

The Legal Light

The J. Reuben Clark Law Society, Orange County Chapter
April 2006

EVENTFUL YEAR FOR THE JRCLS-ORANGE COUNTY

By Jeff Shields

Chairman of the O.C. Chapter of the JRCLS

It is shaping up to be an eventful year for our Chapter of the J. Reuben Clark Law Society, including groundbreaking events that have never occurred in our history before.

First, thanks to Elizabeth Shaw Smith, the Women's Outreach Committee was formed, a historic first not only in our Chapter, but, I believe, a first among the many JRCLS chapters worldwide. The inaugural Women Lawyers Breakfast meeting was held on February 27, 2006, and was a great success. (See related article inside.) Additional Women Lawyers Breakfast meetings are scheduled for the near future. (See Calendar section.)



Second, we are publishing our first-ever photo Member Directory, which will include color photos and contact information for all our members, along with their respective legal specialties, and information regarding our 2006 Sponsors. The photo Member Directory is intended for distribution to our Members, the BYU Management Society, the BYU Alumni Society, the Boards of other JRCLS Chapters, and local Stake Presidents and Bishops. Many thanks to Dawn Mosley, Brent North, Dyke Huish, and others who have spent many dedicated hours making the photo directory.

Finally, continuing the groundbreaking tradition established last year, we are sponsoring the Second Annual Orange County Religion and the Law Symposium at Chapman University School of Law in Orange on April 27, 2006. The entire legal community should benefit from this signature religious liberty event. Speakers will include Professors James Hayes, Charles Doskow and Joel Nichols, Ron Talmo, and Judges Brett London and David MacEachen. The program will spotlight such constitutional hot topics as the Pledge of Allegiance, intelligent design in schools, and prayer in government meetings. (See enclosed flyer.)

Thank you all for your continuing support to our Chapter. I look forward to seeing you at our upcoming events!

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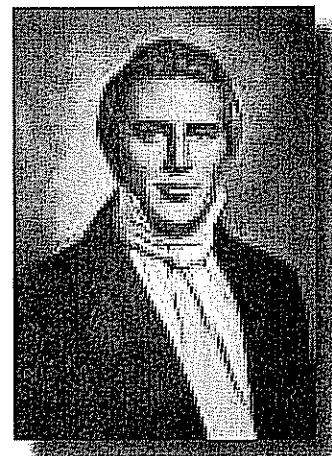
JOSEPH SMITH AND THE LAW

By Paul A. Hoffman

Over approximately two decades, from 1825 to 1844, Joseph Smith the Prophet, and founder of the Church of Jesus Christ of Latter-day Saints, had many different kinds of encounters with the law. At the January luncheon of our Chapter, R Q Shupe explained in detail several of those encounters and explained how they shaped Smith's perceptions of the law and how it ought to be used.

Joseph Smith was first hailed into criminal court at the age of 20 on the misdemeanor charge of "disorderly conduct." The "disorderly conduct" consisted of his allegedly using a stone to find objects. According to Shupe, Smith testified without the aid of counsel, admitted he had such a stone, but denied that he solicited to use it for pay. The judge hearing the case found him guilty (probably to appease the locals), but, instead of jail time, Smith was taken to the county line and let go.

In another episode, Smith's brother, Samuel, failed to appear at a mustering of the local militia. Samuel was found guilty and fined \$20.00 (a lot of money in those days) and had to sell a cow in order to obey the court order. Shupe reported that Joseph Smith cursed the law and the court for that injustice.



Throughout his short life, Joseph Smith believed in and encouraged alternative dispute resolution. For example, when an individual named Abner Cole was found to be taking excerpts from the Book of Mormon and publishing them in his newspaper, Smith asked him to respect the copyright which he had obtained relating to the Book of Mormon. Cole asked Smith to settle the matter in an alley. Smith, being the more level-headed, encouraged Cole to resolve the matter through arbitration, which was done.

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JOSEPH SMITH AND THE LAW

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During the Missouri persecutions of the 1830's, Joseph Smith hired lawyers to represent the Church and to pursue claims on behalf of Church members. When various justices of the peace, who were aligned against the Mormons, refused to recognize their claims, Smith was understandably dismayed with the law's ineffectiveness.

Alexander Doniphan, a militia leader and lawyer, eventually helped negotiate the settlement of the Latter-day Saints to another Missouri county. Doniphan's demands for justice and for following proper legal processes also helped to save Smith from an arbitrary sentence of execution by firing squad that was pronounced by another Missouri militia commander.

As a result of his prior experiences (positive and negative) with the law, Joseph Smith learned much about the importance of legal processes in protecting individual liberties. When the Nauvoo charter was drafted, Smith made sure that it contained provisions allowing the Nauvoo municipal court to issue the writ of habeas corpus. Later, when Smith was arrested on trumped-up charges in 1843, lawyers from Nauvoo were legally able to spring him from jail by use of a writ of habeas corpus issued by a Nauvoo judge.

