

Person or Practice?
Judging in James and in Paul

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We are told that they talked, James and Paul. They shared a keen interest in the problem of judgment. The two teachers, living under the shadow of adverse judicial decisions by civil and religious authorities, both theorized judgment as an exclusively divine prerogative. Yet neither hesitated to issue judgments on his own authority. These similarities notwithstanding, James and Paul differed about the manner, the time, and the places of judgment.

A. Material realities beneath the intertextuality

Any comparison of the Pauline and Jacobean teachings on judgment must note at the outset that these two streams of early Christian tradition present themselves in literary sources of different character. Paul's letters, written during his career in the mid 50's, underwent relatively little editorial revision before attaining their canonical form. Thus they may be treated as straightforward expressions of Paul's personal belief; there is no reason not to do so. James's letter, however, likely was produced posthumously. Although it may well include some teachings on judgment that had been expressed by the brother of the Lord during his career, this epistle, in its canonical form, has an additional dimension. It affirms these teachings still to be valid, still living, still endorsed by James—*after* his career has been ended *by* a judgment against them that has resulted in the execution of their proponent. In

effect, the Jacobean teachings about judgment are meant to trump and nullify the very judgment that was supposed to have silenced them.

Therefore the confrontation of Jacobean and Pauline teachings in this chapter must be a careful exploration of intertextuality, rather than a fantasized reconstruction of some personal conversation as it might have transpired on some occasion between two individuals, James and Paul. Yet this necessary orientation toward intertextual references need not exclude material considerations. Indeed, material culture is of the essence for James's argument; and it can be read as a formal system with its own proper idioms and genres.¹

Three sorts of material reality are pertinent in this discussion. First and most obvious, the texts themselves are artifacts that originated in specific historical circumstances. Of the two streams, the Pauline texts are older: they are old enough to have been read by James before he died.² Various dates have been proposed for the posthumous composition of James's letter. With its pointed teachings on judgment and jurisprudence, this letter should be placed historically in the wake of one of the series of traumatic experiences of judgment that befell the Jerusalem paleochurch about mid-century:

¹Material culture, including artifacts and the entire built environment, has a quasi-textual character, so that it can and should be interpreted along with written texts. See Marianne Sawicki, "Spatial Management of Gender and Labor in Greco-Roman Galilee," in Douglas R. Edwards and Thomas McCollough, eds., *Archaeology and the World of Galilee: Texts and Contexts in the Roman and Byzantine Periods* (Atlanta: Scholars Press, 1997), 7-27; and *Crossing Galilee: Architectures of Contact in the Occupied Land of Jesus* (Harrisburg, PA: Trinity Press International, 2000), 81-110.

²The death of James, brother of Jesus, occurred in 59/60 CE, just before the beginning of the term of Albinus as procurator of Judea, according to a reconstruction by Nikos Kokkinos, *The Herodian Dynasty: Origins, Role in Society and Eclipse*, JSPS 30 (Sheffield: Sheffield Academic Press, 1998), 386. The letters of Paul to be discussed here—1 Thes, 1 Cor, Gal, and Rom—are conventionally dated in the 50's CE.

- 36 CE: under Pontius Pilate, the execution of Jesus³;
- 44 CE: under Herod Agrippa I, the execution of James, son of Zebedee and brother of John⁴, and the arrest of Peter;
- 59/60 CE: the execution of James, brother of Jesus⁵, while under investigation by priestly authorities during the interval after the death of Festus before Albinus took over as procurator;
- 70 CE: the destruction of the Temple after the siege of the city.

These events punctuate the deterioration of a tenuous collaborative relationship between Roman-Herodian civil administrators and the Sadducean high priests, especially the aristocratic family of Ananus. The first two executions, by Roman authorities, do away with opponents of the Sadducees and apparently advance the interests of the Sadducean party. But the third execution, that of James the brother of the Lord, is something of a turning point for relations between the Jerusalem aristocracy and the Romans. This execution occurs between procurators: Festus has died and Albinus has not yet assumed control. The stoning of James, considered illegal⁶, leads to a setback for the elite priestly house of Ananus and the

³Whether in reality Jesus had two trials (Lk 22:66-23:12), one trial (Mk 15:1-15), or no trial, crucifixion was undoubtedly a criminal penalty. A judgment rendering Jesus guilty made him liable for this penalty, and he suffered capital punishment. By Kokkinos' reckoning, based upon the terms in office of the Roman officials, Jesus was executed in 36 CE; see *Herodian Dynasty*, 383.

⁴James, son of Zebedee, was beheaded under Herod Agrippa I in 43/44 CE, possibly at the instigation of the high priest Matthias, according to Kokkinos; see *Herodian Dynasty*, 300-01, 383. The beheading of this James is recounted in Acts 12, along with the detainment of Peter.

⁵Although some details vary between the Christian accounts of the death of James (Hegesippus and Eusebius) and that of Josephus (*Antiquities* 20:200-203), the event clearly was an instance of capital punishment by stoning.

⁶Opinions vary on why the stoning was considered illegal. In Josephus' estimation, it was not lawful for Ananus to convene a sanhedrin without the consent of the Roman procurator Albinus. After complaints were lodged both with Albinus and with Herod Agrippa, Albinus threatened to punish Ananus, but Agrippa stepped in and removed him from the office of high priest. However Richard Bauckham finds a different basis for the complaint of illegality: not the judgment itself but the *severity* of the punishment. Pharisees, he argues, may have held that James's crime merited a less brutal form of execution than stoning. See "For What Offense Was James Put to

Sadducean party as a whole. Herod Antipas appeases Albinus by deposing Ananus, son of Ananus, from the office of high priest. The successor apparently is from another lineage. From then on, the indigenous priestly leadership cannot mend the fragile fabric of collaboration with imperial authorities, and revolt is launched in 65 CE.⁷

Each successive calamity would have made it more difficult to advocate a stance of patient hope, and at the same time would have enhanced the attractiveness of apocalyptic alternatives. Although the teachings of James are tenable at any time, internal evidence (to be discussed below) suggests that this letter was composed between the execution of James and the heating up of the war; that is, in the early 60's CE. This document, which can still project a lifestyle of deferred judgment while perceiving that "the judge is at the doors," plausibly comes from the period prior to that which produced the gospel of Mark, with which it in fact shares some apocalyptic language. An origin in the early 60's for the letter of James is merely postulated here and is not essential to support the following arguments. What is materially significant, for now, is to see that the political situation was being contoured by successive waves of judgments adverse to the interests of the paleochurch community that produced the letter of James. This letter speaks from a time when a simplistic apocalypticism like that of Mark or of Paul had not yet won out as the most appropriate way of conceptualizing and responding to that situation.

