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Self-Help or *Deus ex Machina* in Mark 12.9?

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The conclusion to the parable of the tenants in Mark (12.1b–9) involves the vineyard owner killing the refractory tenants and re-letting his vineyard to others. In legal terms the man employs 'self-help' – the satisfaction of a real or pretended claim without the permission of the defendant or the intervention of a court. Most advocates of a metaphorical approach to the parable (Pesch, Snodgrass, Evans, Hultgren), and some who argue that Jesus spoke in realistic fiction, have argued or assumed that Mark 12.9 is an original part of the parable, believing it to be a 'realistic' element of Mark's story. But an examination of Greek, Roman, Graeco-Egyptian, and biblical legal rulings indicates that resorts to self-help were discouraged and even criminalized in this period. Mark 12.9 is not a realistic component of the parable, but is part of its secondary allegorization.

Opinion on the parable of the tenants (Mark 12.1a–9; *GThom* 65) divides into three main camps.[1] Some, following Adolf Jülicher and W. G. Kümmel, argue

1 Abbreviations of papyri cited: *BGU*: *Ägyptische Urkunden aus den königlichen [staatlichen] Museen zu Berlin, Griechische Urkunden* (4 vols; Berlin: Weidmannsche Buchhandlung, 1895–1912); *CPR*: *Corpus Papyrorum Raineri* (Vienna: Kaiserliche königliche Hof- und Staatsdruckerei, etc., 1895–1991); *MChr*: L. Mitteis and U. Wilcken, *Grundzüge und Chrestomathie der Papyruskunde* II. Band, *Juristischer Teil,* II. Hälfte, *Chrestomathie* (Leipzig/Berlin: B. G. Teubner, 1912); *PCairoZenon*: C. C. Edgar, *Zenon Papyri* (5 vols; Cairo: Imprimerie de l'Institut français d'archéologie orientale, 1925–40); *PColZenon*: W. L. Westermann *et al.*, *Zenon Papyri: Business Papers of the Third Century B.C. dealing with Palestine and Egypt* (Columbia Papyri 3–4; New York: Columbia University, 1934–40); *PEnteuxeis*: O. Guéraud, *ΕΝΤΕΥΞΕΙΣ: Requêtes et plaintes addressées au Roi d'Egypte au IIIe siècle avant J.-C.* (Cairo: Imprimerie de l'Institut français d'archéologie orientale, 1931); *PFlor*: *Papiri greco-egizii pubblicati dalla R. Accademia dei Linzei. Papiri Fiorentini* (3 vols; Milan: U. Hoepli, 1905–15); *PGurob*: J. G. Smyly, ed., *Greek Papyri from Gurob* (Cunningham Memoirs 12; Dublin: Hodges, Figgis & Co., 1921); *PHal*: *Dikaiomata: Auszüge aus alexandrinischen Gesetzen und Verordnungen in einem Papyrus des Philologischen Seminars der Universität Halle* (Berlin, 1913); *PHib*: *The Hibeh Papyri* (2 vols; London: Egypt Exploration Society, 1906–55); *PKöln*: *Kölner Papyri* (7 vols; Köln-Opladen: Westdeutscher, 1976–91); *PLond: Greek Papyri in the British Museum* (7 vols; London: British Museum, 1893–1974); *PMich: Michigan Papyri* (Ann Arbor, etc.: University of Michigan, etc., 1931–); *PMichMchl*: E. M. Michael, 'A Critical Edition of Select Michigan Papyri' (PhD diss., University of Michigan,

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that the parable is so lacking in historical verisimilitude and presupposes for its intelligibility specifically Christian confessions concerning Jesus and beliefs about God's judgment of Israel that it can only have been composed after Jesus' death as an allegory illustrating beliefs of the Jesus movement.[2] A second group of scholars argues that a first-century Judaean or Galilean audience could well have made sense of the parable in Mark 12.1b–9, either as it stands,[3] or by bracketing a few redactional phrases,[4] and without the benefit of the confessions and beliefs of the

1966); *PMur*: Pierre Benoit, ed., *Les grottes de Murabba'ât* (DJD 2; Oxford: Clarendon, 1961); *POxy*: *The Oxyrhynchus Papyri* (London: Egypt Exploration Society, 1898–); *PRossGeorg*: Gregor Zereteli *et al.*, *Papyri russischer und georgischer Sammlungen* (4 vols; Tiflis: Universitätslithographie, 1925–35); *PRyl*: *Catalogue of the Greek Papyri in the John Rylands Library* (4 vols; Manchester: Manchester University. 1911–52); *PSI*: *Papiri greci e latini*. Pubblicazioni della Società italiana per la ricerca dei papiri greci e latini in Egitto (15 vols; Florence: F. Le Monnier, 1912–66); *PSoter*: Sayed Omar, ed., *Das Archiv von Soterichos (P. Soterichos)* (Opladen: Westdeutscher, 1978); *PTebt*: *The Tebtunis Papyri* (4 vols; London: Egypt Exploration Society, 1902–76); *PYadin*: [=*PBabatha*]: N. Lewis, *The Documents from the Bar Kochba Period in the Cave of Letters: Greek Papyri* (Jerusalem: Israel Exploration Society, 1989); *SB*: F. Preisigke *et al.*, *Sammelbuch griechischer Urkunden aus Ägypten* (Strasburg/Wiesbaden: Trubner and Harrassowitz, 1915–).

2 A. Jülicher, *Die Gleichnisreden Jesu* (2. Aufl.; Tübingen: J.C.B. Mohr [Paul Siebeck], 1888–99 [repr. 1910; Darmstadt: Wissenschaftliche Buchgesellschaft, 1963, 1976]), 2:385–406, esp. 402–6; W. G. Kümmel, 'Das Gleichnis von den bösen Weingärtner (Mark 12,1–9)', *Aux sources de la tradition chrétienne* (Bibliothèque théologique; Neuchâtel/Paris: Delachaux and Niestlé, 1950) 120–31. See also A. F. Loisy, *Les évangiles synoptiques* (Ceffonds, Près Montier-en-Der: Chez l'auteur, 1907–8) 2:298–320; E. Haenchen, *Der Weg Jesu: Eine Erklärung des Markus-Evangeliums und der kanonischen Parallelen* (Berlin: Alfred Töpelmann, 1966) 401–5; O. H. Steck, *Israel und das gewaltsame Geschick der Propheten: Untersuchungen zur Überlieferung des deuteronomistischen Geschichtsbildes im Alten Testament, Spätjudentum und Urchristentum* (WMANT 23; Neukirchen-Vluyn: Neukirchener, 1967) 269–73; J. Blank, 'Die Sendung des Sohnes: Zur christologischen Bedeutung des Gleichnisses von den bösen Winzen Mk 12,1–12', *Neues Testament und Kirche: Für Rudolf Schnackenburg zum 60. Geburtstag* (ed. J. Gnilka; Freiburg: Herder, 1974) 11–41; C. E. Carlston, *The Parables of the Triple Tradition* (Philadelphia: Fortress, 1975) 183–5; M. A. Tolbert, *Sowing the Gospel: Mark's World in Literary-Historical Perspective* (Minneapolis: Fortress, 1989) 236–7; U. Mell, *Die 'anderen' Winzer: Eine exegetische Studie zur Vollmacht Jesu Christi nach Markus 11,27—12,34* (WUNT 76; Tübingen: J. C. B. Mohr [Paul Siebeck], 1994) 114–15.

3 R. Pesch, *Das Markusevangelium* (HTKNT 2; Freiburg, Basel and Wien: Herder, 1976–7 [2. Aufl. 1977–80]) 2:213–23 argues that Mark 12.1a–9 is an authentic parable (including vv. 5b, 9), but that 12.10–11 has been added later on the basis of a word play in Hebrew or Aramaic between son (*ben*) and stone (*'eben*). Vv. 1a and 12 are Markan redaction. K. R. Snodgrass, *The Parable of the Wicked Tenants* (WUNT 7; Tübingen: J. C. B. Mohr [Paul Siebeck], 1983) 72–112 is loath to consider even vv. 10–11 secondary, and argues that vv. 1a, 12 accurately reflect the original discursive setting of the parable. He believes that the supposed word play is original.

4 H.-J. Klauck, *Allegorie und Allegorese in synoptischen Gleichnistexten* (NTAbh NF 13; Münster: Aschendorff, 1978) 287–9, 310–11 treats as secondary the allusions to Isa 5.1–7 (Mark 12.1b, 9), 12.5b, ἀγαπητός in v. 6, the phrases δεῦτε ἀποκτείνωμεν αὐτόν (cf. Gen 37.20) in v. 7 and λάβοντες αὐτόν (Gen 37.24) in v. 8, and vv. 10–11, as well as the redactional frame in 12.1a, 12.

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later Jesus movement. This is because the story is said to employ metaphors that would be readily intelligible to Jesus' Jewish audience. This view normally entails the claim that Jesus was speaking self-referentially when he described the activities and fate of the 'beloved son',[5] although a few scholars try to avoid the self-referential implications of the parable altogether,[6] or argue that the 'son' here refers to John the Baptist.[7] On any of these views, however, the parable still offers an allegorical reading of the history of Israel: it expressed God's continuous assertions of sovereignty and his unrelenting efforts to win repentance,[8] or it served as a threat of judgment and destruction,[9] depending on whether the statement about the destruction of the tenants in v. 9 is considered part of the original parable or not.

The third approach follows in the train of C. H. Dodd and Joachim Jeremias, insisting that the parables of Jesus are realistic fictions.[10] This approach tries to

5 Pesch, *Markusevangelium*, 2:222: 'Als ein Gleichnis Jesu ist der Text ein hochbedeutsames Dokument für Jesu Selbst- und Sendungsbewußtwein sowie für Ziel and Anspruch seines Jerusalemer Auftretens, ferner für die Voraussetzungen des im Abendmahlstext (14.22-25) überlieferten Todesverständnisses Jesu. Der in der Parabel greifbare eschatologische Vollmachtsanspruch Jesu ist eine grundlegende Voraussetzung urkirchlicher Christologie.'

