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COMPOSING CONFLICT

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CLARK MEMORANDUM

J. Reuben Clark
Law School
Brigham Young
University
Spring » 2002



Detail, Johannes Vermeer, *Woman Holding a Balance*. Widener Collection, photograph © 2002 Board of Trustees, National Gallery of Art, Washington.

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The mission of the J. Reuben Clark Law Society is to promote high moral and professional standards in the legal profession and service to society. In fulfilling its mission, the Law Society is guided by the philosophy, personal example, and values of its namesake, J. Reuben Clark, Jr. Those values include (1) public service, (2) loyalty to the rule of law as exemplified by the United States Constitution, and (3) appreciation for the religious dimension in society and in a lawyer's personal life.

BY BRETT G. SCHARFFS¹

// PART ONE OF TWO //

composing conflict

the lawyer as composer



To see this image,
please refer to
the printed version
of this issue.

Johannes Vermeer

Christ in the House of Martha and Mary

National Galleries of Scotland.

1. *I Don't Want a Lawyer*

Once in a very long while one encounters a story or anecdote that is at once dispiriting and inspiring—dispiriting in what it says about us and inspiring in what it says about what we may become. I had such an experience recently, reading a recollection of President Gordon B. Hinckley. Speaking in general conference in 1988, President Hinckley, at the time First Counselor in the First Presidency of the Church, recounted:

We live in an environment where there is much of litigation and conflict, of suing and countersuing. Even here the powers of healing may be invoked. As a young man I worked with Elder Stephen L Richards, then of the Council of the Twelve.² When

he came into the First Presidency of the Church, he asked me to assist him with a very delicate and sensitive matter. It was fraught with most grave and serious consequences. After listening to him discuss it, I said, "President Richards, you don't want me; you want a lawyer." He said, "I am a lawyer. I don't want to litigate this. I want to compose it."³

As a lawyer—and even more as a law professor—I am dismayed and somewhat ashamed that when faced with such an important and delicate matter, Elder Richards' instincts told him that a lawyer would be the wrong person for the job, since a lawyer reflexively would want to litigate, creating dissension rather than har-

mony. Moreover, I was fascinated by the use of the word *compose*. To my ear, the use of this word in this context had an antiquated, unfamiliar ring.

Interest piqued, I surveyed several dictionaries to try to figure out what Elder Richards meant when he said he wanted to “compose” the situation. The dictionaries were filled with dozens of definitions of the word *compose*, covering a surprisingly broad array of meanings.⁴

In reflecting further upon this anecdote, I have become convinced that the idea of seeking to be a *composer* has significance for lawyers on multiple levels of meaning. Several definitions of *compose*, including the definition most likely intended by Elder Richards, identify skills—indeed, traits of character—that every lawyer should aspire to possess, especially if we are to transcend the role of hired gun or mercenary and realize our potential as healers and unifiers.

2. *The Lawyer as Composer*

There are at least five senses of the word *compose* that have significance for lawyers, including (1) to end or settle a dispute, (2) to put together, (3) to put into proper form or order, (4) to bring about a condition of repose or calmness, and (5) to create a literary, musical, or choreographic work. This article has been written in two parts. Part I focuses upon the definitions relating to conflict resolution and will discuss the first four designations of *compose*. Part II, which will appear in the next issue of the *Clark Memorandum*, will provide a more in-depth discussion of the multiple correlations between composing music and composing law.

A >> QUIETING CONFLICT

The definition of *compose* most obviously suggested by President Hinckley's story is “to end or settle (a quarrel, dispute, etc.),” “to deal with or act on so as to reduce to a minimum their differences,” “to arrange a dispute, conflict of claims, etc., to settle, adjust, arrange,”⁵ or “to arrange (any matter) properly or successfully; to settle.”⁶ *Black's*

Law Dictionary defines a related concept, “composition with creditors,” as “[a]n agreement, made upon a sufficient consideration, between an insolvent or embarrassed debtor and his creditors, whereby the latter, for the sake of immediate or sooner payment, agree to accept a payment less than the whole amount of their Claims, to be distributed *pro rata*, in discharge and satisfaction of the whole.”⁷ In this sense, to compose is to minimize differences, to end or settle a dispute, to seek common ground among parties who disagree about something.

