Readings in American Law: The 1820s (395-001) – Spring 2013 (3 credits)

Professor Ross E. Davies (rdavies@greenbag.org; 703-993-8049)

Classes & office hours: Thursdays, 10 a.m. to 12 noon in Room 432C. Note: The course is scheduled for 10 to 11:50 a.m., but we will extend every class session to noon to make up for the fact that we will not meet on March 28. Office hours by appointment.

Texts:
symbols: * = buy it; Δ = easy to find in law databases, so get it yourself; † = harder to find, so I will provide pdfs
† Annual Reports of the President of Harvard University to the Overseers 1825-6 & 1828-9 (1827, 1830): excerpts
† Boston Daily Advertiser, Apr. 26-30 & May 1-3, 1822; Columbian Centinel, Apr. 20-27 & May 1-4, 1822: all
† Nathan Dane, A General Abridgment and Digest of American Law (1823): pages i-xviii, 85-231
† 20 Johnson’s Reports (N.Y., May Term 1822): pages 1-130
† James Kent, 1 Commentaries on American Law (1826): Lectures XX-XXIII
† James Kent, 2 Commentaries on American Law (1827, 2d ed. 1832): Lectures XXIV-XXXIII
† 22 Niles’ Weekly Register (Apr. 6-May 25, 1822): pages 81-208
Δ 20 United States Reports (aka Wheaton’s Reports) (Feb. Term 1822): selected cases TBA
† Thomas G. Waterman, The Justice’s Manual (1825): all

Assignments: Please read the assigned material by the first date next to which it appears, and be prepared to discuss it in class on that date. Long before the first discussion of the U.S. Reports, each student will be assigned a case from that volume on which to make an oral presentation and lead a discussion on one of the dates on which that assignment is covered (students are free to express preferences for particular cases at any time). Assignments are subject to change based on the pace of the course and the whim of the instructor. As should be obvious, you must read the assigned part of the Howe book before the semester begins. It will make pleasant winter reading.

Jan. 31: Kent L. XXIV-XXXIII (quiz)  Feb. 28: Dane  Mar. 28: no class

For each class session, please:

(a) Read and think deeply about the assigned material. You should stay an assignment or two ahead of schedule, just in case.

(b) Leave all electronics outside the classroom or, if you must bring them with you, keep them closed and stowed during class. This means, of course, that you must print out (or borrow or buy) and bring to class an ink/toner-on-paper version of the reading and it must be the version specified in the syllabus. No e-readers, no audiobooks, no non-specified versions.

(c) Note and follow in-class instruction. If you miss a class you must get notes from a classmate. Make arrangements in advance as a precaution against unanticipated absences. There is a strong tradition in law of sharing notes with colleagues in need. Be a part of it.

(d) Look up words you do not know. I recommend the latest of editions of Black’s Law Dictionary, the OED, and American Heritage.

Purpose of the course: What is the point of reading and talking about a bunch of stuff from some bygone era? Actually, there are at least three points: (1) to gain deeper understanding of legal history, (2) to practice the careful study of law in context, and (3) to enjoy one of the most enriching lawyerly activities – reading about law and then probing its meaning and function with engaged colleagues. There is a lot of reading, and pre-class thinking, but if you like those activities you will like this course, because there isn’t much else required (given that the quizzes described below will be pretty easy for anyone who does the reading).

Grades: Your grade is based on closed-book quizzes and participation. Quizzes count for 1/3 of the grade. A quiz consisting of a few (ten or so) straightforward questions about the assigned reading is given at the start of most classes in which we discuss new material. They are designed merely to determine whether you have, in fact, done the reading and paid attention. They are easy for anyone who has done the reading but not for someone who has not. There are no make-ups: miss a class in which a quiz is administered, miss that quiz. Skipping class to avoid a quiz can be costly for two reasons: (1) grades are based mostly on participation and someone who is absent will find it hard to participate, and (2) if a student takes all quizzes, the lowest quiz score is excluded from final grade calculations. Participation counts for 2/3 of the grade. Let us be clear about this up front: Evaluation of participation is inevitably largely subjective, which means that if you do not like your participation grade there will be no basis for challenging it. Having said that, you are unlikely to get a bad grade if you come to every class prepared to make useful contributions, do in fact make them, and respectfully listen to and comment on the contributions of others. It is because of those expectations that there is an electronics ban for this course. No one can google whatever we are talking about and then read something off a screen, passing it off as his or her own thought. All of us must read and reflect and even do a little bit of our own research before class in order to be sure we have something useful to share. What a wonderful thing! Caution: Do not enroll in this course if you hope (due, for example, to success in a moot court competition) or expect (due, for example, to out-of-town travel) to have a schedule that conflicts with this course. In this course there is no substitute for participation. So, generally speaking, the more class sessions you miss the lower your grade will be, and a failure to attend the number of class sessions required by our school’s regulations (they are available on the school website, and you are responsible for knowing and following them) will make you ineligible for course credit.

Intellectual property: I own all course content I create, regardless of form. You may share copies of that content with classmates during the course, but other than that you must keep all of it in any format to yourself forever. Recording of class sessions is forbidden. I have read and do understand the rules of this course, and I know that following those rules is an important part of class participation. I will abide by all of them. Signed: ___________________________ Date: ___/___/___