6 A. Milavec, 'A Fresh Analysis of the Parable of the Wicked Husbandmen in the Light of Jewish–Christian Dialogue', *Parable and Story in Judaism and Christianity* (ed. C. Thoma and M. Wyschogrod; New York: Paulist, 1989) 101–4 urges that the 'son' was not identified as Jesus by Mark or by Jesus' audience, since the Messiah was never identified as 'heir', and the details of the son's murder do not correspond to the details of Jesus' death at the hands of the Romans outside the walls of Jerusalem. He argues, moreover, that Matthew did not regard Mark's story as allegorical, since he dropped the key phrases ἔσχατον, ἔτι ἕνα εἶχεν and ἀγαπητόν. (Milavec does not notice that Matthew substitutes ὕστερον δὲ ἀπέστειλεν for Mark's ἔσχατον, thus preserving the sense of finality.)

7 A. Gray, 'The Parable of the Wicked Husbandmen', *HibJ* 19 (1920–21) 42–52; M. Lowe, 'From the Parable of the Vineyard to a Pre-Synoptic Source', *NTS* 28 (1982) 257–65; M. Miller, 'Scripture and Parable: A Study of the Function of the Biblical Features in the Parable of the Wicked Husbandmen and Their Place in the History of the Tradition' (PhD diss., Columbia University, 1974) 390–408; D. Stern, 'Jesus' Parables from the Perspective of Rabbinic Literature: The Example of the Wicked Husbandmen', *Parable and Story in Judaism and Christianity*, ed. Thoma and Wyschogrod, 42–80; T. Schmeller, 'Der Erbe des Weinbergs: Zu den Gerichtsgleichnissen Mk 12,1–12 und Jes 5,1–7', *MTZ* 46 (1995) 183–201.

8 Klauck, *Allegorie und Allegorese*, 308–9.

9 Snodgrass, *Wicked Tenants*, 109; A. J. Hultgren, *The Parables of Jesus: A Commentary* (Grand Rapids, MI/Cambridge: Eerdmans, 2000) 361–2.

10 The insistence on realism as a feature of a parable (as opposed to an allegorical narrative) goes back to Jülicher, *Gleichnisreden Jesu*, 1:97: 'The similitude [Gleichnis] guards against all opposition by speaking of what is indubitably true; the parable [Fabel] aspires to overcome resistance by speaking the story so attractively, so warmly and freshly, that the auditor will not be able to think of any objection. It makes the matter seem so probable that the auditor does not ask whether it is true' (my translation). Similarly C. H. Dodd, *The Parables of the Kingdom*, rev. edn (London: James Nisbet & Co., 1961) 5: 'At its simplest the parable is a metaphor or simile drawn from nature or common life, arresting the hearer by its vividness or strangeness, and leaving the mind in sufficient doubt about its precise application to tease

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recover a non-allegorical, realistic story behind Markan redaction or in the *Gospel of Thomas* (*GThom*), a procedure that normally involves stripping away certain details of the parable such as the allusions to Isa 5.1–7 LXX, the awkward summarizing statement in v. 5b, the designation of the 'son' as ἀγαπητός, and part or all of v. 9.

While the conclusions of Jülicher and Kümmel are founded (in part) on the claim that the parable lacks verisimilitude with social and economic conditions of Jewish Palestine and thus distinguishes itself from Jesus' other parables, both the second and the third approaches require verisimilitude. This is obvious, of course, in the case of the third view: it is basic to the approach of Dodd and Jeremias and their successors to reconstruct a story whose details are essentially credible, even if the story concerns a rather singular or shocking event. For on this view the parable gains its effect, first by evoking in the hearer certain expectations or beliefs about the world or cultural scripts, and then by challenging or problematizing those expectations, beliefs, and scripts through its narrative. But it can do this only if the story is told in a generally realistic mode.

But realism is also important to the second, metaphorical, approach. On this view, even though the parable is said to contain elements that have metaphorical valences, and that the act of interpretation amounts to the hearer assembling various metaphorical elements into a coherent picture, a high degree of realism is required in the base or 'host story'. If the 'host story' were to be unrealistic or to contain implausible elements, the picture evoked at the metaphorical level would likewise lack coherence and therefore conviction.

An example of the metaphorical approach is found in Hans-Josef Klauck's treatment of the parable. He rejects the thoroughgoing allegorizing of all of the

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it into active thought.' See also J. Jeremias, *The Parables of Jesus*, rev. edn (based on 8th [1970] German edn; London: SCM/New York: Charles Scribner's Sons, 1972) 11–12; G. V. Jones, *The Art and Truth of the Parables: A Study in Their Literary Form and Modern Interpretation* (London: SPCK, 1964) 112–14; A. N. Wilder, *The Language of the Gospel: Early Christian Rhetoric* (New York: Harper & Row/London: SCM, 1964) 81: '[T]he impact of the parables lay in their immediate, realistic authenticity. In the parable of the lost sheep, the shepherd is an actual shepherd, and not a flashback to God as the shepherd of Israel or to the hoped-for Messiah who will shepherd Israel. To press these images in this way is to pull the stories out of shape and to weaken their thrust.' Similarly, E. Linnemann, *Parables of Jesus: Introduction and Exposition* (London: SPCK, 1975) 3–4 (citing Jülicher's definition); N. Perrin, *Jesus and the Language of the Kingdom: Symbol and Metaphor in New Testament Interpretation* (Philadelphia: Fortress, 1976) 104: 'The parables of Jesus are pictures and stories drawn from *petit-bourgeois* and peasant life in Palestine under the early Roman emperors. They are not myths employing archetypal symbols; they are not fables exploiting the universal features of the human condition; they are not folk tales appealing to the collective experience of a people as a people. They are vivid and concrete pictures and stories drawn from the details of a particular situation at a given time and in a given place'; C. W. Hedrick, *The Parables as Poetic Fictions: The Creative Voice of Jesus* (Peabody, MA: Hendrickson, 1994) 39–56.

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elements of the parable, since this inevitably produces incoherences or aporiae. For example, since the vineyard is ultimately taken away from the tenants, it is difficult to identify it with Israel. And the temptation to equate the slaves with the prophets faces the objection that the mission of the prophets in the Hebrew Bible was not to collect 'fruit', but rather to encourage repentance.[11] But Klauck also rejects the thorough de-allegorizing of the parable. Instead, he insists on the metaphoricity of selected elements of the parable and assembles these into a coherent picture. His principle of selection derives from other elements of the Jesus tradition that appear also to have had metaphorical valences. The figure of the vineyard, although it acquired various metaphorical senses in the Hebrew Bible and in the literature of Second Temple Judaism, has no obvious metaphorical sense in Matthew's parables of the vineyard workers (Matt 20.1–16) or the two sons (Matt 21.28). And if the vineyard is without metaphorical significance, neither does the notion of 'inheritance' (v. 8), which the parable identifies with the vineyard. But the δοῦλοι of the parable in this and other parables, though they do not refer to the prophets, function generally to illustrate the relationship between humans and God. The main figure of the parable must refer to God; and the 'son', though it need not evoke specifically messianic beliefs, 'refers in an indirect fashion to the person and activities of Jesus, just as do the figures of the physician, the bridegroom and the sower'.[12] From this, and from the narrative structure of the parable, it follows that Jesus was conscious that he was in the final stages of his activities and that his (violent) death was near. Thus Klauck concludes:

> in the parable of the wicked vinedressers, Jesus expresses his own fate in an indirect, i.e., parabolic, relation to the kingdom. His death is the unavoidable result of the mission to which he is committed. But his death remains rooted in the will of God, who will bring about his kingdom, even if its envoys are frustrated. Thus the parable decisively makes a claim about God and his continuous claims to sovereignty – a fact that agrees with the formal observation concerning the central role played by the owner at the level of the narrative.[13]

This point, however, can have its effect only if the general narrative structure of the parable exhibits verisimilitude. The metaphorical picture is as it were parasitic on the 'host story', and were the host story to prove incredible, the logic of the metaphorical picture would be contaminated. So Klauck, drawing on Martin

11 Klauck, *Allegorie und Allegorese*, 307: 'Von Jesaja her ist die Identifizierung Israels mit dem unfruchtbaren Weinberg, der zerstört wird, vorgegeben. In der Parabel bleibt der Weinberg erhalten, Israel scheint eher den Part der Pächter zu übernehmen. Auch der Vergleich von Knechten und Propheten ist nicht spannungslos. Die Propheten wollen Gottes Wort zu Gehör bringen und zur Umkehr mahnen, nicht aber Früchte einsammeln, und seien es Früchte der Buße.'

12 Ibid., 308–9, here 309.

13 Ibid., 309.

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Hengel's influential essay on the parable of the tenants and the Zenon papyri,[14] argues that the essential details of the host story are thoroughly credible: it was unexceptional for vineyard owners to lease out (ἐκδιδόναι) their vineyards and become absentees; crop-share leases, implied by Mark's λάβῃ ἀπὸ τῶν καρπῶν τοῦ ἀμπελῶνος (12.2), were one of the usual types of leases; it was not unusual for tenants to resist the extractions of owners; and occasions of physical violence are attested. Hence, '[t]he parable of the vinedressers employs realistic set-scenes on the narrative level. Realism is no more strained and no farther removed than in other parables'.[15]

Other advocates of a metaphorical approach to the parable argue for an even greater degree of metaphoricity. Both Ruldolf Pesch and Klyne Snodgrass argue that the parable began with an allusion to Isa 5.1–7 – a feature which would incline the parable to be understood as a story about God and God's people.[16] The sequence of servants sent and abused would inevitably have been heard as a metaphor for the mistreatment of the prophets by Israel, culminating in the murder of the final eschatological messenger, Jesus. Because both Pesch and Snodgrass believe that Mark 12.9, with its allusion to Isa 5.4, is part of the original parable, both think that the parable functioned as a threat of judgment against those who rejected Jesus (Pesch), specifically the priestly elite (Snodgrass).[17] At the

14 The first efforts to ground details of the story in the historical setting of Jewish Palestine are found in Dodd, *Parables*, 94, who related the conflict in the story to tensions between economically disadvantaged peasants and the Jewish and Roman elite. Hengel's essay ('Das Gleichnis von den bösen Weingärtnern, Mc 12.1–12 im Lichte der Zenonpapyri und der rabbinischen Gleichnisse', *ZNW* 59 [1968] 1–39) provides a detailed analysis of features of Mark's story against the background of agrarian conflict evidenced in the Zenon archive. For a complete inventory of the Zenon archive, see P. W. Pestman, *A Guide to the Zenon Archive* (Papryologica Lugduno-Batava 21; Leiden/New York/København/Köln: E. J. Brill, 1981). Klauck is rightly dubious of the efforts of J. D. M. Derrett ('The Parable of the Wicked Vinedressers', *Law in the New Testament* [London: Darton, Longman & Todd, 1970] 286–312) to root the tenants' claim to the owner's land in the principle of *usucaptio*.

