in expressing Yahweh's displeasure and judgment of disobedient Israel. Gunkel says that the PL was a convenient form for the prophets to use and the "the trial was a concrete situation with which everyone was familiar."<sup>8</sup> Julien Harvey maintains that the prophets used the lawsuit to explain the disasters which Israel had experienced in a way that would emphasize the justice and moral correctness of Yahweh's actions.<sup>9</sup> In light of the close connection between religious and secular law which existed in ancient Israel, a lawsuit may have seemed as natural a consequence of a broken covenant with Yahweh as of a broken contract with a neighbor.

### III. Mode or Form of the PL

The form of the PL parallels that of a conventional legal proceeding. Almost every scholar who has written on the subject proposes his or her own unique combination of components for the PL. These "typical forms" range and vary in degree of detail from Boecker's twenty-six elements<sup>10</sup> down to Nielsen's four.<sup>11</sup> The forms with the greater detail reflect the variations among the different uses of the PL in the scriptures. While it is generally conceded that a prophetic speech need not contain every

element in order to qualify as a PL, it seems that a few general criteria, rather than an exhaustive list, would be more useful as a standard form. Therefore, this paper will limit the form of the PL to these four elements: 1) Summons of the witnesses, 2) Accusation, 3) Defense, and 4) Judgment.

First, witnesses are typically summoned to the proceeding. This summons calls either the people<sup>12</sup> or the natural elements (heaven and earth) as witnesses.<sup>13</sup> The reason that heaven and earth would be summoned as witnesses in the trial for breach of sacred covenant is because they were specifically named as witnesses when the covenant was originally made between Yahweh and his people.<sup>14</sup> Although heaven and earth can also be viewed as having been asked by Yahweh to judge in the suit between Yahweh and Israel, this is in all probability merely a literary device, for ultimately Yahweh himself is judge.<sup>15</sup> The witnesses are usually summoned by the distinctive appeal to "hear," "give ear," or "hearken."<sup>16</sup> The summons introduces the complaint and calls for the attention of the witnesses.<sup>17</sup>

The second element of the PL is the accusation. This consists of Yahweh's indictment of Israel and usually contains specific charges delivered by the prophet. Crimes are listed and sins of omission are announced. Often the accusation takes the form of a rhetorical question which can only be answered by an acknowledgment of Israel's guilt.

The third element is the defense for Israel's actions. This is often emphasized by its omission, for in the PL Israel has no defense.<sup>18</sup> Occasionally a defense is offered and immediately refuted, or perhaps the prophet will put a mocking defense into the defendant's mouth.<sup>19</sup>

Finally, the PL closes with the judgment consisting of Yahweh's condemnation of guilty Israel. The judgment will either be an explanation of past or present calamities or a warning or threat of future punishment. The warning is often given to prompt repentance by Israel, and only if Israel persists in its rebelliousness is the punishment ultimately imposed. Like the defense, the judgment is sometimes omitted because Yahweh's

accusation and Israel's lack of defense can only result in a verdict of guilty--announcement of the judgment would then be a superfluous formality or a foregone conclusion.

Illustration of these PL elements can be seen from several examples in the Old Testament. Hosea 4:1-3 contains three of the four elements (the defense is omitted).

Hosea 4: Verse 1--Summons of witnesses and declaration of the Lord's suit against Israel; Verse 2--Accusations against Israel; Verse 3--Sentence or verdict describing Israel's punishment.

Hear the word of the LORD, ye children of Israel: for the LORD hath a controversy [lawsuit] with the inhabitants of the land, because there is no truth, nor mercy, nor knowledge of God in the land. By swearing, and lying, and killing, and stealing, and committing adultery, they break out, and blood toucheth blood. Therefore shall the land mourn, and everyone that dwelleth therein shall languish, with the beasts of the field, and with the fowls of heaven; yea, the fishes of the sea also shall be taken away. (Hos. 4:1-3).

Isaiah 1: Verse 2--Summons to witnesses; Verses 2 and 3--Accusations; Verses 18-20--Conditional judgment.