Death?" in Bruce Chilton and Craig A. Evans, eds., *James the Just and Christian Origins* (Leiden: Brill, 1999): 199-232. If James was found in violation of Deut 13, the issue is whether he enticed people into false worship in a public and open way—as a *maddiah*, in the later terminology—or (much more dangerously) in a secretive and individual way—as a *mesit*. If he was charged with secretive enticement, then special rules of evidence would come into play: the testimony of one witness was sufficient to convict. See Joshua J. Schwartz, *Lod (Lydda), Israel: From its Origins through the Byzantine Period, 5600 B.C.E.–640 C.E.* (Oxford: British Archaeological Reports, 1991), 67; "Peter and Ben Stada in Lydda," in Richard Bauckham, ed., *The Book of Acts in Its Palestinian Setting* (Grand Rapids, MI: Eerdmans, 1995): 341-414.

⁷Kokkinos, *Herodian Dynasty 387-395*, advances the date of the revolt to 65 CE.

A second material dimension of James's text is its embrace of the material culture of Roman-era Palestine, where indigenous Israelite sensibilities were in uneasy contact with the furniture and the built environment of the Hellenistic way of life. James mentions things like mirrors and doors. Such things are embedded in a cultural idiom, and that idiom must be understood in order to appreciate the nuances of argument in James's letter. Paul, by contrast, alludes to cosmic features of the Hellenistic universe, where his discourse is fully at home.

The treatment of material culture in James's text expresses an underlying internal logic, and this logic comprises the third dimension of indigenous material reality that must be noted here: the constructed reality of kinship and caste. Words work together with the built environment to project and recursively maintain the perceived reality of such notions as brotherhood, fatherhood, and membership in Israel. Embedded in such notions are the means of making the determinations which count people in or out of certain significant classes, with certain prerogatives; that is, these notions convey criteria for judgment. But classification was always more than a verbal task. It was enacted also spatially, through ritual: not only the rituals of worship, but those of the everyday choreography of people's comings and goings through their homes, towns, farms, and cities.

These three sorts of material constraint—the deteriorating political situation, the indigenous practices of dwelling choreographically in a distinctively built environment, and the negotiation of kinship and caste—all are determining factors for the meaning of the text at hand.

B. What do doors mean in Jerusalem?

At Jas 5:9 one reads: "Brothers, don't you be grumbling against one another or you might get judged. Look, the judge is standing in front of the doors." This warning is

ominous. But what exactly is the nature of the threat perceived here? Several possibilities present themselves.

(1) Living in an oral-aural culture, this community might be wary of surveillance. Grumbling (*stenazō*) is audible and would attract the attention of anyone who happened to be snooping around. The contents of the grumbling might be turned into charges and testimony in a criminal proceeding, which unfortunately was not an unknown experience for the Jerusalem paleochurch. This interpretation is reinforced a few lines later by Jas 5:12, “But above everything, my brothers, don’t swear by either heaven or earth or any other oath. Make your yes, yes, and your no, no, or you might fall under a judgment.” On this interpretation the “judge at the doors” of v. 9 would be present not physically but virtually through his agent, the informant. This threat would be the first-century equivalent of wire-tapping or bugging the hideout of criminals today. As this analogy emerges, it also becomes clear that this interpretation appears most plausible to readers who watch crime dramas on television. The interpretation rests upon practices that, although they are familiar in the universe of 21st-century television drama, have not been established for first-century Jerusalem.⁸

(2) Perhaps that “judge standing before the doors” is supposed to be imagined as drawing near to the community in time, not space. On this second interpretation, this judge “stands” for or represents the imminence of divine judgment. Thus, an offence of grumbling would be liable to be punished before a brother had time to repent, since the return of the Lord Jesus is expected very soon and he will inflict punishment upon all evildoers. This

⁸But Mishnah Sanhedrin 7:2 permits entrapment by a hidden spy or informant in the case of the crime of enticing people to worship false gods. In his study of ancient Lod, Joshua J. Schwartz finds evidence that this practice was already recognized and sanctioned in the Second Temple era. See *Lod*, 67; see also “Peter and Ben Stada in Lydda.” Enticing people to stray from orthodox belief was most probably the crime for which James was executed.

interpretation is supported by the preceding verse, “Establish your hearts, for the coming of the Lord is at hand.” A reading that transmutes the spatial proximity of the door into a temporal proximity of the Parousia of Jesus is most plausible for someone who already has been persuaded of the correctness of the apocalyptic view of human history. For example, if the letters of Paul are accepted as a canon within the canon of the New Testament, then Paul’s apocalypticism affects the reading of all other scripture. A temporal interpretation of the phrase “standing before the doors” presupposes prior acceptance of an apocalyptic stance like Paul’s; otherwise the phrase has its literal, spatial sense. This observation does not automatically disqualify James’s doorway judge from symbolizing the imminent end of the world, any more than the coincidental resemblance to a TV cliché rules out any possibility that James was talking about a police informant. Yet these first two options appear less likely when their contextual presuppositions are recognized and weighed.

(3) Is the judge at the doors, then, perhaps a literary allusion to familiar imagery in the Hebrew Scriptures? Though the word is “doors,” perhaps it means to refer to the gates of the city. In the ancient Near East, walled cities had massive maze-like gates. In peacetime, people would use these structures as venues for business and communication. Rulers heard pleas and complaints there, and issued their judgments. Although the practice faded after this architectural form was rendered obsolete by advances in siege technology in the ninth century BCE, it left poetic traces in literary references enshrined in the sacred texts of Israel. The association of judgment with doors or gates became a common figure of speech, with no literal significance. This interpretation is reinforced by allusions to evils and judgments associated with doorways in the story of Sodom (Gen 19: 6, 9) or the story of Cain (Gen 4:7 MT, although not LXX), or the story of Passover where blood marks the doorframes of Israelite houses to keep them safe (Ex 12: 23-4). It also resonates with the many doors and

gates in Ezekiel's vision of a new Temple (Ez 40 to 47).⁹ On this reading, the author of James was simply trying to achieve an archaic and lofty literary tone. This reading is most plausible for someone who adopts the stance of exclusive intertextuality, choosing to regard the Bible (or, the Bible plus ancient non-canonical texts) as a self-referential sealed universe of meaning. In that case, the word "doors" refers only to other mentions of doors or gates in other texts. Thus if James and his people happened to use doors in their everyday lives for practical and symbolic purposes (as they did), and if those uses happened to contrast with the ways in which doors function in the Western world today (as they do), these facts would be disregarded as irrelevant to the meaning of this ancient letter, according to this mode of interpretation.

