

In the Nephite Courtroom

John W. Welch. *The Legal Cases in the Book of Mormon*. Provo, Utah: Brigham Young University Press and the Neal A. Maxwell Institute for Religious Scholarship, 2008. 496 pp. Cloth: \$34.95; ISBN: 9-7808-4252-712-5

Reviewed by Ronan James Head

John W. Welch's CV is enough to trigger fatigue in even the most prolific of scholars. As founding director of the Foundation for Ancient Research and Mormon Studies (FARMS), Welch introduced a new generation of Mormon readers to the work of Hugh Nibley and kick-started a renewed vigor in "faithful scholarship." He serves as editor in chief of *BYU Studies* and has joined with others to oversee various projects from the *Encyclopedia of Mormonism* to the Library of Congress conference on Joseph Smith. His publications include work on topics as diverse as the art of Minerva Teichert and biblical law. Welch is particularly famous in Mormon apologetic circles for his discovery of chiasmus in the Book of Mormon. All of these activities run parallel to his day job as Robert K. Thomas Professor of Law at BYU.

Welch's long-standing and passionate advocacy for the historical plausibility of the Book of Mormon has made him one of the godfathers of modern Mormon apologetics. He has been actively engaged with the academy beyond Provo, serving, for example, on the executive committee of the Biblical Law Section of the Society of Biblical Literature. As someone who shares some of Welch's colleagues in the field of ancient law, I can vouch for the high regard in which he is held as both a gentleman and a scholar. His careful work on New Testament law in particular has earned him the respect which might otherwise have been difficult for a "Mormon apologist" to acquire in a field which is hardly likely to accept the ancient origins of the Book of Mormon any time soon. It is precisely this tension between rationality and faith—so far ably overcome by Welch during his career—which makes *The Legal Cases in the Book of Mormon* such an interesting and curious work.

Legal Cases in the Book of Mormon is the Mormon culmination of Welch's training in law and biblical studies. In this volume, Welch

aims “to examine the literary and historical backgrounds of the legal narratives in the Book of Mormon” and “to compare the laws in the Nephite world with those in the Hebrew Bible and the ancient world in general” (17). This is an ambitious project, requiring a familiarity with the Book of Mormon sophisticated enough to draw out its legal history and an understanding of the ancient law with which it is to be compared. Welch is ably equipped to take on this project, the fruits of which run to nearly 500 pages.

Before describing the book in more detail, it will be necessary to briefly consider the book’s audience. *Legal Cases in the Book of Mormon* reads much like any other legal history, particularly those that elucidate biblical law. This seems to be a deliberate strategy on Welch’s behalf, and the book seems to have been written with a secular audience at least half in mind. If the book were a study of, say, Deuteronomic law, it would no doubt find a place on the shelves of Bible studies libraries across the world. As it is, *Legal Cases*, despite its erudition, will likely remain in-house.

The reason is obvious. The study of Hebrew law allows at least some room for a range of approaches, from the “conservative” to the “liberal.” Scholars might argue over when to date the Mosaic laws, but no one doubts that they are genuinely ancient. Not so with Book of Mormon law. Welch affirms his belief that “Lehi, Nephi, Benjamin, and Alma were real people who lived in a real world.” This conviction, he insists, is strengthened when one sees how Book of Mormon legal history fits “understandably into an ancient legal setting” (55), thus affirming “the historical core of the records that stand behind Mormon’s abridgement and the English translation of the Book of Mormon” (54). Welch is studying what he considers to be a genuine ancient source, but for non-believers who read his work, this assumption is an impediment that will likely be impossible to overcome. The result is what probably makes *Legal Cases in the Book of Mormon* seem so curious to outsiders: The scholarship is good, but the core methodology—treating the Book of Mormon as an ancient source—will likely be a perceived weakness too huge to ignore.

Skeptical students of the Book of Mormon could reasonably mine the text for evidences of nineteenth-century American law, an approach Welch anticipates and roundly rejects. He notes that certain terms in the Book of Mormon (e.g., *contend* and *robber*) cor-

respond more accurately to their Hebrew uses than any American use (388). Welch insists that Book of Mormon law is demonstrably Hebrew (specifically pre-exilic owing to Lehi's departure from Jerusalem prior to the Babylonian captivity), arguing that a modern author of the Book of Mormon would have needed "a level of comprehension and familiarity with biblical law that exceeded the articulated knowledge of biblical scholars in the nineteenth century, let alone the comprehension of the young Joseph Smith" (55). A critic of the Book of Mormon would probably question the extent to which Welch began with an assumption of historicity and worked backwards from there, but believing Mormon readers will no doubt share Welch's view.

After sketching his personal involvement in Book of Mormon and legal studies ("Foreword and Personal Acknowledgements," xi-xxv), Welch offers an essay on the historiography of ancient law ("Entering the Legal World," 3-18). The dust jacket carries an endorsement of this essay by Raymond Westbrook, professor of Near Eastern studies at Johns Hopkins and one of the foremost scholars of ancient law in America: "I heartily endorse the general comments on the legal approach to ancient scripture." In this chapter, Welch reminds his reader of some of the problems associated with the study of ancient law and, by doing so, demonstrates the kind of careful scholarship already mentioned above.