For a lawyer, the impulse to create conflict and discord can be very great. Trial lawyers are familiar with the thrill of victory that comes with a favorable verdict, the more so when the facts or law make the case difficult. Many lawyers may feel a guilty affinity with the Wall Street attorney who confessed, “The greatest thrill is to win when you are wrong.”⁸ It is easy and seductive to view litigation, and to a lesser extent a broader range of legal negotiations, as a zero sum game. Professor Leonard Pertnoy

has lamented the prevalence of prosecutors who “are known only to seek convictions and gain another notch on their gun belts.”¹¹ Voicing a similar concern, Judge R. J. Gerber notes that, “In playing the adversary role, the litigator may become an amoral technician committed to winning the adversary battle by any means at hand.”¹² Mahatma Gandhi described the destructive effects of such a mind-set as follows:

*I saw that the litigation, if it were persisted in, would ruin the plaintiff and the defendant, who were relatives and both belonged to the same city. . . . [I]t might go on indefinitely and to no advantage of either party. . . . In the meantime, mutual ill-will was steadily increasing. I became disgusted with the profession.*¹³

Make no mistake, at times one needs a lawyer who will skillfully, intelligently, and relentlessly fight to protect one’s interests. When we emphasize the peacemaking or conflict-resolving role of lawyers, we may do so at the expense of our client’s interests. There is a risk that lawyers can anoint themselves judge and jury when they seek to generate what they see as a fair or desirable outcome, rather than vigorously defending the rights and interests of their client. On the other hand, striking a win-at-all-costs adversarial posture can also undermine rather than serve our clients’ interests.

Knowing when to litigate and when to compose conflict is an important lawyerly skill.¹⁴ Former Chief Justice Warren Burger observed, “One reason our courts have become overburdened is that Americans are increasingly turning to the courts for relief from a range of personal distresses and anxieties. Remedies for personal wrongs that once were considered the responsibility of institutions other than the courts are now boldly asserted as legal ‘entitlements.’ The courts have been expected to fill the void created by the decline of church, family and neighborhood unity.”¹⁵ One can only imagine that the tendency identified by Chief Justice Burger has gotten worse in the 20 years since he spoke those words.

We may think that settlement is a tactic appropriate to or reflective of a position of weakness and litigation appropriate to a position of strength. But this would be a damaging oversimplification. Engaging in

good faith settlement efforts does not foreclose the possibility of aggressive litigation, and litigating aggressively will sometimes put one in a stronger position to effect a favorable settlement. But an obsession with tactics and winning may pose an obstacle for the lawyer seeing and sensing opportunities to compose a conflict.

Karon O. Bowdre has urged,

*Attorneys should once again embrace the traditional role of “bealers of human conflict,” of peacemaking. Sometimes the best approach for the client would be to acknowledge her part in the conflict (every dispute has two sides), accept responsibility and apologize. For another client, the best counsel may be to overlook a wrong instead of destroying a relationship, or to practice true forgiveness. To lead our clients to points of confession and forgiveness, we must help them see people and relationships as more important than always exercising all our legal rights.*¹⁶

Abraham Lincoln had the following advice for lawyers: “Persuade your neighbors to compromise whenever you can. Point out to them how the nominal winner is often a real loser—in fees, expenses, and waste of time. As a peacemaker, the lawyer has a superior opportunity of being a good man.”¹⁷

B >> PUTTING TOGETHER

Another meaning of the word *compose* is “to put together, make up. To make by putting together parts or elements; to make up, form, frame, fashion, construct, produce.”¹⁸ Related meanings include “to make up of disparate parts or elements,”¹⁹ to “constitute,”²⁰ and “to form by putting together; fashion.”²¹ Composition is the creative process of putting together disparate elements, to fashion or construct an end product.