But obviously, such a stance toward intertextuality would be too extreme. It is both possible and desirable to inquire into the meanings of items of first-century Judean material culture, for they form important components of the context in which the documents under consideration achieve their meaning. In fact, there was a specific architecture and a specific posture associated with judges. When judging, they sat on a *bēma* or "judgment seat." Therefore a judge standing at the doors is alarmingly odd. Another such figure may be looming up in the so-called little apocalypse of Mark 13, although Mk 13:29 is not clear about what exactly is "at the doors." It may be "the son of man"—a mysterious figure indeed—or it may be the events of the end of the world. Surely it would be premature to assume at the outset, without further investigation, that the doors in Jas 5:9 are a mere figure of speech

⁹Texts about the Temple, such as Ezekiel's vision or the allusions to its features in Psalm 118, may have been taken up by James's community, enabling them to imagine themselves as being the eschatological Temple. This is the suggestion of Richard Bauckham, who argues on the basis of Hegesippus' account of the death of James that James's offense may have been to violate Deut 13 by identifying Jesus with "the gate of the Lord" in Ps 118:20. Hegesippus uses the term "door of Jesus" (*thura Iēsou*) where the Septuagint has "gate of the Lord" (*pulē tou Kyriou*). See "For What Offense Was James Put to Death?"

indicating the near future, much less that the judge in this verse is equivalent to Jesus *and* to the “son of man” *and* to the Lord God as well. Before deciding about James’s doorway judge, there is work to do.

C. Doors and decisions in Israel

What was a door and what did it mean? Spaces and places in the Land of Israel are tremendously important. Indigenous perceptions of motion and direction easily escape the notice of Western scholars. However, recent anthropological and archaeological study suggests that an indigenous logic of circulation and grounding was the common cultural idiom of Israel.¹⁰ Social interactions classified “by us” as economics, government, kinship, caste, labor, gender, and cult were conducted “by them” in this idiom. Some things were perceived as fluid, others were seen as stabilizing or redirecting, and everything was perceived as moving across the Land in its own appropriate direction. “Purity” meant that things were circulating properly, while “impurity” meant that some corrective was called for.

Locations and motions defined the social world of James and his hearers insofar as they dwelled physically and mentally in Jerusalem. The paradigm case of the perceived interplay of circulation and grounding is the Israelite patriline, stabilized in the house, defined by its doors, through which a bride must enter in each generation, traveling on the right trajectory. This girl’s legitimate birth and the legitimacy of her marriage are required for the continued legitimacy of this patriline. A bride of the wrong sort can ruin a patriline. An analogous perception makes sense of the logic of tithing. Generally speaking, the crop is

¹⁰In contemporary social theory and in empirical investigations of particular societies, ethnocentric bias is held to a minimum by various means, although it cannot be eliminated. This approach is not to be confused with the so-called social-science school of New Testament interpretation, whose methods I have discussed and criticized in *Crossing Galilee*, 201-212, and in “Making Jesus,” in Amy-Jill Levine, ed., *A Feminist Companion to Mark* (Sheffield: Sheffield Academic Press, 2001): 136-170.

perceived to be legitimately available for consumption in the house only after the diversion of portions to priests and the poor, through carefully prescribed sortings of both produce and people. If this tithing goes wrong, then the crop is rendered inedible.

There is one important directional marker in the letter of James: *anōthen*, “from above.” This is the divine direction, indicating an experience of Providence.¹¹ Rain comes from the heavens, on time, and produces the harvest. Wisdom comes from above. Members of James’s community are “born from above.” In James, just as in the Fourth Gospel, this birth overrides one’s natural birth. But as indigenously perceived, birth means entry into a circulation system, that is, into a stream of kinship. One is born a pure Israelite (or a levite, or a priest) if and only if one’s mother as a bride came from the right kind of household and crossed the threshold of one’s father’s house under the right conditions. To be an Israelite (or a levite or a priest) means to hit the ground running along a definite kinship course. Any deviation means loss of “status” –except that there literally is no “status” since everything is constantly in motion here. *Status*, which connotes standing still and permanence, is a Western concept for which there is no ancient Semitic equivalent. The lineage dies unless it is entered by a bride with the proper genealogical trajectory in each generation.

The stakes are very high, because civil and religious privileges as well as access to land, produce, even tithes, all are riding on the paternal lineage. Thus it becomes vitally important to be able to certify the “legitimacy” of lineages, that is, to defend them rhetorically. In the Roman period, Israelite lineage was under severe strain. On one hand, archives for marriage contracts were maintained in Sepphoris, going back for four or even ten

¹¹In Greek neoplatonic thought, “from above” is the direction of *Nous*, “mind.” It is the opposite of *psychē*, the principle of bodily life, rendered rather inaccurately as “soul.” James invokes the terminology of *psychē* without opposing it to *Nous*. His terminology, and the thought behind it, may stem from LXX Deut 6:5, where Hebrew *nephesh* became *psychē*.

generations.¹² These texts defend the legitimacy of the more elite families. However, even village houses featured elaborately engineered doors. These architectural features physically defined and culturally symbolized the boundary between what belonged to the household and what did not. On the other hand, in Roman times many people were losing their houses and therefore losing both the real and the symbolic means of establishing lineage and all the other kinds of proper circulation of goods and services across the Land. Roman cities, roads, aqueducts, and employment opportunities in Galilee-Samaria in Herodian times inflicted severe architectural and geographical traumata upon this indigenous system. Judea, too, was pierced and tapped by alien architecture, the architecture of empire.