Hear, O heavens, and give ear, O earth: for the LORD hath spoken, I have nourished and brought up children, and they have rebelled against me. The ox knoweth his owner, and the ass his master's crib: but Israel doth not know, my people doth not consider.

Come now, and let us reason together, saith the LORD: though your sins be as scarlet, they shall be as white as snow; though they be red like crimson, they shall be as wool. If ye be willing and obedient, ye shall eat the good of the land: But if ye refuse and rebel, ye shall be devoured with the sword: for the mouth of the LORD hath spoken it. (Is. 1:2-3, 18-20)

Micah 6: Verses 1 and 2--Summons of witnesses and declaration of the Lord's suit against Israel; Verses 3-8--Accusations including questions inviting a defense.

Hear ye now what the LORD saith; Arise, contend thou before the mountains, and let the hills hear thy voice. Hear ye, O mountains, the LORD's controversy, and ye strong foundations of the earth: for the LORD hath a controversy with his people, and he will be pleased with Israel. O my people, what have I done unto thee? and

wherein have I wearied thee? testify against me. For I brought thee up out of the land of Egypt, and redeemed thee out of the house of servants; and I sent before thee Moses, Aaron, and Miriam. O my people, remember now what Balak king of Moab consulted, and what Balaam the son of Beor answered him from Shittim unto Gilgal; that ye may know the righteousness of the LORD. Wherewith shall I come before the LORD, and bow myself before the high God? shall I come before him with burnt offerings, with calves of a year old? Will the LORD be pleased with thousands of rams, or with ten thousand rivers of oil? shall I give my firstborn for my transgression, the fruit of my body for the sin of my soul? He hath shewed thee, O man, what is good; and what doth the LORD require of thee, but to do justly, and to love mercy, and to walk humbly with thy God? (Mic. 6:1-8)

#### IV. Sitz im Leben or Life Setting of the PL

The Sitz im Leben is the backdrop for the PL. It is the set of social circumstances that inspires, defines and allows the PL. It not only clarifies but also emphasizes the prophet's message. The eulogy has its Sitz im Leben in the funeral, just as the wedding march is appropriate for a marriage ceremony. The form chosen and the external occasion are obviously suited to each other.<sup>20</sup> The precise Sitz im Leben of the PL is a matter of some debate.<sup>21</sup>

Here, it is important to draw a distinction between the actual setting and the formal setting. The actual setting of the PL is the situation in which the prophet actually spoke. If he spoke at the city gates, for example, the actual setting of his PL would be a place where civil lawsuits were in fact frequently conducted in ancient Israel. The formal setting is the social or historical situation after which the PL is patterned. In other words, even if he spoke elsewhere, a prophet might have a proceeding at the gates in mind as he lodged God's complaint and pronounced God's judgment upon the people. Identification of the PL's formal setting is the main point over which scholars will engage in debate. Due to lack of evidence, they usually do not address the issue of a PL's actual setting.

There are three main theories that attempt to define the PL's

formal Sitz im Leben. Most form critics, along with Gunkel, maintain that the PL is an imitation of or direct borrowing from the Israelite secular administration of justice or the trial at the gate. These scholars emphasize the similarity between the PL mode and the procedure for trial at the gate, including the calling of witnesses, accusation, argument, defense, and judgment.

Compared to our modern court system, the Hebrew system was largely spontaneous and unbureaucratic.<sup>22</sup> Israelite trials were generally carried out at the gate of the city. The city gate was the entrance and exit of the Hebrew settlement<sup>23</sup> and it was also the center of Israelite social life.<sup>24</sup> People met and conversed, bought and sold, came and went to work in the field, and settled legal controversies there.<sup>25</sup> "To assemble a forum, the individual sat at the gate and called passers-by. He asked them to sit at the gate. Without necessary cause, no Hebrew would refuse such an invitation."<sup>26</sup> All male citizens were eligible to take part in the trial and verdict, and they felt it a privilege rather than a burden to do so.<sup>27</sup> After the court had been called into session the accusation was voiced, witnesses were heard, a defense was offered, and finally those assembled rendered a verdict and judgment. Interestingly, the witnesses and even the plaintiff often voted as judges in the suit.<sup>28</sup> Gunkel, accordingly, having determined the PL's Sitz im Leben to be the secular law court, sees Yahweh as the plaintiff who summons heaven and earth as judges and witnesses in the lawsuit between him and Israel.<sup>29</sup>

