JOSEPH SMITH, OLIVER COWDERY AND EARLY AMERICAN LAW
Professor John W. Welch and Jeffery N. Walker
Fall 2013

Contacts: Office Hours – By appointment 538 JRCB. Send an email at any time: welchj@byu.edu or Jeffrey.walker@ldschurch.org.

Grading: This is a 3-hour class. We study early American law and many encounters that Joseph Smith, Oliver Cowdery, and others had with the law.

The grade is based (1) on the submission of one research paper (75%), (2) on the submission of one “learning outcomes personal report” (10%), and (3) on class attendance, preparation, and participation (15%).

(1) The research paper must be at least twenty pages in length; if they are thirty pages long they may meet the substantial writing requirement, but a first draft must be submitted by the ninth week of class.

(2) The learning outcomes personal report records your thoughts, personal feelings, and academic experiences as you reflect on your accomplishment of the learning outcomes for this course.

(3) Classes are recorded; missed classes can be made up by reading the assigned materials, listening to the class recording, and submitting reading and listening notes. Participation will include reviewing a few case annotations or other materials being prepared for publication in the Joseph Smith Papers Legal Series.

Learning Outcomes: 1. Students will know some of the fundamental principles, main issues, legal procedures, political pressures, and social trends in American law in the early Republic (1800-1850).

2. Students will understand and be able to explain the original meanings and relevance of several of the revelations, ideas, and experiences of Joseph Smith, Oliver Cowdery, and the early Latter-day Saints in the context of jurisprudence in the early American Republic.

3. Students will become conversant with and prepared to analyze and explain Joseph Smith's personal attitudes toward and uses of the law, along with his reactions to lawsuits, imprisonment, and various encounters with lawyers and the law.

4. Students will learn to perform legal and historical research concerning the legal systems of New York, Ohio, Missouri, Illinois, and the United States from 1805-1844.
5. Students will be able to communicate effectively and comparatively, both orally and in writing, regarding selected legal topics such as religious liberty, civil rights, disturbing the peace, copyright, civic virtue, marriage, militias, treason, conspiracy, prisons, petitions, city charters, incorporation, property, debt, bankruptcy, freedom of the press, extradition, habeas corpus, elections, abolition, slander, adultery, and murder, as well as doctrinal statements in the revelations and teachings of the Prophet on civil, natural, and divine law.

6. Students will develop practical and problem-solving skills necessary to recognize and evaluate legal and historical issues in light of current ethical principles, political issues, and religious concerns.

7. Students will develop a more astute ability to apply lessons of history to the modern practice of law and will have an increased desire to engage in lifelong learning and service.
Textbooks:

Joseph Smith Encounters the Law (JSEL) (available at the HWHLL Circulation Desk)

Oliver Cowdery: Scribe, Elder, Witness (OCSEW)


Days Never to Be Forgotten: Oliver Cowdery (DNFOC)

http://rsc.byu.edu/archived/days-never-to-be-forgotten-oliver-cowdery

Assignments:

Aug 21/23  Introduction, Objectives, Chronology, Sources, Early American Law
            Read: Hutson handout and Chronology to Part 1

Aug 28/30  Jesse Smith’s 1814 protest and Disestablishmentarianism
            Read: Welch, JSEL ch. 2, and handouts
            Smith v. Hurlbut (NY, 1819); Land Purchase from Isaac Hales (1829)
            Read: Walker, JSEL ch. 3

Sept 4/6  The South Bainbridge and Colesville Trials (NY, 1826 and 1830)
            Read: Madsen, JSEL ch. 4
            Copyright Law and the Book of Mormon (1829-30)
            Read: Wadsworth, JSEL ch. 5

11/13  Organizing the Church (1830)
            Read: Stott, JSEL ch. 6
            Oliver Cowdery as Scribe and Draftsman 1829 Articles and D&C 20
            Read: Faulring, OCSEW pp. 155-93
            Ohio v. Hurlbut (OH, 1834)
            Read: Grua, JSEL ch. 7

18/20  The Newell-Knight Marriage in Ohio (1835)
            Read: Bradshaw, JSEL ch. 8
            Cowdery, Printer, Justice of the Peace in Kirtland (1837)
            Read: Welch, OCSEW, pp. 255-75
            Oliver Cowdery and the Law (1833-1838)
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<thead>
<tr>
<th>Date</th>
<th>Topic</th>
<th>Read Material</th>
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<tbody>
<tr>
<td>25/27</td>
<td>Legal Analysis of the Kirtland Safety Society (1837)</td>
<td>Hales, DNFOC pp. 279-94</td>
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<td>Oct 2/4</td>
<td>Missouri Land Rights, Extermination Order (1838)</td>
<td>Staker, DNFOC pp. 143-253</td>
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<td>Oct 9-11</td>
<td>Placement break</td>
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<td>16/18</td>
<td>Venue and Release from Missouri (1839)</td>
<td>Walker, handout</td>
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<td>23/25</td>
<td>Bankruptcy Law, Steamboat case (Federal court, 1842-1844)</td>
<td>Bentley, JSEL ch. 12</td>
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<td>30/Nov 1</td>
<td>Joseph Smith v. George Hinkle (IA, 1841-1842)</td>
<td>Handout</td>
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<td>Nov 6/8</td>
<td>Habeas Corpus in the 1840s</td>
<td>Walker, handout</td>
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<td>13/15</td>
<td>The Expositor cases and the Martyrdom of Joseph and Hyrum (IL, 1844)</td>
<td>Oaks, JSEL ch. 16</td>
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<td>20/22</td>
<td>No classes, Thanksgiving</td>
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<td>27/29</td>
<td>Welch: Joseph Smith, the Constitution, Law, and Views of Government</td>
<td>Welch, handout</td>
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