James and Jesus assert the Fatherhood of God in the midst of this cultural reality. In their scheme, the kin-group of God, consisting of those born from above, overrides the Israelite caste system, which had been compromised and weakened by Roman-Herodian contact. But the kin-group of God would be imagined in the culturally available terms. It would have doors. The plural of *thurōn* at James 5:9 is suggestive of this. Archaeological remains indicate that house doors in Galilee were engineered with two halves, to lock together or to swing inward to admit people, animals, commodities, and information at the proper time, or to keep them out.

In order to hold and secure those doors, the threshold of a house would be carefully cut from stone, with holes and channels to receive the vertical posts of the doors. This design allowed the doors to lock closed against the sill, or alternately to rise and pivot and slide inward. Therefore the house was not a sealed container, either in perception or in material

¹²See Stuart S. Miller, *Studies in the History and Traditions of Sepphoris* (Leiden: E.J. Brill, 1984), especially chapter 3, "The 'Old' 'archei."

use.¹³ It was rather a living system that let the right things go in and out at the right times. The doors were the means for regulating the household and keeping it “on track.” In this sense, all doors function both as places of experiencing judgment and as means of enacting judgment. Once in a generation, a bride would step across a threshold after much negotiation and deliberation. But every morning the workers and livestock would go out, and every evening they would return. Friends and food and news also crossed the thresholds. The integrity of the house was maintained through many small judgments made at the doors and enforced by the doors.

One may read the design of the Temple in Jerusalem as a special case of an Israelite house. The castes and genders of Israel are defined here, in their mutually constitutive relationships. If James and his circle are to be placed at this Temple, then the function of this architecture must be taken seriously. Herod had grandly enlarged and Disney-ized the Temple compound with the addition of a towering arcade along the southern perimeter. It cast its shadow across the sacred enclosure throughout the day. The Temple’s architecture defines Jews and gentiles. Gentiles are those who may not enter into the outer court, the “court of women.” Israelite men are those who enter and pass through the women to approach the place of slaughter and sacrifice, the “court of Israelites.” Levites and priests may proceed further into the inner spaces, according to their ranks and functions. Once again, what a Western sensibility would call “status” was indigenously perceived and practiced as a pattern of motion. Another material function of the Temple was to slaughter meat. Thus livestock, too, moved through this space in ways that contributed to the definition of the various castes and genders. (Jesus’ objection to aspects of this choreography is what got him into trouble.)

¹³This fact is of the utmost significance for all *figurative* uses of the term *beit*, “house,” in systems of classification. “House” must mean a selective, temporary container.

Now there were many doorways in the Temple. At each of them, discriminations must constantly be made. For example, here comes a man. Is he circumcised? Has he bathed? Is he of levite or priestly caste? Here comes a woman. Is she Jewish? – that is, were her parents Jews and properly married? Today it is not known exactly how these determinations were routinely handled. But there must have been some group with authority to decide such matters, and they would be standing at the doors.

Any figurative or metaphorical use of the notion of doorway, for James's constituency, must be congruent with this experience of the design of the built environment to open, close, and modulate the flow of significant fluid elements, whether they be material or culturally perceived. James famously criticizes the human tongue as a trouble-making organ (3:5-12). The malfunctioning tongue is contrasted with two instances of guidance technology that perform well: the rudder on a sailing ship and the bridle on a horse (3:2-4). Those devices guide by controlling and modulating the tremendous forces of wind and horsepower, respectively. In that sense, then, they are like doors. They channel the flow, resisting it or yielding to it at the right times. But the tongue, which might be expected to perform a similar function, instead lets loose wildfire from hell (3:5b-6). It needs to be tamed, so that it would let out only blessings, not curses. James complains that blessings and curses ought not to come forth from the same mouth, for a spring does not pour out both fresh and salt water, a fig tree does not bear olives, and a grapevine does not yield figs (3:10-12). From there the letter moves into some admonitions about good works coming from inner wisdom and gentleness.

The tongue, then, has been depicted by James as a malfunctioning door in the doorway of the mouth. A person is defiled when the tongue lets the wrong stuff come out. ("It stains the whole body," 3:6.) This is conceptually not too distant from the dominical saying:

“There is nothing outside a person that by going in can defile; but the things that come out are what defile.” (Mark 7:14; cf. Matt 15:10)

As to defilements, the expansions of the words of Jesus in the Synoptics cover some of the same sins that James is concerned about. Compare the lists presented in Mark and Matthew with that of and James:

Mark 7:21-22

evil intentions
 fornication
 theft
 murder
 adultery
 avarice
 wickedness
 deceit
 licentiousness
 envy
 slander
 pride
 folly

Matt 15:20

evil intentions
 murder
 adultery
 fornication
 theft
 false witness
 slander

James 3:13-16

cursing
 bitter envy
 selfish ambition
 boastfulness
 falseness
 disorder
 wickedness of every kind

Such evil behaviors defile by “coming out” of a person’s heart and, often, the mouth. The contrast to notice here is directional. Virtually all other sinful and unclean actions are indigenously described as *wrongful entry*: contagions, mixings, illegitimate marital unions that produce offspring without caste, trespasses of all sorts. Conversely, good and worthy acts are those that involve *proper entrances*: pilgrimage, consumption after tithing, legitimate marriage, lawful marital relations. This way of thinking also may be found in the written records of the deliberations of the early rabbis.

Against that common cultural background, the Jesus and James sayings assert that a new trajectory now overrides that traditional way of reckoning and judging. Wisdom comes

down “from above” and resides in the heart, ex-pressing itself through good words and deeds. One must not overlook the consequences of this for caste and consequently for (what a Western sensibility would term) status. Transposed into the arena of caste and gender, the dominical teaching pronounces the irrelevance of proper marriage. James’s *adelphoi* are all of one lineage: God is their Father. On one hand, this de-legitimizes (in their eyes) the religious and other social privileges of pure Israelite or priestly caste. On the other hand, it removes the disabilities of flawed lineage for those whose mothers were victims of violence by Roman-Herodian troops, or whose maternal grandfathers had simply lost their houses and thus the means to betroth the daughters properly. To paraphrase the words of Mary’s son quoted above: “There is nothing outside a girl that by going in can defile.”