15 Klauck, *Allegorie und Allegorese*, 297.

16 Pesch, *Markusevangelium*, 2:213: 'Es gehört gerade zur Kunst der Erzähler, daß er nicht von Angang an allegorisch erzählt – ἄνθρωπος (V 1b) ist keine Metapher für Gott! –, aber die Deutung der "gehandelten Welt", auf die er mit der Parabel zielt, doch durch deutliche Fingerzeige in Arrangement und Begrifflichkeit erreicht. Die keineswegs nur als LXX-Zitat begreifbare Anspielung auf Jes 5.2, 5 in V 1, die in V 9 durch abermalige Anspielung auf Jes 5.5 ergänzt wird, dürfte ebenso ursprünglicher Fingerzeig sein, wie die (die nach der Regel der Dreizahl) erfolgende dreimalige Sendung eines Knechtes – hierauf allein ist die Revel zu beziehen! – überbietende Sendung vieler anderer Knechte (V 5b), welche erst die Sendung des Sohnes, des Erben, als letzten Boten unumgänglich, plausibel macht.'

17 Ibid., 2:221: 'die Pointe der Parabel ist eine Gerichtsdrohung und damit eine Warnung vor der Ablehnung Jesus als des letzten Boten und seiner besonderen Vollmacht (vgl. 11,27–33)'; similarly, Snodgrass, *Wicked Tenants*, 109: 'The parable is an accusation and a threat against the Jewish leaders, but at the same time it is a veiled claim of Jesus to be the authoritative and

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same time, however, both insist that the host narrative is thoroughly realistic, without any subtraction of elements such as the allusion to Isa 5.1–7 in 12.1, 9, or the awkward phrase in 12.5b, which Klauck had eliminated as redactional.[18] Craig Evans further tries to show that Mark's setting of the parable, which directs it against the priestly elite of Jerusalem, is thoroughly plausible given the fact that ancient lessees were not uniformly 'peasants' but could also be more privileged renters.[19] With this argument, Evans hopes to establish that the hearers of Jesus'

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decisive representative from God.' Similarly, A. Weihs, *Jesus und das Schicksal der Propheten: Das Winzergleichnis (Mk 12,1–12) im Horizont des Markusevangeliums* (Biblisch-Theologische Studien 61; Neukirchen-Vluyn: Neukirchener, 2003) 79–80 n. 220.

18 Pesch, *Markusevangelium*, 2:213–23; Snodgrass, *Wicked Tenants*, 31–40.

19 C. A. Evans, 'God's Vineyard and Its Caretakers', *Jesus and His Contemporaries: Comparative Studies* (AGAJU 25; Leiden/New York/Köln: E. J. Brill, 1995) 384–90; *idem*, 'Are the Wicked Tenant Farmers "Peasants?" Jesus' Parable and Lease Agreements in Antiquity', ibid., 231–50; *idem*, 'Jesus' Parable of the Tenants in Light of Lease Agreements in Antiquity', *JSP* 14 (1996) 73–80. While it may be granted that some lessees were persons of means, this was by no means the rule. There are, moreover, several problems with Evans's use of the evidence: (1) He suggests that the Apollonios son of Apollonios named in *PRyl* 4.583 (170 BCE) is 'quite possibl[y]' the son of Apollonios the *dioiketes* of Ptolemy II Philadelphus mentioned in the Zenon papyri ('God's Vineyard', 384). This is unlikely, since (a) the former Apollonios is designated a 'Persian of the Epigone' (see below, n. 66), and (b) the vineyard in question is only 6 arourae (1.65 ha., 4.1 acres), hardly a large holding. *PRyl* 4.583 is clearly not part of the Zenon archive; (2) Evans cites *PLond* 2.256r (E), which is an order to deliver seed grain to the 'public farmers' (δημόσιοι γεωργοί), but concludes that this designation implies that they are not 'poor peasants'. Evans misunderstands the designation, which is usually collective and refers to peasants who farmed crown land (accounting for about 90 per cent of the land). The document in question is an order to the *sitologos* to dispense a loan of wheat to a group of crown tenants in the amount of 483 artabae (538 bu.) of seed grain. A separate order from a later period written on the same papyrus (*PLond* 2.256r D) provides a breakdown of 807 artabae (= 899.5 bu.) of seed grain loaned to a number of individual crown farmers, which range from 11 to 36 artabae (= 12–40.6 bu.), indicating that individually these are small cultivators. On 'crown farmers' and 'public farmers', see M. I. Rostovtzeff, *A Large Estate in Egypt in the Third Century B.C., a Study in Economic History* (University of Wisconsin Studies in the Social Sciences and History 6; Madison: University of Wisconsin, 1922) 86–7, and J. Rowlandson, 'Freedom and Subordination in Ancient Agriculture: The Case of the *Basilikoi Georgoi* of Ptolemaic Egypt', *History of Political Thought* 6 (1985) 327–47; *idem*, *Landowners and Tenants in Roman Egypt: The Social Relations of Agriculture in the Oxyrhynchite Nome* (Oxford Classical Monographs; Oxford/New York: Clarendon, 1996) 93–5; (3) Finally, Evans interprets the *praxis* clause of *PRyl* 4.582, which in the case of default permits the lessor to attach the property of the lessee, to imply that 'the lessee was a man of some means and not a poor peasant or day-labourer'. Of course, by definition, the lessee was not a 'day labourer'; but the *praxis* clause to which Evans points is a standard execution clause in most leases, and tells us nothing *in itself* about the status of the lessee. Evans also overlooks the fact that even poorer farmers had property – cloaks, household goods, etc. – that could be attached. On the execution clause, see A. B. Berger, *Die Strafklauseln in den Papyrusurkunden: Ein Beitrag zum grako-ägyptischen Obligationenrecht* (Leipzig/Berlin: B. G. Teubner, 1911 [repr. Aalen: Scientia, 1965]), and H. J. Wolff, 'The *Praxis*-Provision in Papyrus Contracts', *TAPA* 72 (1941) 418–38.

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parable could well identify the tenants with the priestly elite, as 'tenants' working in God's possession.[20] Most recently, Arland Hultgren has advocated what I have termed a 'metaphorical approach' to the parable, arguing that the original story encouraged the hearer to identify the owner with God,[21] the slaves with the prophets,[22] the son with Jesus (expressing an implicit Christology), and the new tenants with an imagined new leadership for Israel. Thus the parable is a parable of judgment aimed at the priestly elite and expresses Jesus' own consciousness of his coming death.[23] Nevertheless, Hultgren also insists that the features of the story are not unrealistic and that it is not absurd to think that an owner would send his son when previous envoys had been mistreated, or that the tenants might have believed that they might come into possession of the vineyard by resisting the extractions of the owner, or again that the owner at the end would reassert his claims to the vineyard.[24]

Thus while it is possible to admit that some of the actions described in the 'host story' might be striking or even somewhat unusual – such as tenants killing a legal heir – there must be an isomorphic relationship between the basic claims, assumptions, and narrative line of the host story and the claims and assumptions made at the level of the metaphorical picture. Just as vineyard owners normally let out their properties, expect rent, employ agents, might anticipate resistance, and are entitled to assert their claims by force if necessary and to re-let their properties, so God has a proprietary relationship with Israel, and despite resistance – even violent resistance – it is credible that God would continue to exert claims to sovereignty via agents and a son (Klauck) and even to dispossess with force those who resist his claims and turn his favour to others (Pesch; Snodgrass; Evans; Hultgren).

20 While insisting on the realism of the parable, Evans ('God's Vineyard', 390–7, 405) also cites rabbinic parables in which characters act in 'illogical and unreasonable ways'. This observation cuts against his first point, since the actions of the characters in Mark must be judged either realistic or illogical, but not both.

21 Although Hultgren (*Parables of Jesus*, 357, 361) recognizes that the allusion to Isa 5.2 in Mark 12.1 is Septuagintal, he nonetheless asserts that the parable is based on Isa 5.1–7.

22 Hultgren (*Parables of Jesus*, 361–2) argues, following *GThom*, that the original parable had only two servants (neither killed), followed by the son. 'The popular "rule of three" could have been employed, which would have required the sending of one slave and then two others, followed by the sending of the son (as in Luke), or (more likely) the sending of one slave, then another, followed by the son (as in the *Gospel of Thomas*).'

23 Ibid., 361–2.

24 Ibid., 362–7, following Derrett's ('Wicked Husbandmen') speculation about the tenant's resort to laws of adverse possession.