Lawyers have many opportunities to bring people together. Judge Ralph Mabey has suggested that lawyers can serve as unifiers, bringing parties together who may not know or trust each other into mutually beneficial relationships.²² Judge Mabey explains, “Take the example of two parties who are entering into a contract. They’ve got different interests. One wants to sell high, the other wants to buy low. One wants to sell for cash, the other wants to buy on terms. The contract laws of this country allow them to be brought together.

. . . They are unified and enabled to work together for their separate interests—unified by the law. . . . If the purpose of the law is *e pluribus unum*, then the purpose of a lawyer is to effect *e pluribus unum*.”²³

The ability to bring together disparate elements is also evident in lawyers skilled at putting together complex business relationships such as large project finance transactions.²⁴ Many lawyers are adept at creating complexity out of what appear to be simple situations; a far more uncommon skill is the ability to create simplicity out of messy and complex situations.²⁵

Lawyers can also bring people together by creating relationships with clear expectations and obligations, foreseeing likely points of tension or difficulty, and planning ways to address them. According to Edward D. Re, “[L]awyers must appreciate and expand their role as counselors. As counselors, lawyers can play a crucial role in avoiding controversy and litigation. Effective counseling minimizes the likelihood of conflict between parties by stabilizing relationships and promoting understanding and cooperation. Lawyers as counselors, in the words of Chief Justice Burger, provide the ‘solvents and lubricants which reduce the frictions of our complex society.’”²⁶

C >> CREATING COHERENCE

A third, closely related, definition of *compose* is “to put into proper form or order; to compose laws into a coherent system.”²⁷ The *Oxford English Dictionary* includes the definition “to put together (parts or elements) so as to make up a whole; spec. in artistic use, to arrange artistically the elements of a landscape or painting.”²⁸ To the idea of bringing disparate elements together, this definition adds a sense of creating a proper fit, unity, and coherence. A beautiful composition not only brings together a variety of components, it brings them together in a way that creates a sense of balance, wholeness, and integrity. Just as a painting can be skillfully composed, a legal argument can be crafted in such a way that it has persuasive force.

A lawyer composes in this sense when he finds unity or coherence in a line of cases, creating a justification for a desired outcome. In an introductory text on legal reasoning and writing, Professor Richard K. Neumann, Jr., notes:



HEN LOOKING AT AN ARTISTIC
MASTERPIECE, SUCH AS A PAINTING BY CARAVAGGIO OR VERMEER, WE ARE OFTEN
STRUCK BY THE SENSE THAT EVERY ELEMENT OF THE COMPOSITION IS WHERE IT BELONGS.

*To turn [a bundle of cases] into a unified whole, [the lawyer] must step back and ask [himself] what, under the surface, the cases really have in common. [The lawyer] must identify the threads that appear . . . tie the threads together, and organize the analysis around the threads themselves (rather than around the individual cases). The [judge] cares more about the threads than about the cases, and an individual case is important only to the extent that it teaches something about the thread.*²⁹

Trial lawyers compose in this sense when they strive to create a coherent story, or “theory of the case,” that accounts for a disparate and complex set of facts. Lieutenant Colonel James L. Pohl describes this form of composition, stating,

Accurately developing the proper theory of the case is the most critical aspect of trial preparation because the theory drives every aspect of every stage of the trial. [It] is the destination for the case. All evidence, objections, questions, and every other part of the trial presentation must support

*the theory. . . . [The theory] is the emotional or equitable “book” that convinces. . . . The theory of the case as a unifying theme assists not only in pre-trial preparation but also in making decisions during the beat of battle itself. . . . [Developing a proper theory of the case] leads to an integrated, cohesive presentation to the factfinder.*³⁰