"Queries and Prospects" (19-56) sets out the aims of the study and some of the specific problems offered by the Book of Mormon; "The Ideal of Righteous Judgment" (57-76) discusses what Welch believes to have been the "ultimate values" (57) of Nephite civilization; "Judicial Procedures in Biblical Times" (77-103) serves as a theoretical introduction to the specific cases that follow.

As the Book of Mormon provides no evidence of a Nephite legal code as such (a common lacuna in ancient law), Nephite law must be deduced from the Book of Mormon's seven legal narratives: the case of Sherem, the trial of Abinadi, the trial of Nehor, the trial of Alma and Amulek, the trial of Korihor, the case of Paanchi, and the trial of Seantum. In two separate chapters, Welch compares the Sherem, Nehor, and Korihor cases (301-9) and discusses Nephite judicial punishments (335-81). Welch makes a brief concluding statement (383-89). Two appendices quote the texts of legal proceedings in the Old Testament and the

Book of Mormon. He also includes a bibliography and two indices: citation and subject.

The trial of Seantum gives the flavor of *Legal Cases in the Book of Mormon*. After a period in the ministry, Nephi, son of Helaman, returns to Zarahemla and finds the city afflicted by corrupt practices. The citizens' sins are given in a "bill of particulars" (Welch's legal description of Helaman 7:4-5) which Welch compares to the apodictic commandments in Exodus 22-23. Nephi warns that if the people will not repent, they will "become meat for dogs and wild beasts" (v. 19), an allusion to a similar curse in Jeremiah 26:23. The judges are furious with Nephi and encourage the people to bring an action against him (Hel. 8:1); they themselves lack that authority. Nephi and his supporters prevail, he prophesies the murder of the chief judge, the murder is confirmed, and the suspects are brought to trial. Without the two witnesses required by Deuteronomy 17:6, each suspect would be required to swear an oath of innocence, which is exactly what Helaman 9:15 describes. Nephi is then urged to confess to the "fault" (not a "crime" in a Hebrew context) of being a "confederate" to murder (Hel. 9:20). Instead, Nephi names the murderer, Seantum, by revelation (vv. 34-36), a method of conviction permitted under Hebrew law (e.g., Achan in Joshua 7). Seantum confesses and is executed, the legality of which is further discussed by Welch.

In reading *Legal Cases*, I paid particular attention to Welch's use of sources from my own area of expertise, viz., legal texts from ancient Mesopotamia. In all cases, Welch draws on current scholarship and ably deals with the cuneiform sources, although one might have hoped for greater justification of how third millennium B.C. Sumerian laws can illuminate both Israelite and Book of Mormon law, beyond the brief discussion on pp. 30-31. He is right to stress the "fair degree of consistency among the ancient Near Eastern laws" (30), but his own warning is important: The "further one moves in either direction from 600 BC, however, the less probative the earlier or later materials become for Book of Mormon purposes" (30). A real sense of the varied weight Welch puts on the disparate chronological sources of ancient Near Eastern law vis-à-vis the Nephite system is not always acknowledged in the text.

One other meta-criticism: in discussing the trial of Abinadi, Welch interrogates the authorship of Mosiah 11–17. A critical view of the text offers the reader a fairly complicated source history: Abinadi's own spoken words are interwoven with an account of the trial written by Alma the Elder (Mosiah 17:4) who himself did not apparently witness the entire case first-hand and so would have relied on other sources. Someone then composed the book of Mosiah which was then abridged, centuries later, by Mormon. Welch offers here a cautionary view of the accuracy of the text; but even if we assume an ancient origin, he seems to underplay the final layer—namely, that the record was then transmitted to Joseph Smith to be rendered into English. Further discussion of these source layers—particularly in light of such views as Ostler's "expansion theory"¹—would be useful, perhaps vital in appraising the accuracy of this legal information as it has arrived in our hands. Based on the findings of the Book of Mormon Critical Text Project at BYU, Welch expresses confidence that the English represents a "precise translation" (51), but I am not sure the case has closed as he suggests.

Overall, *Legal Cases* is an excellent book in the Nibley tradition. Indeed, we might call Welch one of the founders of "neo-Nibleyism" in Mormonism: exhaustive, faithful scholarship, lacking Hugh's acerbic and witty style, but with more care for methodology. (One feels that if Nibley were writing such a work, he would not have confined his comparisons to biblical and Near Eastern law.) If non-Mormon readers can set aside their skepticism (doubtful, I fear), they will see a demonstration of the kind of erudition that can be brought to bear on the Book of Mormon, for which Mormon scholars such as Terry L. Givens have been clamoring.² For believers, Welch has provided a rich, sophisticated study of a sacred text which rewards careful and patient reading. I hope *Legal Cases in the Book of Mormon* will serve more than just an apologetic purpose. It can, of course, be used to further the cause of Book of Mormon historicity, but if it is to offer any form of religious value, perhaps Welch's own words on the last page (389) should carry some weight: "Rules for judging righteously are legally exemplified in the Bible and the Book of Mormon. These books extend to the world vivid and poignant invitations to 'judge righteously between every man and his brother, and the stranger