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1. Mark 12.9 and the original parable

One of the key disagreements among those who maintain the realism of the parable concerns the final sequence of the Markan version, where the owner takes it into his own hands to destroy the first tenants and then to re-let the vineyard to others. Opinion does not divide neatly on this issue, although virtually all advocates of a thoroughly realistic story – Dodd's and Jeremias's approach – exclude either v. 9b (the destruction of the tenants and the re-letting of the vineyard) or the entire rhetorical question and answer (v. 9ab).[25] Those who adhere to a metaphorical interpretation, with the exception of Klauck,[26] include all of v. 9 in the parable.[27]

The issue turns not on Mark's phrase, καὶ δώσει τὸν ἀμπελῶνα ἄλλοις, which is in fact a thoroughly realistic element of the story, though Jülicher thought otherwise.[28] Lease agreements regularly contained a clause permitting the lessor,

25 V. 9b as secondary: Dodd, *Parables*, 96; B. T. D. Smith, *The Parables in the Synoptic Gospels* (Cambridge: Cambridge University, 1937) 224; D. O. Via, *The Parables: Their Literary and Existential Dimension* (Philadelphia: Fortress, 1967) 135; Hengel, 'Das Gleichnis', 7, 18, 31; J. E. Newell and R. R. Newell, 'The Parable of the Wicked Tenants', *NovT* 14 (1972) 236; H. Weder, *Die Gleichnisse Jesu als Metaphern: Traditions- und redaktionsgeschichtliche Analysen und Interpretationen* (FRLANT 120; Göttingen: Vandenhoeck & Ruprecht, 1978) 149; W. R. Herzog, *Parables as Subversive Speech: Jesus as Pedagogue of the Oppressed* (Louisville, KY: Westminster/John Knox, 1994) 100. V. 9 as a whole as secondary: A. T. Cadoux, *The Parables of Jesus: Their Art and Use* (London: James Clark, 1930) 42 (apparently); Jeremias, *Parables*, 74 (but on p. 76 Jeremias speaks as if the 'others' were part of the parable); A. Suhl, *Die Funktion der alttestamentlichen Zitate und Anspielungen im Markusevangelium* (Gütersloh: Gerd Mohn, 1965) 140; T. Schramm, *Der Markus-Stoff bei Lukas: Eine Literarkritische und redaktionsgeschichtliche Untersuchung* (SNTSMS 14; Cambridge: Cambridge University, 1971) 163; J. D. Crossan, *In Parables: The Challenge of the Historical Jesus* (New York: Harper & Row, 1973) 90, 95; B. B. Scott, *Hear Then the Parable: A Commentary on the Parables of Jesus* (Minneapolis: Fortress, 1989) 250–1; J. D. Hester, 'Socio-Rhetorical Criticism and the Parable of the Tenants', *JSNT* 45 (1992) 33, 49.

26 Klauck, *Allegorie und Allegorese*, 288, 308, 309.

27 Those who argue for the presence of v. 9 in the original: Pesch, *Markusevangelium*, 2:214; Snodgrass, *Wicked Tenants*, 87–95; B. H. Young, *Jesus and His Jewish Parables: Rediscovering the Roots of Jesus' Teaching*, in *Jesus and His Jewish Parables* (Theological Inquiries; New York/Mahwah: Paulist, 1988) 282–316 (without any argument); J. R. Donahue, *The Gospel in Parable: Metaphor, Narrative, and Theology in the Synoptic Gospels* (Philadelphia: Fortress, 1988) 53–6; Milavec, 'Fresh Analysis', 106–7; R. D. Aus, *The Wicked Tenants and Gethsemane: Isaiah in the Wicked Tenants Vineyard and Moses and the High Priest in Gethsemane* (University of South Florida International Studies in Formative Judaism and Christianity 4; Atlanta, GA: Scholars, 1996) 5, 7; Hultgren, *Parables of Jesus*, 365.

28 Jülicher, *Gleichnisreden Jesu*, 2:402: 'The man who leases his vineyard to unreliable tenants, without any legal guarantees when he leaves the country, who sacrifices one servant after another to the brutal mistreatment of those good-for-nothings without noticing the futility of his approach, and, when all his servants have been murdered, nevertheless offers his only son when he also possesses the power at the end to dispatch the tenants and the desire to

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in the event of default, to expel (ἐκβάλλειν) the lessee from the object of the lease and to re-let it (μεταμισθοῦν) to others.[29] Rather, the issue has to do with Mark's rhetorical question, τί [οὖν] ποιήσει ὁ κύριος τοῦ ἀμπελῶνος, and the owner's remedy: ἐλεύσεται καὶ ἀπολέσει τοὺς γεωργούς, a remedy which in legal terms is 'self-help' – the satisfaction of a real or pretended claim without the permission of the opponent and without the intervention of a court.[30]

Three arguments have been adduced against the originality of v. 9. The first is form-critical. Ever since Dodd it has been argued that while a parable might end in a question, it was not characteristic for Jesus to answer his own questions.[31] Although Dodd did not document this claim, perhaps he had in mind the fact that Jesus is represented in Matt 21.31, Luke 10.36 and Luke 16.20 as asking questions that are either left unanswered or are answered by an interlocutor. The difficulty with such an argument, however, is that on the one hand it seems precarious to generalize from just three examples, and, on the other, there are counter-examples such as Luke 17.7–10 and 15.4–7, 8–10 which are framed as questions (τίς [ἄνθρωπος/γυνὴ] ἐξ ὑμῶν) that are answered by Jesus.

Of the remaining objections, one has to do with the rhetorical question (12.9a) and the other with the answer (12.9b). Critics since Jeremias have pointed out that the wording of Mark's question bears a striking similarity to the conclusion of

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find yet another set of farmers – this is a vineyard owner who is every bit as unlikely a person as tenants who not only withhold from the owner what belongs to him, but engage in meaningless provocation and calculate the murder of the son without taking the owner himself into account!' (my translation). Similarly, Crossan, *In Parables*, 90.

29 See, e.g., clauses permitting expulsion (ἐκβάλλειν) and re-leasing (μεταμισθοῦν): *BGU* 4.1119.39–40 (6/5 BCE); 1120.45 (5 BCE); 1121.25–36 (5 BCE); 1122.33–6 (13 BCE); *PColZenon* 1.54.18–19 (256 BCE); *PHal* IV.8.177 (III BCE); *PKöln* 3.147.14 (30 BCE–14 CE); *PRossGeorg* 2.19.50 (141 CE). Other contracts stipulate that the lease being guaranteed, the tenant's tenure is secure against expulsion (ἐκβάλλειν) and re-leasing (μεταμισθοῦν): *PTebt* 1.105.31–21 (103 BCE).

30 Anon., 'Self-help *n.*', *A Dictionary of Law* (ed. E. A. Martin; Oxford: Oxford University, 2002); *Oxford Reference Online* (Oxford University Press, 19 Oct 2003), http://www.oxfordreference.com/views/ENTRY.html?subview=Main&entry=t49.003342: 'Action taken by a person to whom a wrong has been done to protect his rights without recourse to the courts. Self-help is permitted in certain torts, such as trespass and nuisance. A trespasser may be evicted provided only reasonable force is used. A nuisance may be abated.'

31 Dodd, *Parables*, 98: 'It appears, however, that it was not the practice of Jesus to answer the questions to which His parables so often lead up; on the other hand it is the practice of the evangelists to point the moral of parables. It must therefore be regarded as uncertain whether xii.9b is an integral part of the authentic tradition.' The same argument is used by Smith, *Parables*, 224; Hengel, 'Das Gleichnis', 7; J. A. T. Robinson, 'The Parable of the Wicked Husbandmen: A Test of Synoptic Relationships', *NTS* 21 (1975) 449; B. B. Scott, 'Essaying the Rock: The Authenticity of the Jesus Parable Tradition', *Forum* 2/1 (1986) 22; *idem*, *Hear Then the Parable*, 248.

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Isaiah's song of the vineyard in the LXX, where the owner asks τί ποιήσω ἔτι τῷ ἀμπελῶνί μου (5.4 LXX) and then has the owner declare (ἀναγγελῶ) τί ποιήσω τῷ ἀμπελῶνί μου (5.5 LXX). Moreover, just as Isaiah's song begins by speaking of a 'beloved' but by the end identifies him as κύριος (5.7), so in Mark's story the ἄνθρωπος of v. 1 modulates into ὁ κύριος τοῦ ἀμπελῶνος in v. 9. If, as Jeremias argues, the allusion to Isa 5.2 LXX at the beginning of the Markan parable is a secondary insertion, then the rhetorical question, also drawing on Isa 5, is probably also secondary.[32]

The final consideration concerns the narrative logic of 12.9b in the context of the parable as a whole. Crossan puts the objection most trenchantly:

> The whole idea of a punitive expedition by the master is very improbable against the rest of the story. If such power had been available to him, the pathetic hope for respect [in v. 7] becomes somewhat ludicrous. The punishment theme is an allegorization of the influx of Gentiles into the church.[33]

The first (form-critical) objection to the originality of v. 9 is rather weak, but the Septuagintal character of 12.9a and the implausibility of 12.9b weigh seriously against this verse.

A number of options are open to defenders of the integrity of 12.9, but none is very convincing. Some argue that Isa 5.1–7 is integral to the structure of the parable,[34] despite the clearly Septuagintal nature of the allusions.[35] Others contend that if the parable began with at least some elements of Isa 5.2, however reduced, then it might also have concluded with an adaptation of Isa 5.4, 5.[36] Pesch urges that the fact that v. 9 continues in the idiom of a vineyard story favours its authenticity.[37] But it is a relatively simple matter to adduce examples of secondary

32 Jeremias, *Parables*, 74; Schramm, *Markus-Stoff*, 163; Crossan, *In Parables*, 90; Robinson, 'Wicked Husbandmen', 449; Klauck, *Allegorie und Allegorese*, 288: 'Wir werden den ursprünglichen Schluß der Parabel hinter V. 8 ansetzen müssen, und V. 9 der gleichen vormarkinischen Hand zuweisen, die auch die Exposition under dem Einfluß des jesajanischen Weinbergliedes umgestaltet hat.'