Artistic composition depends upon a good eye for how things fit together into a portrayal that is pleasing. One hallmark of great art is that it has a sense of unity and harmony. When looking at an artistic masterpiece, such as a painting by Caravaggio or Vermeer, we are often struck by the sense that every element of the composition is where it belongs, a characteristic that the artist Frank Stella has described as Caravaggio’s “overwhelming, invented coherence.”³¹ Stella notes, “We have a notion that naïve or bad art breaks down into parts that are irrational, unable to add up to a sustainable whole. . . . In great art all the relationships sparkle, radiating coher-

ence.” Expressing a similar sentiment, the artist Hans Hofmann has said, “My ideal is to form and to paint as Schubert sings his songs and as Beethoven creates a world in sounds. . . . Pictorial homogeneity of the composition—plastic unity—is developed by lawfully governed inner necessities. From this derives the rhythm, the personal expression in the work.”³²

Speaking of the lawyer’s role in creating coherence out of apparent confusion, musician and lawyer Daniel Kornstein strikes a similar note:

To be sure, law often seems chaotic and confused, an incomprehensible and incoherent welter of apparently contradictory and ever-changing rules, traditions, and practices. The confusion is heightened by the increasing number and complexity of laws reaching into every corner of our lives and made necessary by improving technology and changed social policies. And yet, despite this apparent cacophony of laws, there may well be mysterious harmonies, rhythms, and relationships to be



discerned. [Lawyers must] bear the “music of the laws”—to see the interconnectedness of apparently unrelated legal phenomena.³³

This definition’s emphasis on putting things in their proper place also accentuates lowly craft skills such as visualizing, planning, and drafting, seemingly mundane obsessions such as accuracy and precision, and important virtues such as integrity.³⁴ As a young transactional lawyer at a large metropolitan firm, I sometimes felt like a well-paid proofreader. Getting it right—whether you are working on a prospectus for the sale of securities, a contract, or a stock certificate—is an absolutely essential skill for a young lawyer. An accomplished lawyer friend of mine is fond of telling young associates that the key to being a good lawyer is to realize that the first 90 percent takes 90 percent of the time, and the last 10 percent takes 90 percent of the time.

D >> ENGENDERING REPOSE

A fourth definition of *compose* is “to bring (the body, mind, or emotions) to a condition of repose, calmness, etc.; calm; quiet,”³⁵ “to free from agitation: calm, settle,”³⁶ “to adjust the body or mind to any attitude, esp. that of repose; to calm or quiet disturbance,”³⁷ “to address or dispose (esp. the mind, oneself) calmly and collectedly to or for an action or state, or to do something,”³⁸ or “to set in proper order, or in a position of rest; to arrange, adjust; e.g., to set (the body) in the posture of sleep or repose.”³⁹ This sense of the word is captured in the curt directive: “Compose yourself!” And as we all know, sometimes it is no easy task to pull oneself together, let alone to help someone else do so.

Some lawyers seem to be expert in creating and fostering contention and agitation. Others, whether in negotiations or in litigation, are able to create a sense of calmness.⁴⁰ The renowned lawyer Arthur Liman confessed that “[t]rial craft and trial work always brought me, I admit, a great personal ‘high,’ the testing period that, for the lawyer, demands the most intense concentration, vigilance, and control. But it is in that other function, that of counselor, that I think the lawyer may well perform his highest service.”⁴¹ Liman notes that clients are often fearful and vulnerable when they find themselves in

need of the help of lawyers. “Behind my desk,” Liman explains, “hangs a 19th-century Old Testament sampler that [my wife] Ellen found for me in a flea market. It is from the Book of Isaiah, and it reads, ‘Fear Thou Not, For I Am With Thee.’ To me, the quotation expresses perfectly what every lawyer should strive for in the lawyer-client relationship.”⁴² One of the great services we can provide our clients is to be with them in times of distress and need, to serve and help them, and to help create a sense of calmness, peace, and reconciliation.