A second form-critical group has suggested that the formal life setting of the PL was a cultic or religious trial rather than the secular court. These scholars emphasize that this is Yahweh's controversy with his people, and that the cause of action for the accusation is the people's breach of the Covenant made at Sinai. The formal setting, accordingly, would be found in the cultic trial conducted as part of the ritual on the Day of Atonement, of which the admonition to obedience and some form of judgment speech were considered basic elements. This view,

however, is the weakest of the three schools of thought, and even some of its initial proponents, as Schoors summarizes, have since abandoned this approach.

Those who subscribe to this second analysis suggest that the prophet, in composing his lawsuit speech, had in mind a religious ceremony rather than a secular or profane judicial procedure, or maybe even intended to deliver his speech at a religious proceeding. The Day of Atonement, it is asserted, was a day of fasting and repentance for transgression -- a day of covenant renewal. The purpose is described in the Bible: "For on this day shall atonement be made for you, to cleanse you; from all your sins shall ye be clean before the Lord."<sup>30</sup> The day included a ritual at the Temple where the high priest would purge the Temple and then purify the people who had repented. This purification involved animal sacrifice, and enumeration of the people's sins by the high priest. The Day of Atonement was a day of unparalleled joy for those who had repented and received a forgiveness of sin.<sup>31</sup> Relating this to the PL, the high priest or religious officiator might be seen as Yahweh's representative to Israel speaking as in yearly ritual of covenant renewal in which the sins of the people are stated. The people are indicted for their transgressions, but upon their recommitment, judgement is stayed and the injunction to keep the Covenant is reissued.<sup>32</sup>

A third group, led by Julien Harvey, argues that the formal setting of the PL is to be found in international law, from which many elements of the Israelite covenant with God has been shown to manifest similarities based on evidence of treaties between Hittite kings and their vassals. The vassal promises obedience in exchange for benevolence and protection from the king. According to George Mendenhall, such treaties consisted of the following nine elements (six textual; three related to enforcement): 1) The preamble identifies the author of the covenant and emphasizes the majesty and power of the king. 2) The historical prologue describes in detail the previous relations between the king and the vassal, emphasizes the benevolent deeds of the king, and recognizes the vassal's duty to

obey the king as a logical consequence. 3) The stipulations detail the obligations of the vassal including trust and loyalty to the king, parity with other vassals, a prohibition against foreign relationships outside the covenant, and payment of tribute. 4) Provision for deposit in the temple and periodic public reading in order to remind the vassal state populace of their obligations to the king. 5) The list of gods as witnesses to the international covenant including the deified heaven and earth. 6) A curse and blessing formula detailing religious sanctions for breach that in effect would consist of the king's military going against the vassal as an agent of the divine curse. 7) The vassal's formal oath of obedience. 8) A solemn ceremony accompanying the oath. 9) A form for initiating procedure against a rebellious vassal.<sup>33</sup>

Viewed as a case of breach of covenant by a vassal, the PL is seen as a curse or a declaration of war by the king (Yahweh) on the unfaithful vassal (Israel), or in the case of less serious offenses, as a warning amounting to an ultimatum.<sup>34</sup> The international law theory also points out that an accusation of this type in international affairs was normally conducted through ambassadors and thereby explains the role of the prophet as a messenger when delivering the PL.<sup>35</sup>

Finally, at least one scholar has proposed the theory that the Sitz im Leben of the PL is neither secular law, the cult, nor international law, but all three--either alternately for any given PL, or even simultaneously with each PL emphasizing different factors.<sup>36</sup> The PL is seen as a combination of a lawsuit, with the form borrowed from the secular court, for breach of a covenant having a cultic origin and an international treaty form. This synthesis is reasonable, since the prophets were free to draw from any or all three of these situations in order to couch their messages in forceful terms. That the PL was in fact not limited to only one of these settings is borne out by the examples of the PL present in the Book of Mormon.