33 Crossan, *In Parables*, 90. Similarly, Scott, *Hear Then the Parable*, 248.

34 E.g. Pesch, *Markusevangelium*, 2:214; Snodgrass, *Wicked Tenants*, 88.

35 See J. S. Kloppenborg, 'Egyptian Viticultural Practices and the Citation of Isa 5:1–7 in Mark 12:1–9', *NovT* 44/2 (2002) 134–59, the reply by C. A. Evans, 'How Septuagintal is Isa. 5:1–7 in Mark 12:1–9?', *NovT* 45/2 (2003) 105–10, and my response, 'Isa 5:1–7 LXX and Mark 12:1, 9, Again', *NovT* 46/1 (2004) 12–19.

36 E.g., although Hengel argues that there has been some assimilation of the parable to Isa 5.1–7 LXX, he argues nonetheless that the original parable began ἀμπελῶνα ἄνθρωπος ἐφύτευσεν καὶ ἐξέδοτο (cf. Isa 5.2 LXX: ἐφύτευσα ἄμπελον) and ended with τί ποιήσει (cf. Isa 5.5: τί ποιήσω) ('Das Gleichnis', 7, 18).

37 Pesch, *Markusevangelium*, 2:220: 'Daß die Antwort, die auf die Frage nach dem Handeln des Weinbergbesitzers gegeben wird, noch ganz im Rahmen der Parabel bleibt, spricht für ihre Ursprünglichkeit.'

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elaborations which preserve the idiom and imagery of the sayings to which they are attached.[38] Hultgren can only assert that 'rhetorical questions and answers are by no means out of place in the parables of Jesus . . . so the question and answer need not be out of place here either'.[39]

While the arguments in favour of the originality of v. 9 are weak and the considerations against its originality substantial, there is a certain irony in the views of those who excise v. 9b from the original parable. Dodd argues that v. 9b was not present in the original parable, but then concludes that Mark's answer to Jesus' question was a 'natural conclusion to the story' and that the owner would of course retaliate in just the way that Mark renders explicit. Thus the parable 'may be said to "predict" [both] the death of Jesus and the judgment to fall on his slayers'.[40] Likewise Hengel: while uncertain in regard to the status of v. 9, he nevertheless concludes:

> Der Duktus der Parabel läuft so mit inner Folgerichtigkeit auf den durch die rhetorische Frage in 12.9a angestrebten Schluß zu: Der abscheuliche Frevel der Pächter muß das unerbittliche Strafgericht des Besitzers herausfordern. Auch hier wird die Bildseite in keiner Weise durchbrochen.[41]

Herzog, perhaps one of the commentators most sensitive to social issues in first-century Jewish Palestine, concludes that the question in v. 9a implies its own answer:

> Galilee and Judaea were in the midst of significant change during the early decades of the first century, primarily through the forces of commercialization. Pressure brought to bear on peasants through the takeover of land was one important factor. The parable codifies such a land seizure. Oppression generates violent reactions because it continually feeds the first phase of the spiral of violence. But in a world where elites controlled the means of production of weapons and retained armies to use them, revolts reproduced the impotence that ignited them, and legitimated more intense forms of repression. In its closing question, the parable codifies the futility of violence under these circumstances.[42]

Hester, who expressly argues against the originality of v. 9, nevertheless tries to normalize Mark's answer, citing two theory-based principles. On the one hand, according to Gerhard Lenski, violent actions against members of the elite

38 E.g. Mark 2.18–19 +20; Matt 22.1–10 + 11–14.

39 Hultgren, *Parables of Jesus*, 364–5.

40 Dodd, *Parables*, 98, 102. Jeremias (*Parables*, 76), who excluded v. 9 in its entirety, nonetheless claimed that the parable vindicates Jesus' message to the poor, presumably the 'others' of v. 9b, whom he excluded!

41 Hengel, 'Das Gleichnis', 31.

42 Herzog, *Parables as Subversive Speech*, 113. Newell and Newell, 'Wicked Tenants', 236 also argue that the parable ended with v. 9a, but conclude that the question 'can have only one answer: It is that the owner will put the tenants to death for their crimes'; Scott, 'Essaying the Rock', 23: 'It is also a normal response by a reader – a reader/performer expects a master to punish.'

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> are always taken very seriously. The severity of the punishments undoubtedly reflects a recognition of the existence of widespread, latent hostility toward the holders of power and the realization that anything less than prompt and severe punishment may encourage more widespread violence.[43]

On the other, in Mediterranean culture the killing of one's kin amounted to a challenge to honour and would 'require a response nothing short of vengeance on the part of the owner'.[44]

Hence in an odd way, these commentators seem eager to absolve Jesus of expressly evoking the violent destruction of the tenants by the owner, but then reintroduce the notion just excluded by appealing to what the hearer would have taken to be the obvious conclusion to such a story.

2. Self-help in Graeco-Roman and Palestinian law

But is this expectation self-evident? To those who read the story through the lens of God's destruction of Isaiah's vineyard (Isa 5.4–6), it is probably self-evident that the owner would retaliate in this fashion, destroying the tenants as a natural prelude to re-letting the vineyard to others.[45] But is it safe to assume that in a story realistically narrated a resort to self-help would be expected?

The scenario imagined by Mark 12.1–8 and *GThom* 65 is generally realistic.[46] Because vineyards were highly capitalized agricultural enterprises, with costly installations and requiring expensive iron tools, and because the crop commanded relatively higher prices than grain, vineyards were frequently the sites of conflict. We hear of tenants being ejected from their leases by landlords during the course of the lease,[47] of tenants being expelled or otherwise impeded by the

43 G. E. Lenski, *Power and Privilege: A Theory of Social Stratification* (New York: McGraw-Hill, 1966) 86.

44 Hester, 'Parable of the Tenants', 53, referring to B. J. Malina, *The New Testament World: Insights from Cultural Anthropology* (Atlanta, GA: John Knox, 1981) 40–1.

45 Matt 21.41 clearly regarded the owner's actions as expected, since he redactionally transformed Mark 12.9 into Jesus' interlocutors' answer. But Matthew, even more clearly than Mark, has assimilated the parable to the Isaianic and deuteronomistic meta-narrative, which continues in his redaction of the parable of the Great Feast (Matt 22.1–14). Interestingly, Luke keeps the announcement of destruction in Jesus' mouth, but has the interlocutors object: μὴ γένοιτο (20.16). This objection then requires Luke to offer a justification, introducing the quotation of Ps 117.22 (20.17) as Jesus' counter-response (ὁ δὲ ἐμβλέψας αὐτοῖς εἶπεν), and then adding 20.18 to further justify the destruction of the tenants.

46 Hengel, 'Das Gleichnis', and J. S. Kloppenborg, *Reading Viticulture: The Social Context of the Parable of the Tenants in Mark and Thomas* (Institute for Antiquity and Christianity, Occasional Papers No. 44; Claremont, CA: Claremont Graduate University, 2002).

47 *CPR* 17a.6 (316 CE): a case of two cultivators complaining to the *strategos* on having been expelled from their lease of two vineyard areas, allegedly on a pretext.

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opponents of the owner,[48] of landlords' agents being assaulted,[49] of outright occupation of another's property,[50] of the theft of the harvest or of valuable vine props and viticultural implements,[51] of tenants going on strike to protest extractions of their landlord,[52] and of numerous acts of violence.[53]

Owing to a peculiar feature of Hellenistic property law, the relationship between lessor and lessee was made additionally more complicated. Unlike modern consensual contracts, the Hellenistic lease had features of a 'conveyance of property, accompanied by a covenant providing for certain obligations incurred with respect to, and in connection with, this conveyance'.[54] In this type of contract, the lessor delivered (ἐκδιδόναι; cf. Mark 12.1, ἐξέδετο αὐτὸν γεωργοῖς) the property to the lessee, who thus gained a temporary and limited title to it.[55] Sometimes the lease contained a βεβαίωσις clause guaranteeing the lessee against molestation by the lessor or by any third party related to the lessor.[56] At the expiration of the lease period, the lessee was required to return (ἀποδιδόναι) the property, but, as Wolff notes,

> the tenant was under no contractual obligation to return the property. The expiration of the term simply restored the full title of the landlord who was

48 *PCairoZenon* 2.59179 (255 BCE); 3.59367 (240 BCE); *PEnteuxeis* 65 (221 BCE); *PMich* 1.53 (250 BCE): granary employees being expelled from Zenon's granary; *POxy* 49.3464 (54–60 CE).

49 *PCairoZenon* 1.59018 (258 BCE).

50 *PCairoZenon* 4.59624 (*c.*250 BCE); *PEnteuxeis* 65 (221 BCE); *PMich* 1.53 (250 BCE): granary employees being expelled from Zenon's granary; *PMich* 1.63–4 (247 BCE); *PMich* 3.174 (145–47 CE): expulsion from a leased house; *PMich* 6.422–5 (197–99 CE); *POxy* 49.3464 (54–60 CE).

51 *PGurob* 8 (210 BCE): theft of wine and a vinedresser's knife; *PMich* 1.63 (247 BCE): theft of wine; *PMichMchl* 11 (180–210 CE): theft of dates; *POxy* 20.2274 (III CE): theft of vine cuttings; *PSI* 4.393 (241 BCE): theft of 30,000 reeds valued at 14 dr./10,000.

52 *PSI* 5.502 (257 BCE).

53 *PCairoZenon* 1.59018 (258 BCE); *PCairoZenon* 4.59624 (*c.*250 BCE); *PCairoZenon* 5.229 (48 CE); *PGurob* 8 (210 BCE); *PMich* 1.63–4 (247 BCE); *PMich* 5.229 (48 BCE); 5.230 (48 CE); *PMich* 6.422–5 (197–99 CE); *POxy* 49.3464 (54–60 CE); *PSI* 6.345.8 (256 BCE).

54 H. J. Wolff, 'Consensual Contracts in the Papyri?', *JJP* 1 (1946) 62.

55 Wolff (ibid.) points out that 'unlike the Roman *locatio conductio rei*, the μίσθωσις did not create merely obligatory relations between the lessor and the lessee, but seems to have resulted in the acquisition by the latter of a temporally and qualitatively limited title to the object'. On Roman law, see W. W. Buckland, *A Text-Book of Roman Law from Augustus to Justinian* (3rd edn; Cambridge: Cambridge University, 1963) 500: in Roman law the *conductor* or lessee did not acquire *dominatio* (ownership) or *possessio* (possession) but only 'detention'.