Transposed once more into the architecture of the Temple and its Herodian secular outbuildings, the dominical teaching would undercut the whole point of the Temple’s ritual choreography. But this gives one pause. Could James have been pressing this critique while teaching on the campus of the Temple itself?¹⁴

The teaching of James was a stream of interpretation of Torah whose flow ran counter to the directions approved by Jerusalem authorities. It was perceived to be both transgressive and powerful. It carried people astray, as the ancient accounts attest.

¹⁴Was this perhaps a motive for staying close by the Temple? Exactly *where* in the Temple compound would James and his hearers have positioned themselves? Through which of the many doors had they already passed? Were they eligible to enter where “pure Israelites” go, or were they turned back at the doors on suspicion of defective lineage? Interestingly, according to the ancient reports, James’s enemies attempted to use the very architecture of the Temple itself to kill him, for he was thrown down from the parapet. But this attempt did not succeed; he survived the fall and had to be dispatched by further stoning and a blow from a club. The Temple refused, so to speak, to be either James’s executioner or his door to the next life.

D. Judgment, according to James

If James's teaching was judged by the collaborating authorities to be a tainted and misdirected fluid, his execution was supposed to stanch its flow. Instead, a new and more efficient conduit of delivery was devised for this teaching: the text of the letter of James, coming from Jerusalem "to the twelve tribes in the Dispersion" (Jas 1:1). Before investigating further the dynamics of the dispersion of Torah interpretations from James and from others, it is necessary to probe more thoroughly the specific points of James's teaching.

Three thematic clusters seem especially significant: law, kinship, and judgment.

(1) Law in James means a Torah within the Torah, so to speak. This is the *nomos basilikos* (2:8), also termed the *nomos eleutherias* (2:12). The content of this law is, "You shall love your neighbor as yourself." This rule is quoted from Leviticus 19:18, and it echoes Mark 12:31 and parallels. To characterize this command as *basilikos*, "imperial," in a Jesus context means that it is constitutive of the *basileia tou theou*, the kingdom of God. It is also called *eleutherias*, meaning constitutive of freedom.

This twofold characterization imparts an interesting spin to a well-worn saying. *Basilikos* implies that this law defines the kingdom. Unlike other laws, this law erases distinctions rather than making them. It elevates its own simplicity to a categorical imperative for God's imperial rule: everyone to be treated alike, no distinctions to be made among all the various situations in which people find themselves, the various relationships in which they stand to one another. Moreover, this is a law for doing, not for avoiding or refraining. It does not forbid, but rather commands action. You are to do for the neighbor whatever you would want done for yourself. The epistle adamantly insists that the word [of God?] requires doers, not mere hearers (1:22-26).

The parable of the mirror (1:23-25) suggests that this law is self-evident. What a

man would see in a mirror is his resemblance to every other man. The needs that he knows as his own are the same needs that every other man would have. If he “forgets” to act in response to the needs of others, it is as though he has forgotten what he himself is like, his own nature, the face he was born with. Conversely, anyone who remembers his own needs will at the same time remember and respond to the needs of those who are like himself.¹⁵

The law is also *eleutherias* because of this same simplicity and positive thrust. You are freed from the necessity to make distinctions or to consult those who can do so expertly. You are excused from observing prohibitions, and your creative initiative is called into action.

(2) Affinity among “brothers” and equality of rank are strongly asserted in this letter. This notion supports the *nomos basilikos*, inasmuch as the closeness and sameness of community members is the basis for their knowledge of what they ought to do in any given situation. Knowing one’s own needs, one knows about the needs of a brother.

The abolition of ranking by wealth or caste is an effect of God’s imperial rule. In the kingdom of God, all distinctions among human beings are revoked; this is what kingdom means in this epistle. Conversely, to treat the rich well and the poor badly is the very antithesis of belief in the Lord Jesus Christ, says James (2:1). James excoriates the practice of differential seating in the assembly (2:2-3). To make distinctions between different kinds of people is to become a judge (2:4). To show partiality is to commit sin

¹⁵The masculine gender is used. This parable transposes hearing into seeing. The royal law should be heard and obeyed. To hear and not obey is as “unnatural” as to see and then forget one’s own face and its natural resemblance to all other human faces. In other words, the mirror should make the kingdom law self-evident even to those who fail to get it by hearing.

and break the law – not only the *nomos basilikos* but the detailed Mosaic Law as well (2:9-11). Why? Because even among laws, for James there is no distinction. To break any one law is to break them all, since each particular law is a facet of the *nomos basilikos*. It, conversely, is not a particular law among them, to be distinguished from the particular laws, but rather is their unifying principle.

In early Judaism one's social identity was reckoned first of all through descent. Lineage was more important than wealth or achievement. Significantly, James invokes the common lineage claimed by all Jews when he brings up Abraham (2:23-24). Even more significantly, James adopts the dominical usage and refers to God as Father (1:17, 1:27, 3:9). God "gave us birth by the word of truth" (1:18). Wisdom comes *anōthen*, "from above" (3:15, 17), and good works "are done with gentleness born of wisdom" (3:13). This way of construing divine parenthood is strikingly similar to that of the Fourth Gospel, where one must be "born from above" to enter the kingdom of God (John 3: 3, 7; cf. 3:31, 8:23). For James, God "gave us birth by the word of truth" (1:18). This new birth supercedes one's birth into a particular patriline. Moreover, people lacking the protection of a patriline—orphans and widows—now have a claim to care from all who call God Father (1:27). The Fatherhood of God overrides legitimacy or illegitimacy of birth into a Jewish home. That means, purity of descent becomes obsolete. A pure Israelite bloodline is now religiously irrelevant in the community of James.

Other matters of religious purity are implicitly called into question here as well. One assumes that for the author (or editors?) of this epistle, the detailed dietary laws along with the cultic regulations would be overridden by the one simple kingdom-law, "Love your neighbor as yourself." But this introduces a puzzle: How are we to reconcile the overturning of special status, special classes, and special obligations, on the one

hand, with the so-called compromise attributed to James in Acts 15:19-21, on the other? These seem to come from two different minds. One plausible resolution is that while James abolishes distinctions *within* his community, he enforces a distinction *between* those within his community and those outside it. In other words, we might say, the judge is standing at the doors.