#### V. PLs in the Book of Mormon

Several Book of Mormon accounts contain plausible examples of

the PL, containing the four basic elements of summons, accusation, defense and judgment. In addition, each of the three Sitz im Leben theories is evidenced by at least one account, indicating that the competing Biblical interpretations may all contain valid insights.

1. Samuel the Lamanite. In Helaman, chapter 13, Samuel the Lamanite appears to be delivering a PL against the disobedient Nephites. His demand for repentance is called prophecy (13:3-4) and he declares that God has put it into his heart to say unto this people that "the sword of justice hangeth over this people." (13:5) He uses language which might indicate a summons to witnesses as he commands the people to "hearken unto my words; yea hearken unto the words which the Lord saith." (13:21) Next, the prophet levels his accusations against the people which include their forgetfulness of the Lord and their preoccupation with riches. "They do swell with great pride, unto boasting, and unto great swelling, envyings, strifes, malice, persecutions and murders, and all manner of iniquities," (13:22) and he indicts the people for rejecting, mocking, and slaying the prophets. (13:24). At the beginning of his speech, Samuel had also made it clear that the people had no defense to offer of themselves in the face of their violations of the law: "Yea, heavy destruction awaiteth this people, and it surely cometh unto this people, and nothing can save this people save it be repentance . . . ." (13:6). Finally, the judgment is announced by a declaration that the land has been cursed, that material riches will fail, and that the destruction of the people "is made sure." (13:30-38). Judgment, however, is stayed, as Samuel prays "that the anger of the Lord be turned away" and that the people "would repent and be saved." (13:39).

The formal Sitz im Leben of the Helaman 13 PL thus appears to be the secular law court or trial at the gate. The elements of summons, accusation, defense, judgment, and suspension of judgment reflect the elements of a regular trial procedure at the gate of an Israelite city. Moreover, the actual Sitz im Leben, the place where Samuel actually delivered his message, was as

close as he could come to a place near the entrance to the city. The scripture indicates that Samuel could not enter the city because of the hostile crowd; "therefore he went and got upon the wall thereof." (13:4). Samuel, then, delivered his PL from the wall of the city of Zarahemla, thereby possibly positioning himself as close to the city boundary or gate as circumstances would allow. While we cannot be sure that the Nephites still used procedures at the gate during the reign of judges (on the one hand, Nephi was accused in a public place in Helaman 8:1-6, but on the other hand we know that at least the chief judge sat upon a judgment seat which was located at a particular "place of the judgment seat" which does not appear to have been out-of-doors, Helaman 9:3,7), we can surmise that if they did and with the prophet Samuel physically close to the location of the city gate, the people would have understood the resemblance between Samuel's words and a lawsuit in which they were the accused. The speech, in any event, evoked strong reactions (some affirmative, some negative), indicating that it was taken seriously perhaps due in part to this effective symbolism.

2. Abinadi's Public Messages. Two other Book of Mormon PLs may be contained in Mosiah 11-12. The prophet Abinadi commences delivering his prophetic message by issuing a public rebuke and stating a cause of action brought by God against King Noah and his people. (11:20-25, 12:1-8). Both of his statements were understood by the king as being law-related, for he reacts, "Who is Abinadi, that I and my people should be judged of him, or who is the Lord, that shall bring upon my people such great affliction." (11:27). The people also state to Noah: "What great sins have thy people committed, that we should be condemned of God or judged of this man?" (12:13).

In the first public message, Abinadi establishes that God has witnessed the wickedness of the people: "I have seen their abominations." (11:20). He accuses them of abominations, wickedness, and whoredoms. (11:20). No defense, except repentance, is available, (11:21) and thus the judgment of bondage and affliction, in which God will not hear their cries, is imposed. (11:21-25).