56 Wolff ('Consensual Contracts?', 68–9) notes that such clauses occurred where the lessee had economic power close to that of the lessor. In the case of the Zenon papyri, where the social difference between the lessor (Apollonios and Zenon) and the lessees was great, no such warrantees occur. Occasionally, the lessor was contractually obligated to pay a fine in the case of violation of the βεβαίωσις provision. See R. Taubenschlag, *The Law of Greco-Roman Egypt in the Light of the Papyri: 332 BC–620 AD* (2nd edn; Warsaw: Pantsowe Wydawnictwo Naukowe, 1955) 361.

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> now in a position to recover his land by such judicial or extra-judicial acts as were allowed to every κύριος not in possession of his property, while the tenant was no longer protected against ejectment.[57]

In the case imagined by the parable of the tenants, what remedies were open to the owner? As noted above, leases regularly contained provisions allowing the lessor to expel (ἐκβάλλειν) tenants from the object of the lease in the event of default, usually the failure to deliver the rent.[58] It should be noted that ἐκβάλλειν carries with it the connotation of force. But the actual procedure for action in the case of default was cumbersome: the plaintiff had to apply to the πράκτωρ (bailiff) or his assistant (ὑπηρέτης) and to the local court which, after examining pertinent documentation, issued the bailiff with an order of execution. But instead of actually executing the order, the bailiff merely delivered the order to the defendant, allowing him or her the opportunity of a formal response.[59] Only if there was no response did the court then allow execution on the defendant's property, after the plaintiff had sworn an oath that his declarations were true.[60] The very unwieldy nature of these procedures is probably the reason why additional penalty clauses are found in many lease agreements, imposing substantial fines in the case of default.[61] This was a strong disincentive for a vexatious tenant tempted to frustrate the lessor by resistance and then simply to hand back the property when resistance was no longer possible or prudent.[62] Even so, we hear of cases of a defendant ignoring private attempts at negotiation and even refusing to acknowledge his debt before the bailiff.[63]

The imaginary case of the parable of the tenants, of course, concerns not merely a refusal to produce rent, but violence against the owner's agents and the

57 Wolff, 'Consensual Contracts?', 67.

58 See above, n. 29.

59 See, e.g., *PColZenon* 1.54 (256 BCE), reporting arrears in rent. The creditor requests the assistance of the bailiff to register the debt and the added 50 per cent penalty, and to issue a statement of claim, which the debtor can then accept or reject.

60 Taubenschlag, *Law of Greco-Roman Egypt*, 525, 526–7, 533–4; Wolff, '*Praxis*-Provision', 425: 'The judicial judgment did not, like the sentence of a modern court in Civil Law countries, determine that the defendant owed a debt to the plaintiff, performance of which might be enforced, but simply established the plaintiff's right to proceed against the defendant by way of execution.'

61 E.g. *BGU* 4.1119.33–40 (6/5 BCE): a fine of 500 (silver) dr.; 1121.28–34 (5 BCE): a fine of 1000 (silver) dr.; 1122.24–30 (13 BCE): a fine of 500 (silver) dr.; *POxy* 4.729.20 (137 CE): 1000 (silver) dr.; *PRyl* 4.583.18–19, 65–8 (170 BCE): fine of 2 (silver) talents; *PSoter* 2.35 (71 CE): fine of 5 (copper) talents; *PTebt* 1.105.43–4 (103 BCE): a fine of 30 (copper) talents; *SB* 14.11279.35–6 (44 CE): fine of 5 (copper) talents.

62 See Wolff, '*Praxis*-Provision', 426.

63 *PHib* 30D (300–271 BCE). *PCairoZenon* 1.59018 (258 BCE), where the creditor's agents are assaulted and expelled from the property, is probably an example of resistance to informal attempts at negotiation. On negotiation, see R. S. Bagnall, 'Official and Private Violence in Roman Egypt', *BASP* 26 (1989) 201–16.

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killing of his son. Snodgrass, in an effort to render the owner's resort to self-help plausible, opines:

> It is not necessary to justify legally the owner's punishment of the tenants. Under the circumstances, probably no objection would or could be made if he did kill the tenants. Our concern is that this feature of the parable is in keeping with rabbinic parables and the inadequate administration of justice at the time.[64]

Snodgrass appeals to *BGU* 4.1122 (13 BCE), which contains a (standard) clause threatening a defaulting tenant with immediate imprisonment.[65] But apart from the fact that the clause says nothing of the *killing* of a defaulting lessee, it is not relevant in any event, since the document concerns a 'Persian of the descent' (Πέρσης τῆς ἐπιγονῆς), a pseudo-ethnic designation found in Graeco-Egyptian contracts and applied to persons below the status of the Macedonian settler class, and prohibited from resorting to a claim of asylum.[66] We have no evidence of an analogous class of persons in Jewish Palestine.

In fact it is quite unlikely that any law permitted an owner to act as Mark's owner did. It is true that Greek, Roman, and Jewish legal traditions permitted a degree of self-help in the execution of justice. This was a necessity, given the inadequate police resources in cities and towns, and the almost complete absence of police in the countryside. Athenian law in the classical period permitted the application of lethal force in the absence of a court decision, but only in the case of adultery and housebreaking. The common denominator here is the transgression of the boundaries of the οἶκος and, hence, the affront to the honour of the κύριος.[67] But the prosecution of other injuries had become the jurisdiction of

64 Snodgrass, *Wicked Tenants*, 39–40.

65 *BGU* 4.1122.24–6: ἐὰν δέ τι [[...]] παραβαίνω(σιν) εἶναι αὐτο(ὺς) παραχ(ρῆμα) | ἀγωγίσ[μ(ιυς)] καὶ συν(έχεσθαι μ)έχρι ποῦ ἐκτῖσ(αι) ἅ τε ἔχουσι τοῦ μισθοῦ καὶ | ὃ ἐὰν μέρος λάβω(σι) σὸν ἡ(μιολίᾳ), 'If they should default on any of these conditions they shall immediately be liable to arrest and imprisonment until they repay both the wages that they have received and whatever portion, with an extra added half, of whatever else they received'.

66 On the designation, see J. F. Oates, 'The Status Designation: ΠΕΡΣΗΣ, ΤΗΣ ΕΠΙΓΟΝΗΣ', *YCS* 18 (1963) 1–126. In papyri from the Roman period the term uniformly designates persons subject to the ἀγώγιμος (imprisonment) clause. See F. M. Heichelheim, *Die auswärtige Bevölkerung in Ptolemäerreich* (Klio Beiheft 18; Leipzig: Dieterich, 1925) 76–80; Taubenschlag, *Law of Greco-Roman Egypt*, 532; J. Herrmann, *Studien zur Bodenpacht im Recht der graeco-ägyptischen Papyri* (Münchener Beiträge zur Papyrusforschung und antiken Rechtsgeschichte 41; München: C. H. Beck, 1958) 66–7.

67 M. R. Christ, 'Legal Self-Help on Private Property in Classical Athens', *AJPh* 119 (1998) 521–45. On self-help in the case of housebreaking, see Demosthenes 24.113: 'If a man should steal anything whatsoever at night, it is permitted that his victim in pursuit, kill him, wound him, or lead him by *apagōgē* to the Eleven if he wish'; Demosthenes 23.60: 'If one kills immediately in defence of one's property a man carrying or leading it away by force or unjustly, he is killed with impunity.'

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Athenian courts, which thus became a major forum in which feuding, rivalry, and honour displays took place.[68] And homicide had been within the court's purview since the Draconian laws of the seventh century.

In Roman practice the Law of the Twelve Tables had allowed the killing of a thief caught at night or using a weapon, but had required that this be done only after convening an emergency council of neighbours, this provision to guard against murder disguised as a response to housebreaking (8.12–13).[69] It was also taken for granted that a plaintiff could physically bring a defendant to court if the defendant otherwise refused (*manus iniecto*).[70] And self-help might be used where judicial protection was inadequate and where self-help was the only means to avoid irreparable damage.[71]

By the first century BCE, Roman jurists had moved to limit severely the resort to self-help. In the case of land taken by fraud or force, it had been legal under the *Lex agraria* of 111 BCE for the owner to re-acquire the land by force, and legal to use force in the defence of property. Obviously, both parties to a dispute over ownership could appeal to such principles.[72] Moreover, it was not always feasible to use self-help when the occupier of the land had superior power; hence, the *Lex agraria* guaranteed restitution through the courts to one ejected from his lands, who had not himself acquired them by force or fraud.[73] But by the first century BCE, the use of violence was further limited: first by Lucullus's edict *de vi armata* of 76 BCE, directed against the use of arms and gangs;[74] then by interdicts recent

68 D. Cohen, *Law, Violence, and Community in Classical Athens* (Key Themes in Ancient History; Cambridge/New York: Cambridge University, 1995) 16, 161, 181; P. J. Rhodes, 'Enmity in Fourth-Century Athens', *Kosmos: Essays in Order, Conflict, and Community in Classical Athens* (ed. P. Cartledge, P. Millett, and S. Von Reden; Cambridge/New York: Cambridge University, 1998) 144–61.

69 Lex XII Tab. 8 12. If the theft has been done by night, if the owner kills the thief, the thief shall be held to be lawfully killed. 13. (It is unlawful for a thief to be) killed by day . . . unless he defends himself with a weapon; even though he has come with a weapon, unless he shall use the weapon and fight back, you shall not kill him. And even if he resists, first call out (so that someone may hear and come up).

70 Lex XII Tab. 1.1: If plaintiff summons defendant to court, he shall go. If he does not go, plaintiff shall call witness thereto. Then only shall he take defendant by force. 2. If defendant shirks or takes to heels, plaintiff shall lay hands on him. See also 3.1–6. See A. W. Lintott, *Violence in Republican Rome* (Oxford: Clarendon, 1968) 26–7.