(2) Another nice paradox is brewing around the issue of discernment. James is very clear in his advice that no one should judge. You must not judge a brother, and you must not judge the law (4:11-12). James doesn't even want his people to aspire to be teachers, because of the risk involved (3:1). Yet at the very end of the letter, there is praise for any brother who "brings back" someone who has wandered from the truth (5:18-20). Surely the retrieval of errant brothers is a task that calls for exercise of the critical faculties, one would assume.

This paradox sheds some light on the meaning of judgment for James. Judgment is the opposite of patience, it seems. Judgment does not produce justice: patience produces justice. Or rather, patience waits and gives God time to work. The simile of the farmer illustrates this (5:7-8). He waits for the crop, which has to receive both the early rains and the late rains. The reader remarks that rain comes "from above," like God's word and wisdom in another harvest metaphor at 3:15-18.

Patience holds out against closure, while judgment settles things. But this line of reasoning in 5:7-12 is interrupted briefly by homiletic exhortations to patience, vv.10-11.¹⁶ Examples of patience are proposed: Job and "the prophets who spoke in the name

¹⁶Here is not the place to attempt a thorough analysis of the stages of composition of this letter. Still, it would be difficult not to observe that verses 10 and 11 are an interpolation. Sense is conserved if verse 9 picks up directly into verse 12: "Brothers, do not grumble against one another, so that you may not be judged. See, the judge is standing at the doors. Above all, brothers, do not swear, either by heaven or by earth or by any other oath, but let your 'Yes' be yes

of the Lord,” v. 10. *En tō onomati kyriou* in this context must refer to God, not Jesus. Similarly in v. 11 “the Lord” must be God, for the context is the story of Job. Patience on the part of Job correlates with compassion and mercy on the part of God, who has a plan or *telos*. (The Lord God of this two-verse interpolation stands in contrast with the Lord of 5:8, the Lord of *parousia tou kyriou*, who presumably is the Lord Jesus of 1:1. This opening verse has distinguished between God and Jesus.) The Lord God is here presented as merciful but deliberate, putting that *telos* into motion. The gradual, almost organic enactment of God’s plan is underscored with a homiletical exhortation to prayer after the example of Elijah in 5:17-18. Elijah got God to turn off the rain for several years, but eventually he got God to turn it back on again. These two examples, Elijah and Job, emphasize the merciful and non-final quality of even the most severe divine action. They also suggest that the patience of human beings can affect the mode of divine action. When human beings are patient, God can be merciful. Or it might just as well be said: when human beings are merciful, God can be patient.

James puts a sharp edge on this insight when he advises the brothers:

So speak and so act as those who are to be judged by the law of liberty. For judgment will be without mercy to anyone who has shown no mercy; mercy triumphs over judgment. (2:12-13)

and your ‘No’ be no, so that you may not fall under condemnation.” By the same token, verses 10 and 11 pick up into verse 13: “As an example of suffering and patience, brothers, take the prophets who spoke in the name of the Lord. Indeed we call blessed those who showed endurance. You have heard of the endurance of Job, and you have seen the purpose of the Lord, how the Lord is compassionate and merciful. Is anyone among you suffering? Let him pray. . . .” The problem of the identity of the “the Lord” and “the judge” in this passage, discussed below, is further evidence that its final editing occurred at a later time when these terms had fused with the identity of Jesus.

The law of liberty, as we have seen, is “Love your neighbor as yourself.” We now see that this becomes the law for how all other laws apply. It is the law for laws. It is the principle for deciding whether a transgressor is liable to face the penalties incurred. The logic of this is identical with that of Matthew’s Jesus:

If you forgive others their trespasses, your heavenly Father will also forgive you; but if you do not forgive others, neither will your heavenly Father forgive your trespasses. (Matt 6: 14-15)

These words of Jesus in Matthew follow immediately after “The Lord’s Prayer.” The Father forgives the debts of those who have forgiven their debtors. For both Jesus and James, we might go a step further and say that this reciprocity is constitutive of the meaning of divine Fatherhood itself. The Father *fathers* or begets by imposing the law of the kingdom: “Love your neighbor as yourself.” People who “get it,” people who discount all other inherited or incurred entitlements and obligations, are the people who belong to the patrilineage of God and call God “Father.”

Conversely, one steps out of this lineage whenever he or she “judges” by invoking the rights and duties that arise from any other laws and relationships. Judgments, while correct and realistic, can alienate someone from the Father. Such judgments include: discriminating on the basis of social status (2:2-5), testifying to brothers as they starve and shiver (2:14-16), noticing that others are better off, which leads to ambition and conflict (3:14, 4:1-3), and speaking evil against brothers (4:11).

The neighbor is to be loved, not judged. These are mutually exclusive alternatives for James. The kingdom-law is broken *ipso facto* when you try to use it – or any other

law – as a basis for judgment. You cannot be a doer of the law and a judge at the same time. You cannot judge a child of God while remaining a child of God. James says, “There is one lawgiver and judge” (4:12).

Who is this judge? It cannot be Jesus. This judge must be God, the lawgiver. Jesus has lived and died by the kingdom-law. Jesus has taught this law. But Jesus did not make it up. He too called God “Father.” There is no hint, in the rhetoric of the basic sayings of James, that Jesus is the “one judge” of 4:12.

Nor is Jesus the “judge at the doors” of 5:9. The notion that Jesus is a coming or returning judge is first produced through editorial juxtaposition of an *apocalyptic* Lord Jesus (5:8) with the Lord God of the Prophets (5:10-11). This notion is reinforced when the rhetorical unity of vv. 9 & 12 is split by insertion of the homiletic examples of the prophets and Job, vv. 10-11. The editors who composed this letter for export may have assumed—and meant to teach—that “the judge standing at the doors” (v.9) is identical with the Lord whose Parousia is near (v. 8) and also with the Lord God of the prophets, Elijah, and Job (vv. 10-11, 17-18). Certainly for mature orthodox Christian faith, this is so. Jesus is God, and Jesus will return to judge the living and the dead, as Christians still affirm liturgically in the creed.

But creeds were not at issue yet for the people who had known Jesus before Calvary, people of his own generation. It cannot be assumed that upon hearing mention of “the judge at the doors” they thought immediately of a Jesus who was God and who was coming back. Such an assumption would beg the very questions that lie at the heart of scholarly and religious interest in James: When, how, and whether Jesus was identified with God in the community of James, his brother.