3. Composing Conflict

I am convinced that there is an important lesson for lawyers in the fact that when Elder Richards needed someone with extreme tact, good judgment, imagination, and a desire to find a creative and healing solution to a difficult and delicate problem, his instincts told him he did not want a lawyer, since the goal was to *compose* the situation. President Hinckley describes what happened next:

*We directed our efforts to that end, and wonderful results followed. Money was saved, much of it. Embarrassment was avoided. The work was moved forward without fanfare or headlines. Wounds were closed. The healing powers of the Master, the principles of the gospel of Jesus Christ, were invoked in a delicate and difficult situation to compose what otherwise could have become a catastrophe.*⁴³

As a profession we should be troubled if reasonable people facing similar situations are justified in believing that a lawyer is exactly the wrong sort of person for dealing with tasks of unusual complexity and sensitivity.

The biggest challenge facing lawyers is to avoid settling for what Bruce Ackerman has described as “a self-trivializing conception of lawyering.”⁴⁴ Professor Ackerman maintains, “The challenge is to build a life in the here and now—one worthy of ourselves, our fellow citizens and the law itself. Easier said than done. And many of us will fail in the attempt.”⁴⁵ I do not mean to suggest that conceiving of the lawyer as a composer exhausts, or even best captures, what it means to be a lawyer. Lawyers have many roles, and there are multiple ways of conceptualizing the lawyer’s work.⁴⁶ But having what Karl

Llewellyn called “situation sense” is something that great lawyers have in common.⁴⁷ And a lawyer with situation sense will have, among many skills, those captured by the word *compose*—understanding when and how to settle conflicts, how to bring together varied and disparate parts and parties, how to create coherence and bring things into proper form, and how to engender repose, soothe agitation, and quiet volatile situations.

The most common meaning of the word *compose*, of course, is to create or formulate a piece of music. This sense of the word might seem particularly distant from the work of lawyers. In the second part of this article, however, I will suggest that there are important lessons that lawyers can learn from the art and discipline of composing music.

ENDNOTES

- 1 Associate Professor of Law, J. Reuben Clark Law School, Brigham Young University. B.S.B.A., M.A. Georgetown University, B.Phil. Oxford University, J.D. Yale Law School. Thanks to the students in my professional seminar who endured my early reflections upon this topic, to my research assistants Matthew Bullock and Katherine Davidson for their extraordinary help, and to Jane Wise and Matthew Kennington for their editorial assistance. Copyright © 2001 Brett G. Scharffs.
- 2 The Council of the Twelve, along with the First Presidency (the president of the Church and two counselors), comprise the highest governing bodies of the Church. 1 ENCYCLOPEDIA OF MORMONISM 327 (Daniel H. Ludlow ed., 1992).
- 3 Gordon B. Hinckley, *The Healing Power of Christ*, ENSIGN, Nov. 1988, at 52, 54. Elder Dallin H. Oaks, in a chapter on litigation in his book *The Lord’s Way*, reproduces this story and observes, “Since litigation almost inevitably involves contention and is prevented by reconciliation and forgiveness, these teachings stand as a strong direction for Latter-day Saints to use every reasonable means to compose their differences and avoid litigation with their fellow members or others.” DALLIN H. OAKS, *THE LORD’S WAY* 176–77 (1991).
- 4 See MERRIAM WEBSTER COLLEGIATE DICTIONARY 236 (10th ed. 1994) [hereinafter WEBSTER]; RANDOM HOUSE COLLEGE DICTIONARY 276 (1972) [hereinafter RANDOM HOUSE]; 2 THE OXFORD ENGLISH DICTIONARY 733–34 (1978) [hereinafter OED]; BLACK’S LAW DICTIONARY 259 (5th ed., 1979) [hereinafter BLACK’S LAW DICTIONARY].
- 5 RANDOM HOUSE, *supra* note 4, at 276.
- 6 WEBSTER, *supra* note 4, at 236.