71 F. Schulz, *Classical Roman Law* (Oxford: Clarendon, 1951) 459.

72 Lintott, *Violence*, 28–30.

73 S. Riccobono *et al.*, *Fontes iuris romani antejustiniani* (Editio altera aucta et emendata; Florence: G. Barbera, 1940–3) 8, l. 18: Sei quis eorum quorum ager supra scriptus est, ex possessione vi eiectus est, quod eius is quei eiectus est possederit, quod neque vi neque clam neque precario possederit ab eo, quei eum ea possessione vi eiecerit . . . .

74 Lintott, *Violence*, 129: 'The principle of Lucullus' edict is that any armed violence, however provoked, is wrong. Some sort of force had been commonly employed to settle property disputes from the beginning of Roman society, but the disputes had been on a small scale and,

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in Cicero's day, which forbade the resort to violence in the advancement of claims over land, whether or not it was rightfully one's possession;[75] and finally by the Julian *lex de vi publica* and *lex de vi privata* of the late Republic, which criminalized the use of arms in expelling someone in possession of a farm (Dig. 48.6.3),[76] imposing a fine of one-third of the property of anyone convicted under this statute (Dig. 48.7.1–5).[77] By the late Republic, as Lintott observes, 'the righting of wrongs is no longer an irrefutable excuse for violence'.[78] Thus if considered under Roman law, the vineyard owner of Mark's story was not only *not* justified in applying lethal force in the recovery of his property, but, even if he could demonstrate that he had an unassailable claim to it, would still be liable to a punitive fine under the Julian law.

Prevailing law in late Ptolemaic and early Roman Egypt similarly made self-help problematic. Of course it was still permitted to restrain a thief and bring him to a magistrate, although as *PMich* 6.421 (41–68 CE) illustrates, this could be a risky

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whatever weapons were used, deaths rarely occurred. However, with the growth of estates, presumably in the second century [BCE], and the corresponding growth of *familiae* of slaves, this kind of violence began to be a problem, for an armed gang of slaves would have turned a fracas into a battle.'

75 B. W. Frier, 'Urban Praetors and Rural Violence', *TAPA* 113 (1983) 235–6. The interdict, which can be pieced together from Cicero's comments in *Pro Caesina* 41–48, 55, 60–61, 88, must have read: *unde tu aut familia aut procurator tuus illum vi hominibus coactis armatisve deiecisti, eo restituas*, 'that you, NN or your servants or agent restore NN, [his servants or his agent] to the place whence you have ejected him by force through men collected together and armed'. Frier points out that the formulation used by Cicero in *Pro Caesina* had broader scope than the earlier formulation of 71 BCE, 'that you, NN or your servants or your agents do restore NN, his servants or his agent to the place from whence, in this year (*in hoc anno*), you ejected him by force, he being in possession, without having gained it from you by force or stealth or request (*quod nec vi nec clam nec precario a te possideret*)' (Cicero, *Pro Tullio* 44) by eliminating the temporal restriction *in hoc anno* and by omitting the final clause, which limited the prohibition of forcible ejection to cases where the one ejected had an indubitable claim to ownership. See also W. Nippel, *Public Order in Ancient Rome* (Key Themes in Ancient History; Cambridge: Cambridge University, 1995) 35–7.

76 Digesta 48.6.3: *Eadem lege tenetur, qui hominibus armatis possessorem domo agrove suo aut navi sua deiecerit expugnaverit*, 'Also liable under this statute [*Lex Iulia de vi publica*] is anyone who with armed men expels someone having possession from his home, his farm, or his ship, or attacks him' (T. Mommsen, P. Krueger and A. Watson, *The Digest of Justinian* [Philadelphia: University of Pennsylvania, 1985], 4:816).

77 Digesta 48.7.1: *De vi privata damnati pars tertia bonorum ex lege iulia publicatur*, 'Under the *lex Iulia*, one third of the property of anyone condemned for *vis privata* is to be confiscated'; 48.7.2: *Hac lege tenetur, qui convocatis hominibus vim fecerit, quo quis verberetur pulsaretur, neque homo occisus erit*, 'Anyone who, after summoning men together, commits *vis* resulting in anyone's being flogged or beaten, [even if] nobody is killed, is liable under this statute' (Mommsen, Krueger and Watson, *Digest*, 4:817–18).

78 Lintott, *Violence*, 130.

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business. The plaintiff here complains that as he was trying to apprehend the culprit, he was himself imprisoned by customs-guards, apparently friends or accomplices of the thief, until the thief could make good his escape. But as Taubenschlag observes, other forms of self-help were not permitted in Graeco-Egyptian law.[79] The exceptions prove the rule. We have a few instances where persons who engaged in self-help themselves became the subject of legal proceedings. A papyrus from the Zenon archives records the complaint of a debtor whose wife and serving boy were seized and imprisoned by a creditor.[80] The petition requests the king to mete out the appropriate punishment 'for the imprisonment of a free person'. The same inducements against self-help are in evidence in the late first century CE when a prefect threatens to have a creditor beaten for having imprisoned a debtor and his wife.[81] The proper recourse in matter of debt recovery was the courts.[82]

That resort to the courts was normal is indeed shown by a series of papyri from the third century BCE to the second century CE, each concerning the (allegedly) illegal and sometimes violent occupation of a plaintiff's farm or house. For example, *PEnteuxeis* 65 (221 BCE) records a petition to the *strategos* by a woman who complains that following the division of a vineyard, her two former co-partners forcibly expelled her vinedresser. Zenon himself had similar difficulties: *PCairoZenon* 3.59624 (250 BCE) is a letter written to Zenon advising him of the violent occupation of one of Apollonios's vineyards and requesting that Zenon seek judicial relief. A few years earlier Apollonios wrote to Zenon to tell him that rivals had occupied some of his vineyards in Memphis, subjoining letters to the court (*PCairoZenon* 2.59179 [255 BCE]). In the first century of the common era, *POxy* 49.3464 (54–60 CE) records an application to the *strategos* on behalf of a woman whose vineyard was seized and who, after one successful petition to the court, was

79 R. Taubenschlag, 'Self-Help in Greco-Roman Egypt', *Opera Minora* (Warsaw: Pantsowe Wydawnictwo Naukowe, 1959) 2:135–41 (repr. from *Archives d'Histoire du droit oriental* 4 [1949] 79–84).

80 *PColZenon* 2.83 (245/44 BCE).

81 *PFlor* 1.61 = *MChr* 2.80 (85 CE).

82 There is a special problem with a series of texts which grant to the lessor the right to seize debtors' sureties and the right of execution on all of their property 'as if by a legal decision' (καθάπερ ἐκ δίκης), e.g. *BGU* 4.1122.24–9 (13 BCE). Taubenschlag (*Law of Greco-Roman Egypt*, 531–2; 'Self-Help', 140) takes the formula to imply that the creditor had the right to detain a debtor or his sureties without court approval. H. J. Wolff, however, has argued that 'there is nothing to give aid and comfort to those in whose opinion the insertion in a document of a καθάπερ ἐκ δίκης clause served the purpose of obviating a judicial action otherwise necessary', and that an examination of Ptolemaic documents indicates that in fact the clause '*never* had the meaning commonly attributed to it' ('Some Observations on Praxis', *Proceedings of the Twelfth International Congress of Papyrology* [ed. D. H. Samuel; American Studies in Papyrology 7; Toronto: A. M. Hakkert, 1970] 529, emphasis original).

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still prevented from recovering it. A similar tale is told by a series of petitions (*PMich* 6.422, 423) by a certain Gemellus, whose property was violently occupied by a rival, Sotas, who later died, but whose brother Julius continued to harass Gemellus's tenant and to appropriate the harvest.[83] Whether Gemellus's repeated petitions restored his ownership is unknown.

What these documents show is that an appeal to the courts for legal redress was used not only by the women of *PEnteuxeis* 65 and *POxy* 49.3464, who probably lacked the ability to employ physical force in the pursuit of their claims, but also by Apollonios the *dioiketes*, who was clearly possessed of the ability to dislodge rivals by force should he wish to do so. Nevertheless, each of these appealed to the courts rather than resort to self-help.[84]

In ancient Israel, as in classical Athens and the early Republic, there was a legacy of self-help. But as in these other jurisdictions, the state moved to curtail the unlimited or vexatious use of self-help. As early as the framing of the Pentateuch, Deut 24.10–12 forbade a creditor from entering the house of a debtor to seize a surety. And according to Exod 22.25–6, the cloak (τὸ ἱμάτιον) of a debtor used as a surety had to be returned before sunset.[85] We are less well informed about the development of rulings on self-help in the Second Temple period, but it is instructive that the Mishnah, in the spirit of Deuteronomy, required a creditor to use a court to recover a debt.[86]

Abraham Schalit surveyed legal practice in Herod's day and detected evidence of the influence of Hellenistic and Roman law concerning debt recovery. He suggested that the establishment of a tribunal alluded to in *m. Ket.* 13.1 to adjudicate cases of damage and injury is an example of such influence.[87] Apropos of self-help Schalit concluded:

83 *PMich* 6.422 is addressed to the praefect of Egypt, Quintus Aemilius Saturninus, and is perhaps from early 197 CE; *PMich* 6.423=424 is dated 22 May [Pachons 27], 197 CE, just after the harvest, which Julius appropriated.

84 Similarly, *PMich* 5.230 (48 CE): a case of housebreaking; 9.525 (119–24 CE): the petition of a widow concerning the theft of property by her brother-in-law; 3.174 (145–47 CE): a case of expulsion of a public farmer from his leasehold and house; 3.175 (193 CE): theft of hay by a cousin.

85 See E. Neufeld, 'Self-Help in Ancient Hebrew Law', *RIDA* 5, 3e série (1958) 291–8.

86 *m. B. Mes.* 9.13: 'He who lends money to his fellow should exact a pledge from him only in court, and the [agent of the court] should not go into his house to take his pledge, as it is said, "You will stand outside" [Deut 24.11].'