E. Another take on “judgment”

The issue of legitimate interpretation of Torah was widely discussed and debated in intellectual circles in Jerusalem. Evidence of this shows up in the Dead Sea Scrolls, in early rabbinic texts, and in the Fourth Gospel—all reflecting sectarian debates. Against such a background, one sees clearly how Paul’s eschatology foreclosed discussion of certain complex issues: sensationalizing, streamlining, and popularizing for maximum impact on his gentile audiences. One example must suffice to point up the contrast: the narrative of the sabbath healing in John 5. This passage discloses what is likely another Jerusalem-based rhetorical contest over some of the same themes that occupy James. The summary offered here is largely dependent on the work of Carol Selkin.¹⁷

With water as metaphor for the interpretation of Torah, the Fourth Gospel presents Jesus as the *miqueh yisra’el*. Selkin detects many subtle allusions to Jeremiah 17-23 throughout John 5, so that the chapter presents a powerful commentary through a compositional technique known as metalepsis: a kind of literary echoing.¹⁸ Jer 17:21-22 is the prohibition against carrying a burden on the sabbath, and especially against carrying it through the gates of Jerusalem. The Hebrew for burden, *massa*, means sabbath burden in Jer 17 but also means prophecy, the “burden” delivered by the prophet, in Jer 23. This pun allows the text to be turned against the first-century stand-ins for the prophets: the official interpreters of the Law. Thus the stage is set for a story about an illegitimate carrying of interpretation into Jerusalem—a story whose composers were literate in Hebrew.

¹⁷*Exegesis and Identity: The Hermeneutics of Miqwa’ot in the Greco-Roman Period*. Ph.D dissertation supervised by Eric M. Meyers at Duke University, 1993.

¹⁸The Fourth Gospel would be the latest of the texts examined here, since it is conventionally dated at the very end of the first century CE. By that time, although the rhetorical battle over Torah interpretation is still being waged in John 5, the kingdom law emphasized by James is no longer on the agenda. Jesus now is regarded as a judge, but only in matters of interpretation, it seems, and not in matters of sin.

The term *miqveh* also has a double meaning: originally “hope,” as at Jer 17:13, it also comes to designate the ritual bath and specifically, the distinctive architectural form designed for such baths. *Miqva’ot* in first-century Jerusalem¹⁹ were used to restore ritual purity. The details of this practice were matters of sectarian debate, and in fact served to define various sects, as Selkin shows. The pool of water itself became a metaphor for interpretation of Torah: yours is polluted, mine is pure. Yours is drawn or carried or “lifted up”; mine has flowed pristinely down from the divine hand. In the Damascus Covenant, the “well” of Num 21:18 is said to represent the Torah and “those who dig the well” are identified as offering correct interpretation. With these and many other examples, Selkin shows that sectarian differences were negotiated through these metaphors: both in words and, most likely, in rituals of bathing and baptizing.

When the Fourth Gospel associates Jesus with living water, then, this metaphor signals that the issue is correct interpretation of Torah—that is, the very terms at issue in this investigation: judgment and justification. Jesus is said to have or to be this water. He becomes the *miqveh*: both the restorer of proper direction and the hope of Israel. In John 5, the healing cannot occur through the muddied, stirred up water of the pool with five porticoes, possibly alluding to the five Books of Moses. The sick man has lain there for 38 years, the traditional length of time when God did not speak to Moses. Jesus tells him to stand, which was permitted on the sabbath, and to carry his mat, which according to the opponents was forbidden. The story escalates the conflict so that the issue is no longer sabbath observance, but Jesus’ claim that God is his father (Jn 5:17-18).

Jesus then speaks a teaching about his own authority, which has now become the issue. “The Father judges no one but has given all judgment to the Son . . . (A)ny one who

¹⁹Also in Gamla and in areas of Galilee such as Sepphoris and Yodphat where Judeans had settled during the Hasmonean expansion.

hears my word and believes him who sent me has eternal life, and does not come under judgment” (Jn 5:22, 24). There follows the Johannine version of a final judgment by Jesus:

“Very truly, I tell you, the hour is coming, and is now here, when the dead will hear the voice of the Son of God, and those who hear will live. For just as the Father has life in himself, so he has granted the Son also to have life in himself; and he has given him authority to execute judgment, because he is the Son of Man. Do not be astonished at this; for the hour is coming when all who are in their graves will hear his voice and will come out—those who have done good, to the resurrection of life, and those who have done evil, to the resurrection of judgment.” (John 5:25-29).

The evil here is an evil of *misinterpretation*. The opponents are accused of having rejected the testimony of John the Baptist, the evidence of the works done by Jesus, and even the testimony of the Father who not only sent Jesus but also gave the Torah to the opponents.

“You search the scriptures because you think that in them you have eternal life; and it is they that testify on my behalf. Yet you refuse to come to me to have life. I do not accept glory from human beings. But I know that you do not have the love of God in you. I have come in my Father’s name, and you do not accept me; if another comes in his own name, you will accept him. How can you believe when you accept glory from one another and do not seek the glory that comes from the one who alone is God? Do not think that I will accuse you before the Father; your accuser is Moses, on whom you have set your hope. If you believed Moses, you would believe me, for he wrote about me. But if you do

not believe what he wrote, how will you believe what I say?" (John 5:39-47)

In this scenario, Jesus is to be the judge and Moses the prosecutor. One notices that the term "hope" appears here at the end of the chapter. The opponents had placed their hope in Moses, contrary to Jer 17:13 where the Lord God was to be their hope. Their great sin is to have misinterpreted Jesus, failing to see that Jesus has been granted life and authority from God. (Compare Jn 3:17-21 and 8:15-16.)

Clearly, this is a shrill sectarian debate. There is no question of "real" sins like murder, theft, adultery, or the other crimes that concerned James and the Synoptic Jesus. If *misinterpretation* is your only sin, then the "judgment" that is coming to you would, at most, be a logical judgment that you have made a mistake in understanding the texts. Yet we have in John 5:28-29 the threat that "those who have done evil" will be called after death to a resurrection of "condemnation."