7 OED, *supra* note 4, at 733.

8 *Id.*

9 BLACK'S LAW DICTIONARY, *supra* note 4, at 259.

10 See R. J. Gerber, *Victory vs. Truth: The Adversary System and Its Ethics*, 19 ARIZ. ST. L.J. 3, 3 (1987) (quoting anonymous source).

11 Leonard Pertnoy, *Order in the Court*, 43 SYRACUSE L. REV. 1159, 1160 (1992).

12 *Id.* at 4.

13 M. KATSH, TAKING SIDES: CLASHING VIEWS ON LEGAL ISSUES 14 (2d ed. 1986) (quoting Gandhi's autobiography).

14 See, e.g., Thomas W. Porter, Jr., *The Spirit and the Law*, 26 FORDHAM URB. L.J. 1155, 1163–65 (1999) (discussing dual lawyerly roles of advocate and peacemaker).

15 Warren Burger, *Isn't There a Better Way?*, 68 A.B.A. J. 274, 275 (1982).

16 Karon O. Bowdre, *Law Practice: A Place for Moral Values*, 57 ALA. L. REV. 158, 162 (1996) (footnotes omitted).

17 Abraham Lincoln, *Notes for a Law Lecture (July 1, 1850)*, in THE LIFE AND WRITINGS OF ABRAHAM LINCOLN 329 (Philip Van Doren Stern ed., 1940). See also The Honorable Edward D. Re, *The Lawyer as Counselor and the Prevention of Litigation*, 31 CATH. U. L. REV. 685, 691 (1982) ("In the role of Counselor, the lawyer serves as an instrument of peace."); Phyllis E. Bernard, *Community and Conscience: The Dynamic Challenge of Lawyers' Ethics in Tribal Peacemaking*, 27 U. TOL. L. REV. 821 (1996) (exploring Native American tribal peacemaking as innovation in alternative dispute resolution, focusing not only on resolving immediate legal disputes, but also in healing human relationships).

18 OED, *supra* note 4, at 733.

19 RANDOM HOUSE, *supra* note 4, at 276.

20 WEBSTER, *supra* note 4, at 236.

21 *Id.*

22 See Ralph Mabey, *Just Lawyers*, CLARK MEMORANDUM, Spring 2000, at 2, 4–5.

23 *Id.* at 4–5.

24 "The most salient characteristic of project finance transactions is their large scale. To take one example, the cost of construction of a power plant [through project finance] will often reach several hundred million dollars, and these large dollar amounts entail correspondingly large scales in other facets of the transactions. . . . [T]he number of financing parties is large (e.g., bondholders, subordinated bondholders, syndicates of bank lenders, trustees and collateral agents . . . the duration of the transactions is large (easily a decade or more). And as a result of all the foregoing, the volume of documentation and number of legal issues presented by the transaction is also quite large. . . . Despite this complexity, one can usefully conceive of project finance transactions as taking a simple, schematic shape: that of a bow tie or butterfly." Carl S. Bjerre, *International Project*

Finance Transactions: Selected Issues Under Revised Article 9, 73 AM. BANKR. L.J. 261, 263–64 (1999).

25 For an insightful commentary on the interplay between simplicity and complexity in the legal arena see Peter Schuck, *Legal Complexity: Some Causes, Consequences, and Cures*, 42 DUKE L.J. 1 (1992).

26 Edward D. Re, *The Causes of Popular Dissatisfaction with the Legal Profession*, 68 ST. JOHN'S L. REV. 85, 118 (1994).