In his second public message, Abinadi concludes his pronouncement by stating, in effect, that the nations of the world will know of and witness the accuseds' abominations, for a record shall be kept "that I may discover the abominations of this people to other nations." (12:8). This may be witness language, but it is only a threat that these witnesses will exist, not a claim that they already do in any legally competent sense. Abinadi accuses the people of having hardened their hearts and committed evil, iniquity and abominations (12:1), and issues repeated judgments of condemnation, humiliation, and destruction (12:2-8).

Although both of these public statements by Abinadi can be understood as simple rebukes or predictions of impending doom, they also contain sufficient elements of a PL to conclude that they could have been patterned after a conventional proceeding in a popular Israelite civic lawsuit. As mentioned above, Abinadi's words were understood by the accuseds as being judgmental, and indeed they were probably delivered in a public place, perhaps at the conventional place for lawsuits in the city of Nephi, and at least where a sizeable group of people were gathered.

### 3. Abinadi's Indictment of Noah and his Priests.

Ironically, Abinadi's second PL against the king and his people quickly devolved into an actual lawsuit with himself in the dock. Abinadi, however, courageously siezes the opportunity to fight back in kind, issuing yet another PL against Noah and his priests. As rulers of God's people, Noah and his priests had the obligations of serving as loyal vassals under God and of seeing that the terms and conditions of the people's covenant with God were faithfully carried out. Abinadi stands as the messenger of God, complaining of the unfaithfulness of these vassals.

Abinadi's prophetic words to Noah and his priests constitute an accusation that they have not discharged their responsibilities: "For if ye understand these things ye have not taught them; therefore, ye have perverted the ways of the Lord." (12:26). Several elements of the basic PL are present here. While there is no record of an initial summons of witnesses,

possibly since the priests themselves were already present and could serve as witnesses of Noah's and each others' wrongs: "Know ye not that I speak the truth?" (12:30), Abinadi concludes his message by calling upon his words to stand "as a testimony" and also upon his blood to stand "as a testimony against you at the last day." (17:10). To this extent, his words are supported by witnesses. This PL continues with Abinadi's accusations in the form of incriminating rhetorical questions. "And again he said unto them: 'If ye teach the law of Moses why do ye not keep it? Why do ye set your hearts upon riches? Why do you commit whoredoms and spend your strength with harlots, yea, and cause this people to commit sin?'" (12:29). An invitation to answer in defense is implicit in the accusing questions, but no defense exists. According to the prophet, the accuseds should "tremble before God." (12:30). The judgment/sentence that immediately follows ("ye shall be smitten," 12:31) is reiterated in more detail later as Abinadi is being put to death by fire:

"And it shall come to pass that ye shall be afflicted with all manner of diseases because of your iniquities. Yea, and ye shall be smitten on every hand, and shall be driven and scattered to and fro, even as a wild flock is driven by wild and ferocious beasts. And in that day ye shall be hunted, and ye shall be taken by the hand of your enemies, and then shall ye suffer, as I suffer, the pains of death by fire." (17:16-18).

The actual Sitz im Leben for Abinadi's PL is clearly an actual trial, thereby providing an appropriate actual setting for a PL. The formal Sitz im Leben, moreover, not only follows the secular court pattern, but also reflects elements from the international law theory. Abinadi was sent by the Lord to give His message of rebuke (11:20) and thus fills the role of the ambassador who brings the accusation of breach of covenant in international law. In addition, several elements of the Hittite treaties are exemplified. While all of the treaty elements would not need to be mentioned in a lawsuit alleging breach of a treaty, references by Abinadi to the following aspects of the covenant treaty might have sharpened the impact of his accusation

that the covenant had not been kept by the accuseds: 1) Preamble: -- There are references to God's power (12:34, 13:34-35, 15:20); 2) Prologue -- There are statements about God's past dealings with man and preparations for mankind's redemption (12:34, 13:33, 15:19); 3) Stipulations -- Abinadi reiterates the Ten Commandments, which were the stipulations attached to the covenant at Sinai (12:35-36, 13:12-24); and 4) Curse and Blessing Formula -- The prophet declares an impending judgment according to good or evil works (15:22-27, 16:10-12).