Apparently the sects took their interpretive differences with great rhetorical seriousness. What "evil" has been done here? In 6:16, "the Jews" are blamed for persecuting Jesus and in 5:18 for seeking to kill him. But those charges were hardly supported by the narrative, given that in John 2 it was Jesus who started the trouble with his Temple disruption. In John 5, the issue that precipitates this threat of future judgment by Jesus is that of authoritative interpretation of Moses. But the "punishment" envisioned at this last judgment is nothing more dreadful than having everyone know that you were wrong. The hour of this judgment, for John's community, "is coming, and is now here" (5:25, compare 12:31), for Jesus is even now speaking in the words of the text, the words of his Christian representatives. Yet the description of the "coming judgment" in John 5 is spare and intellectual. No tangible punishments or rewards are mentioned. Even though apocalyptic elements are present in the terminology of resurrection and the "Son of Man," both the

vindication and the punishment foreseen are entirely a matter of pronouncement.

Thus the Fourth Gospel illustrates how hard it is, among Jewish Christians, to make a judge out of Jesus. He is master but not magistrate. He teaches, he corrects, he vindicates, but he does not punish.

F. Justified and airborne with Paul

Paul agrees with the author of the Fourth Gospel that the books of Moses cannot be understood apart from the Lord Jesus Christ (2 Cor 3:13-15). The context has now been established in which to understand some basic Pauline theological themes: freedom from the supposedly obsolete Law of Moses; justification by faith; adoption as children of God; and Jesus as “judge,” in the sense that Jesus is criterion and interpretive key for the Torah and its many doorways. It becomes clear that these concerns of Paul’s are variations on themes that also were being mooted about in Jerusalem, in physical and conceptual proximity to the Temple, by constituents of James and of the early Johannine tradition.

From the vantage point of the intellectual (Johannine) and pastoral (Jacobean) discussions underway in the Jerusalem church, the jarring element in Paul’s rendition of these themes would *not* primarily be his outreach beyond Israel to the gentiles. It would not even be Paul’s facile displacement of hope and judgment from God onto the person of Jesus—for John 5 does as much, albeit with extraordinary subtlety. The jarring element would be the loss of the dimension of time from the landscape of salvation. Paul foreshortens or telescopes the common themes. What was represented as a *process* in the everyday practice of merciful forgiveness described by James, as well as in the revisionist debates over the hermeneutics of Torah in John 5, here in Paul will be represented as *instantaneous encounter* with the person of Jesus as risen Christ. Everything happens in a flash:

complete invalidation of Torah at the moment when Jesus dies under the Law (Gal 3:23-27);

sudden justification by a faith springing up fully formed in a burst of insight and intellectual assent (Rom 3:28, tempered by Rom 2:13, and Rom 5:1-2);

adoption by God, pronounced to replace in one stroke the certification of Israelite kinship that takes generations to establish (Gal 3:28-29 and Rom 4:11); and

a surprise return of Jesus to judge all those who are suddenly swept up from or out of the earth to meet the Lord in the air (1 Thes 4:13-17, I Cor 4:5, I Cor 7:29-31).

Paul is in a hurry, and so is his Jesus. The *fait accompli* of justification displaces the patient, painstaking, and perilous chores of interpretive judgment. These variants upon common Christian themes were produced narratively by Paul, through the lens of apocalyptic myth. This narrative maneuver by Paul renders his message quite vivid and compelling for his audience. But this appeal is purchased at the cost of a loss of much of the practical wisdom in the Jerusalem traditions.

James had proposed a careful discipline of seeking justice by *not judging*, that is, by practicing a patient, hopeful forgiveness while maintaining a prudent watch at the “doors.” When the “instant justification” of Paul replaces this discipline, there are drastic consequences both conceptually and in the practice of the Christian way. The notion of “justification” in Paul is surprisingly empty of content. The term simply stands for an enacted state of being right before God. This, obviously, is the state in which you want to be when Jesus comes back as judge, imposing a “judgment” that once again is empty of specific content.

This final judgment, as Paul depicts it, is simply the very appearance of Jesus himself, risen after death. By contrast, the notion of “not-judging” in James is given its content through the kingdom-law, the principle behind all other laws: the command to love your

neighbor as yourself. Living by this law is what gives someone assurance that he or she is within the kinship circle of God, while habitually violating this law is what will exclude someone from that circle. God, the only judge, is the source of this law.

In James there is no notion of “justification” but there is a concrete way to promote justice. This is to be done through patience, that is, through declining to impose judgment. Patience requires time, which is in such short supply in Paul’s estimation. Therefore, Paul’s hope is different from the hope of the Jerusalem community. Paul looks forward to an event of Parousia, a triumphant return of Jesus. Especially in Romans, Paul likes to mention hope as a rhetorical flourish. In Jerusalem, however, Jesus and his fate are “the hope of Israel” in a different and more subtle sense.

And why would that be so? Hope, in fact, is an alternative mode of judgment. Hope does the same cognitive work that is done by judgment, but hope does this work patiently and without closing doors. This cognitive work is to identify evil. Hope, to be hope at all, must contain the notion of a possible future that can and should replace present conditions. Hope therefore is a mode of recognizing what is evil or undesirable in the present. Hope is a mental activity with two hands: one hand grasps the wrongness of a reality, while the other grasps the rightness of a possibility. By contrast, judgment is a mental activity with only one hand, which it must turn either thumbs-up or thumbs-down on the reality in question. In judgment, this reality can be only right or wrong, good or bad. It cannot be remade into a better future.

The contrast between judgment and hopeful patience poses a dilemma for those who read the New Testament as a whole, as an authoritative canon. Should such readers today make of Jesus their *judge* or their *hope*? In its horrible violence, was the crucifixion of Jesus a thumbs-down on the Torah and a thumbs-up to all who leave the Torah behind? If the only way to heaven is the highway of Paul’s apocalyptic imagination., Christians need no longer

concern themselves about the conduct of everyday life and relationships. Alternately, the crucifixion of Jesus may be regarded as the hope of Christians. Hope means to discern the wrongness of Jesus's execution, and the wrongness of violence against Jerusalem in the first century (and New York in the 21st). But hope also means that, in the very same act of discernment, one also awaits and welcomes a new creative initiative from God. In this case, Jesus is the hope of Christians because God does not break covenants. Perhaps the difference between the Jacobean way of hope and the Pauline way of justification is merely one of practicality. If there is time, then the way of hope seems the more viable of the two. Paul made the mistake of assuming that time had run out.