27 RANDOM HOUSE, *supra* note 4, at 276.

28 OED, *supra* note 4, at 733.

29 RICHARD K. NEUMANN, JR., LEGAL REASONING AND LEGAL WRITING: STRUCTURE, STRATEGY, AND STYLE 131 (3rd ed. 1998). But as Neumann explains, the lawyer must not only be able to synthesize or distill a coherent legal principle from a line of cases, he must also be able to harmonize conflicting decisions and integrate both helpful and adverse precedent in a process of reconciliation. See *id.* at 132.

30 Lieutenant Colonel James L. Pohl, *Trial Plan: From the Rear . . . March!*, 1998 ARMY LAW., June, 1998, at 21, 21–22. Daniel Kornstein maintains, "A trial, that most dramatic of legal events, couples story-telling and analysis. Preparing witnesses, giving opening and closing statements, the substance and sequence of witnesses' testimony, the nature and order of questions on direct and cross-examination, the use of documentary and demonstrative evidence—all these are designed to narrate the most compelling version of events possible. At the same time, throughout the trial there will be evidentiary issues, procedural points and substantive disagreements that require argument and analysis by the lawyer. Litigation is filled with this variety of legal thought processes." Daniel J. Kornstein, *The Double Life of Wallace Stevens: Is Law Ever the "Necessary Angel" of Creative Art?* 41 N.Y.L. SCH. L. REV. 1187, 1275 (1997). See also Richard Delgado, *Storytelling for Oppositionists and Others: A Plea for Narrative*, 87 MICH. L. REV. 2411 (1989); Toni M. Massuro, *Empathy, Legal Storytelling, and the Rule of Law: New Words, Old Wounds*, 87 MICH. L. REV. 2099 (1989); Sandra C. McKenzie, *Storytelling: A Different Voice for Legal Scholarship*, 41 KAN. L. REV. 251 (1992).

31 FRANK STELLA, WORKING SPACE 141 (1986).

32 Hans Hofmann, *Texts and Lectures by Hans Hofmann*, in CYNTHIA GOODMAN, HANS HOFMANN (1990), at 163–64.

33 DANIEL KORNSTEIN, THE MUSIC OF THE LAWS 13–14 (1982).

34 The principles of composition are the structural relationships used to bring an artwork's formal elements together into a well-made, integrated whole or composition. Although somewhat less tangible than the formal elements of line, color, shape, and space, these structural elements nevertheless constitute an important feature of every drawing, painting, and sculpture." LARRY SMOLUCHA, THE VISUAL ARTS COMPAN-

ION 97 (1996). "Composition is a process—the act of composing or organizing the plastic elements of art. . . . [A]rtistic composition takes place according to aesthetic principles such as proportion and scale, unity, balance, and rhythm. When we use principles of organization such as these, beautiful works are created. . . .

LOIS FICHNER-RATHUS, UNDERSTANDING ART (5th ed. 1998).

35 RANDOM HOUSE, *supra* note 4, at 276.

36 WEBSTER, *supra* note 4, at 236.

37 OED, *supra* note 4, at 733.

38 *Id.*

39 *Id.*

40 Recently there has been a surge of interest in "therapeutic jurisprudence," which focuses upon the connection between law and mental health, and advocates lawyering in a way that minimizes anti-therapeutic consequences and facilitates the achievement of therapeutic ones. See, e.g., Dennis P. Stolle, David B. Wexler, Bruce J. Winick & Edward A. Dauer, *Integrating Preventative Law and Therapeutic Jurisprudence: A Law and Psychology Based Approach to Lawyering*, 34 CAL. W. L. REV. 15, 18 (1997); see generally David B. Wexler, *An Introduction to Therapeutic Jurisprudence*, in DAVID B. WEXLER, THERAPEUTIC JURISPRUDENCE: THE LAW AS A THERAPEUTIC AGENT 3 (1990); DAVID B. WEXLER & BRUCE J. WINICK, LAW IN A THERAPEUTIC KEY: DEVELOPMENTS IN THERAPEUTIC JURISPRUDENCE (1996).