Partly as a result of his many and varied experiences with the law, Joseph Smith was a strong advocate of constitutional rights and individual liberties. His ideas regarding good government, individual rights, and the rule of law were specific and profound. Among other things, he taught the Latter-day Saints the following:

- ❖ The United States Constitution was established by the hand of God and should be maintained for the rights and protection of all peoples. (D&C 101:77)
- ❖ Governments must protect life, property, and the "free exercise of conscience" (D&C 134:2)
- ❖ All governments have a right to enact laws that are best calculated to secure the public interest, as long as "freedom of conscience" and "free exercise of religious belief" are protected. (D&C 134:5, 7)
- ❖ Latter-day Saints must obey, honor and sustain the law (Art. of Faith 12) as long as their "inherent and inalienable rights" are protected. (D&C 134:5)
- ❖ Rebellion should be punished if individual rights are protected. (Id.)
- ❖ We should befriend the "constitutional law of the land." (D&C 98:6)
- ❖ God holds people accountable both in making and administering the law for the good and safety of society. (D&C 134:1)
- ❖ We should sustain civil officers and magistrates that enforce and administer the law in equity and justice. (D&C 134:3)
- ❖ Laws should not prescribe rules of worship nor dictate forms of public or private devotion nor suppress religious expression. (D&C 134:4)
- ❖ Crime should be punished according to its degree of severity and all people should assist in bringing offenders against good laws to justice. (D&C 134:8)
- ❖ Religious influence should not be mingled with civil government if it advances the rights of one religious group over another. (D&C 134:9)
- ❖ Citizens should first appeal to the civil law for redress of all injuries to person, property, or reputation, but have a right to self-defense where the law is unavailable to protect against "unlawful assaults" on their rights. (D&C 134:11)



In summary, not only was Joseph Smith a great spiritual leader to those of his faith, he indisputably learned much about the law in his short life of 38 years. Although the law of his time did not ultimately protect him from his untimely death at the hands of an illegal mob in 1844, the timeliness of the legal concepts which he taught are as applicable today as they were in his day.

Historic First—JRCLS Women Meet

For the first time in the history of the Orange County chapter of the JRCLS and, presumably, any chapter of the JRCLS, a group of LDS women attorneys met to organize and discuss topics of common interest. Mimi's Café in Lake Forest was the site of the get-acquainted breakfast on Monday, February 27. Nine attorneys attended, with half a dozen more expressing interest had their schedules permitted.

"There was a great feeling there," said Elizabeth Smith, committee chairman. "I am grateful to have glimpses into the lives of these women."



The group has decided to meet triannually, with future breakfast meetings scheduled tentatively for June 5 and October 2, 2006. Attorneys in all stages of practice are welcome to come share their perspective, whether practicing full-time or part-time, not practicing, retired, in law school, or working in a non-law field. Contact elizabeths@smithandsmith-law.com if you are not now on the mailing list.

Many Thanks to our 2006 Sponsors:

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MARCH LUNCHEON

On March 16, 2005, Professor Cheryl Preston, of the J. Reuben Clark Law School, spoke to a large luncheon gathering of our Chapter regarding "Avoiding Bias in the Legal Profession." Those attending earned their required 1 hour of bias credit for California State Bar MCLE compliance.



Professor Preston has had a distinguished career as an award-winning filmmaker and author and as a practicing lawyer with O'Melveny & Myers and with Holmes, Roberts. In 2004, she was President of the Law & Religion Section of the Association of American Law Schools.

In the course of her computer-aided lecture, Professor Preston showed graphic examples how women are often portrayed in a negative or demeaning fashion in the popular media, especially advertising. She also explained the ways in which women employ unique problem-solving skills that are often different, but not inferior, from other methods. Her lecture was both interesting and educational.

J. REUBEN CLARK LAW SOCIETY ORANGE COUNTY CHAPTER

2006 Events Calendar

- April 27, 2006** (Thurs.) **2nd Annual Religion and The Law Symposium**
Evening Program 6:30-8:45 p.m.
Location: Chapman University Law School
One University Drive, Orange
Speakers: Profs. James Hayes, Charles Doskow, Joel Nichols,
Hon. Brett London, Hon. David MacEachen, and Ron Talmo
- May 18, 2006** (Thurs.) **Luncheon 12:00-1:30 p.m.**
Location: Knobbe, Martens, Olson & Bear
2040 Main St., Ground Floor Conf. Room, Irvine
Speaker: Hon. William R. Sheffield (Ret.)
- June 5, 2006** (Mon.) **Women Lawyers Breakfast 8:30 a.m.**
Location: Mimi's Café
22651 Lake Forest Drive (Lake Forest)
- July 13, 2006** (Thurs.) **Luncheon 12:00-1:30 p.m.**
Location: Knobbe, Martens, Olson & Bear
2040 Main St., Ground Floor Conf. Room, Irvine
(Tentative) Speaker: Hon. Jay S. Bybee
- Sept. 22, 2006** (Fri.) **2006 Chapter Annual Dinner**
Location: TBD
Speaker: TBD
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