87 A. Schalit, *König Herodes: Der Mann und sein Werk* (Berlin: Walter de Gruyter, 1969) 223–56, esp. 253–6. S. R. Llewelyn ('Self-Help and Legal Redress: The Parable of the Wicked Tenants', *New Documents Illustrating Early Christianity. Vol. 6: Inscriptions and Papyri First Published in 1980–81* [North Ryde, NSW, Australia: Macquarie University, 1992] 92) notes the presence of the *praxis* and execution clauses similar to those encountered in Graeco-Roman Egypt in deeds of the second century CE: *PMur* 114.14–21 (191 CE); 115.16–17 (124 CE); *PYadin* 11.22–7 (124); 18.24–7 (128 CE); 21.24–7 (130 CE).

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> In money matters no one in the first century of the Christian era in Jerusalem was entitled to take the law into his own hands, and there is no reason to think that in the first century BC the legal situation may have been different.[88]

That Jewish Palestine was not exceptional in regard to the normalcy of resort to courts is reflected in the Jesus tradition itself. Q 12.58–9, on settling quickly with one's accuser, presupposes specific details of Hellenistic judicial procedure. The plaintiff (ὁ ἀντίδικος) and the defendant are imagined to be together ἐν τῇ ὁδῷ prior to appearing before the judge. This is not because the two have by coincidence met on the road, but because one of the approved mechanisms of judicial procedure, in default of an adequate police force, was to have the plaintiff compel the defendant to come to court.[89] The procedure presupposed by Q also imagines the execution of the verdict by the ὑπηρέτης (Luke: ὁ πράκτωρ), just as in Ptolemaic and Roman Egypt.[90]

Conclusions

The implications of this survey should be clear. The owner's resort to lethal self-help is far from the self-evident or obvious response to the preceding events. It might indeed be imagined that the owner of Mark's parable took the law into his own hands, just as the defendants mentioned in *PColZenon* 2.83 or *PFlor* 1.61.[91] But in that case it would have been just the sort of violence that Roman, Graeco-Egyptian, biblical, and post-biblical laws sought to curtail and indeed to

88 Schalit, *König Herodes*, 256; cited in Llewelyn's translation ('Self-Help', 91–2).

89 What Q has in view here is a form of *manus iniecto*, compelling a defendant to come before a court. R. Sugranyes de Franch, *Études sur le droit palestinien à l'époque evangélique: la contrainte par corps* (Arbeiten aus dem Iuristischen Seminar der Universität Freiburg Schweiz 1; Fribourg: Librairie de l'Université, 1946) 56–7 points out that there are traces of this procedure in the Mishnah (*m. B.B.* 10.8). Of course, a plaintiff was not always able to compel a defendant to appear in court: e.g. *PCairoZenon* 2.59179 (255 BCE), which concerns defendants of high status who could resist a summons. Similarly *PEnteuxeis* 65 (221 BCE) and *POxy* 49.3464 (54–60 CE), where the plaintiffs are women (in one case, a widow), and therefore unable to compel their opponents to come to court.

90 See above, and Taubenschlag, *Law of Greco-Roman Egypt*, 525: 'The execution of sentences passed by the chrematists was thus effected: the plaintiff requested the chrematists to send a copy of the sentence to the πράκτωρ ξενικῶν and to the *strategos* with the order to put it into effect. If granted, the εἰσαγωγεύς wrote the respective orders on the copies. The plaintiff handed the order to the πράκτωρ ξενικῶν in person and to the *strategos* with a special application submitting the copy and the respective order . . . After that he gave the respective instruction to the local *epistates*. He issued to the πράκτωρ ξενικῶν a similar order to start the execution.' In *PColZenon* 1.54.47 the order is delivered to the ὑπηρέτης of the bailiff.

91 See above, nn. 80 and 81.

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criminalize.[92] There is every reason to believe that judicial institutions existed in Jewish Palestine to allow for debt recovery and for actions on default. Indeed, Q 12.58–9 takes such an institution for granted.[93] In a realistic story of default and debt recovery, either the courts would have been involved, or it would have been clear that the creditor was overstepping normal practice in taking the law into his own hands. The fact that Mark's version of the parable betrays not the slightest degree of embarrassment over the owner's actions suggests that the details of 12.9 belong not to the realm of realistic story telling but to the metalevel of discourse about God's punishment of wrongdoers.

Mark 12.9 in fact makes three assumptions that in no way can be judged realistic. First, it takes as self-evident that the owner would move against the tenants in order to dislodge them. But when much more powerful persons such as Zenon did not dare attempt this, and when lesser individuals clearly avoided punitive expeditions for fear of suffering physical injury themselves, this is clearly *not* an assumption that would have been self-evident to any first-century audience. Second, v. 9 assumes that the owner will undoubtedly succeed in recovering his property. But such confidence is scarcely realistic given actual reports of illegal occupation of farms and the difficulties that plaintiffs incurred in recovery. For even when one's claim to ownership was unassailable, it could not be taken for granted that recapture would be smooth or that it would occur at all. And finally, the conclusion to Mark's story takes for granted that the owner's resort to self-help was normal and, indeed, justified, betraying not the least interest in explaining or justifying what in fact was clearly an illegal resort to violence.

These three assumptions make sense *only* if one grants that the narrator of Mark's parable is self-consciously no longer speaking in a realistic vein, but is instead speaking of God's action. That is, at this point the narrator of Mark's parable has moved from the world of viticulture and contract law into the orbit of the gods and their prerogatives, despite his preservation of the idiom of a vineyard story. At this level, divine actions need no justification by a court; divine actions are believed to be unconditionally effective in securing their aims; and there is no reason to suppose that God would hesitate in acting once he had resolved to take

92 Snodgrass (*Wicked Tenants*, 39) cites *b. B.K.* 27b (= *t. B. Qam.* 10.38) as evidence of the approval of self-help: 'Ben Bag Bag [a pre-Tannaitic sage] says, A person should not retrieve his own property from the household of another lest he appear to be a thief. And so did Ben Bag Bag say, A person should not steal what belongs to him from the house of a thief, lest he too appear to be a thief. But he should be ready [in public] to break his teeth and seize whatever is his own from [the thief's] possession.' Snodgrass here misunderstands the intent of the ruling, which is to ensure that recapture should not occur in the thief's house but on the street. On the limitation of self-help, see B. Cohen, 'Self-Help in Jewish and Roman Law', *RIDA* 2, 3e série (1955) esp. 120–7.

93 See Sugranyes de Franch, *Études sur le droit palestinien*, 128–31.

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action. In this appeal to a *deus ex machina* ending, the framer of Mark 12.9 does not invoke quotidian legal and economic realities, but reaches back to archaic representations of God, unfettered by considerations of human justice or judicial prudence, and to archaic codes of human behaviour, when the strong took and held their possessions by force.[94]

We are left with two options. One is to insist on a metaphorical reading of the parable of the tenants as outlined above, despite the fact that what lends to the parable its primary metaphorical sense is a clearly *Septuagintal* allusion. But if one pursues this option, it must also be conceded that at a crucial point in the narrative – the owner's use of self-help – the parable fails the test of realistic actions and beliefs; the parable must be interpreted as an allegory adapted from Isa 5.1–7. As a judgment parable, Mark 12.9 is a necessary component of the story and cannot be detached. But insofar as the metaphorical reading requires that the 'host story' be realistic in order that the metaphorical picture also be coherent, at a crucial point the logic of the host story collapses. The owner's actions are simply not realistic as justifiable actions.

The other, and in my view preferable, alternative is to argue that the story, like other parables ascribed to Jesus, is a piece of realistic fiction whose effect is first to invoke certain expectations and beliefs about the world, in this case concerning landownership, absenteeism, and status-displays, and then to challenge them by means of the turn of its narrative. Seen in this way the parable relates a realistic story about the unsuccessful efforts of an owner to recover his property, efforts that end in the loss of his son and heir as well. On this view Mark 12.9 must be treated as a secondary allegorizing accretion to the story, together with the Isaianic allusions in 12.1b, the summarizing Deuteronomistic comment in 12.5b, and probably the designation ἀγαπητός in 12.6.

It is of more than passing interest that this is precisely the version of the story related in *GThom* 65, although I have arrived at the conclusion that Mark 12.9 was

94 I say 'archaic' because the forms of action imagined here are more akin to the representations of God in Joshua, where enemy towns are placed under *herem* at God's command (and Achan, who disobeyed the command, is killed along with his family and cattle; cf. Josh 7.24–6), and to the authorization of nearly unlimited vengeance (Gen 4.24), than they are to other streams of Israelite representations of God which insist that God must act in accordance with principles of justice. For the latter, see Gen 18.25 ('Far be it from you to do such a thing, to slay the righteous with the wicked, so that the righteous fare as the wicked! Far be that from you! Shall not the Judge of all the earth do what is just?'), and lament psalms such as Pss 22; 44; 89, which demand of God that he live up to certain promises undertaken, that is, covenantal agreements. The mitigation of unlimited vengeance is seen in the *lex talionis* of Exod 21.24; Lev 24.20; Deut 19.21, which insofar as it is represented as a divine command also implies something about God's justice. Apocalyptic literature revived some of these older worldviews, with terrifying scenarios of unlimited destruction wreaked by divine agents (although of course there are also scenarios involving divine courts).

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not an original part of the story, not by using any assumptions about *GThom* as critical tools, but merely by applying the test of narrative realism. It might be added, parenthetically, that *GThom*'s version of the parable passes the tests of narrative realism in its other details as well.[95] This should perhaps encourage a reconsideration of the relative merit of *GThom*'s version of the parable vis-à-vis its Markan parallel.[96]

95 See Kloppenborg, 'Egyptian Viticultural Practices'.

96 I would like to express my gratitude to the anonymous reviewer of *NTS* and to L. Hayes and J. L. McLaughlin for various criticisms and helpful suggestions.

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