4. Jacob's Temple Sermon. As seen above, the weakest of the three theories attempting to identify the cultural background for the PL is that which looks to cultic or ritual trial-like language. The speeches of Jacob, and later King Benjamin, delivered at Nephite temples, may satisfy many of the criteria for cultic PLs.

The words of Jacob appear to be a PL against the Nephites in Jacob 2. After the people had gathered at the temple, Jacob may be summoning witnesses, particularly heaven and earth, as he says: "Hearken ye unto me, and know that by the help of the all-powerful Creator of heaven and earth I can tell you concerning your thoughts." (2:5). A series of accusations follows, including "ye are beginning to labor in sin," (2:5), "many of you have begun to search for gold, and for silver, and for all manner of precious ores," (2:12), "ye are lifted up in the pride of your hearts, . . . and ye persecute your brethren because ye suppose that ye are better than they," (2:13), "they seek to excuse themselves in committing whoredoms," (2:23), which Jacob refers to as "a grosser crime," (2:22). The possibility of a defense is raised and rejected in these words: "And now, my brethren, do ye suppose that God justifieth you in this thing? Behold, I say unto you, Nay." (2:14). Indeed, it is clear that Jacob sees God, not himself, as the accuser, an element which has led some to see the PL as necessarily cultic rather than profane: "[H]e condemneth you." (2:14). Jacob then delivers a judgment by saying, "He (God) condemneth you, and if ye persist in these things his judgments must speedily come unto you." (2:14)

Finally, a warning is given that "except ye repent the land is cursed for your sakes; and the Lamanites . . . shall scourge you even unto destruction." (3:3)

The actual Sitz im Leben of this PL appears to be cultic, since the speech was given at the temple (1:17), while the formal Sitz im Leben follows more closely the secular trial format.

5. King Benjamin's Speech. A final Book of Mormon example of the PL (though there may be others) may be found in Mosiah 2-6. This particular PL is less clear than others, partly because the cultic PLs generally are weaker than those identified under the other two theories, but also because Benjamin's speech focuses on many other forms of speech and ritual, including coronation language, feast of tabernacles liturgy, and treaty or covenant-making formulas, leaving less time and attention for any detailed development of a PL. Indeed, due to this fact that Benjamin's speech is not primarily a PL, elements of the PL under all three theories of interpreting the PL can be found in this text.

King Benjamin's address to the people of Zarahemla begins with the summons to "hearken unto me, and open your ears that ye may hear, and your hearts that ye may understand." (2:9). That this language may have served as a summons for the people to serve as witnesses is at least made possible by Benjamin's declaration: "And of all these things which I have spoken, ye yourselves are witnesses this day." (2:14). The speech, however, lacks any formal indictment or accusation, defense or judgment as such; at most, the people are found "no more blameless in the sight of God," (3:22) and recognize that they "shall be judged, every man according to his works." (3:24; see also 2:33-41, 3:18-25, 5:4). The elements of treaty making or covenant renewal are present here, as has recently been demonstrated by Stephen Ricks, but nothing more particular is found here indicating that a lawsuit is being initiated upon some breach of that covenant. The result of Benjamin's words, however is to make the people acutely aware of their transgressions (4:1-2).

Like the PL in Jacob 2, the actual Sitz im Leben of King

Benjamin's PL is cultic since the people have gathered around the temple to listen (2:5-6). To the extent that PL language is present here, the emphasis in its formal elements is on cultic and international treaty law aspects, with the secular trial elements less clearly outlined. There are limited parallels in this PL to the cultic pattern identified by Biblical exegetes -- specifically the Covenant renewal similar to the Israelite Day of Atonement. The Day of Atonement parallels include the temple location, (2:5-6); the use of animal sacrifice (2:3); the awareness of sinfulness, the confession and repentance by the people for their sins along with the attendant remission of sins, forgiveness, and joy (2:25, 4:2-3, 10); and the process of covenant renewal where the people again pledge themselves to obedience and faith in God (5:5-8, 6:1-3). King Benjamin's PL also reflects elements of international law and the PL Sitz im Leben based on the Hittite king/vassal treaties. The speech itself, delivered at the temple, fulfills the treaty requirement of deposit in the temple and a periodic public reading. The Covenant renewal process probably took the form of a formal oath (6:3, 5:5), combined with a solemn ceremony. Language describing the "heavenly King's" benevolence and blessings (2:19-25, 4:9-12, 19-21) to the people parallels the historical prologue of the Hittites. Also, Benjamin's entire PL is replete with what could be considered stipulations (2:22, 32; 3:19; 4:13-16, 26) and curse/blessing formulas (2:22, 31, 33, 36-41; 3:24-27; 4:23, 25).

In conclusion, the PL is Yahweh's lawsuit against His people, delivered through His prophets. The form was familiar to the audience and emphasized the justice of God's judgments. Finally, the Sitz im Leben of the PL seems to lie in several sources, any of which may be present in a given PL and all of which appear to be evidenced in the Book of Mormon.

## FOOTNOTES

This paper was prepared under the supervision and direction of John W. Welch in fulfilling the requirements of Law 696R at the J. Reuben Clark Law School, Provo, Utah, Winter Semester, 1983.

1. J. Hayes, "The History of Form-Critical Study of Prophecy," Society of Biblical Literature Seminar Papers 1 (1973): 61.
2. Ibid.
3. K. Nielsen, Yahweh as Prosecutor and Judge (Sheffield, England: Journal for the Study of the Old Testament, 1978), p. 1 (hereinafter referred to as "Nielsen"). Nielsen's monograph provides an excellent survey of biblical scholarship on the prophetic lawsuit, including a very useful bibliography.
4. J. Limburg, "The Root R-I-B and the Prophetic Lawsuit Speeches," Journal of Biblical Literature 88 (1969): 301.
5. Nielsen, p. 74.
6. Ibid.
7. Ibid.
8. Nielsen, p. 6.
9. Nielsen, p. 18.
10. Cited in A. Schoors, I Am God Your Savior (Lieden, Netherlands: E.J. Brill, 1973), p. 184 (hereinafter referred to as "Schoors").
11. Nielsen, p. 27. His four are (a) depiction of the scene of the trial, (b) accusation, (c) defense, and (d) judgment.
12. Hos. 4:1.
13. Isa. 1:2, Ps. 50:4. Heaven and earth are called as witnesses in Alma 1:15, Mor. 3:9-10, and Ether 8:14.
14. Nielsen, p. 29; see Dt. 4:26, 30:19, 31:28.
15. H. Huffmon, "The Covenant Lawsuit in the Prophets," Journal of Biblical Literature 78 (1959): 293 (hereinafter referred to as "Huffmon").
16. Huffmon, p. 285.

17. Huffman, p. 290.
18. Nielsen, p. 28.
19. Huffman, p. 287.
20. Nielsen, p. 2.
21. Good summaries of the course of this debate are found in Schoors, pp. 185-188, and Nielsen, pp. 5-26.
22. H. Boecker, Law and the Administration of Justice in the Old Testament and Ancient East (Minneapolis: Augsburg Pub., 1980), p. 31 (hereinafter referred to as "Boecker").
23. L. Köhler, Hebrew Man (New York: Abingdon Press, 1956), p. 130.
24. Boecker, p. 31.
25. Ibid.
26. Boecker, p. 33.
27. Boecker, p. 32.
28. Boecker, pp. 34-35.
29. Huffman, p. 290.
30. Lev. 16:30.
31. Encyclopaedia Judaica, s.v. "Day of Atonement," by Jacob Milgrom.
32. Nielsen, pp. 51-52.
33. G. Mendenhall, Law and Covenant in Israel and the Ancient Near East (Pittsburgh: Biblical Colloquium, 1955), pp. 32-35.
34. Schoors, p. 187.
35. Ibid.
36. Nielsen, p. 22.

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- Further bibliography is listed in Kirsten Nielsen's monograph, pp. 93-100.