41 ARTHUR L. LIMAN, LAWYER; A LIFE OF COUNSEL AND CONTROVERSY 63 (1998).

42 *Id.* at 63–64.

43 Gordon B. Hinckley, *supra* note 3, at 54.

44 Bruce A. Ackerman, *Commencement Remarks*, YALE L. REP., Spring/Summer 1982, at 6.

45 *Id.*

46 See Ronald J. Gilson & Robert H. Mnookin, *Disputing Through Agents: Conflict and Cooperation Between Lawyers in Litigation*, 94 COLUM. L. REV. 509 (1994) (lawyer as peacemaker, advocate, client's agent, gladiator, and cooperative problem solver); Margaret Ann Wilson et al., *Mentor, Mercenary or Melding: An Empirical Inquiry Into the Role of the Lawyer*, 28 LOY. U. CHI. L.J. 373 (1996) (lawyer as counselor contrasted with lawyer as hired gun).

47 KARL LLEWELLYN, THE COMMON LAW TRADITION: DECIDING APPEALS 222 (1960).

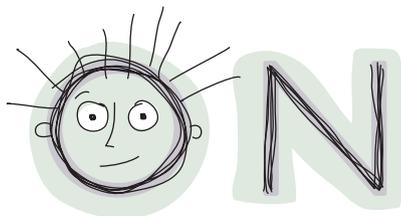
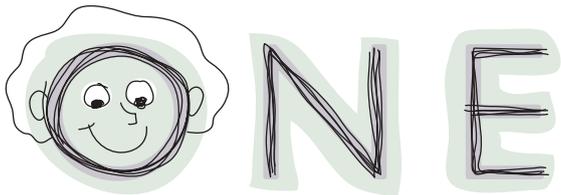
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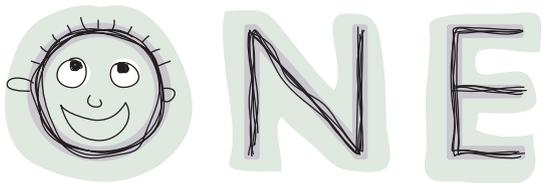
Johannes Vermeer, *Christ in the House of Martha and Mary*, National Galleries of Scotland.

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Johannes Vermeer, *Woman Holding a Balance*, Widener Collection, photograph © 2002 Board of Trustees, National Gallery of Art, Washington.



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True education seeks to make
men and women not
only good mathematicians,
proficient linguists,
profound scientists, or brilliant
literary lights, but also
honest men with virtue, temper-
ance, and brotherly love.

PRESIDENT DAVID O. MCKAY



For most of the week, the classrooms at the J. Reuben Clark Law School are filled with talk about breach of fiduciary duty, exceptions to the hearsay rule, and copyright infringement. For one hour each week, though, the law takes a backseat to sixth-grade math story problems, touch-football games, and discussion of a 12-year-old's worries and dreams.

BY EDWARD L. CARTER

PHOTOS BY

BRADLEY SLADE

For many BYU law students, the most fulfilling hour of the week does not involve studying, working on a co-curricular journal, or interviewing for a job, but mentoring an elementary school student in the JRC Law School's sixth-grade mentoring program.

"I was amazed at how it helped me have a better perspective on life and not just focus on myself," said Jeremy Erickson, who enjoyed the mentoring experience so much as a second-year law student that he became student director during his third year. "You feel like you're making a difference in someone's life."

The sixth graders from Provo's Sunset View Elementary School also enjoy the one-on-one time with their mentors each week. In fact, Professor Brett Scharff's launched the mentoring program several years ago with the aim of instilling confidence in the preteens.

Helen Alexander, mentoring coordinator for Provo School District, tells law students, "You don't take the place of their parents. You don't take the place of their teachers. But you are there for them. You care about them."

A Place Where Learning and Friendship Thrive

As the group of mostly first-year law students gather in the moot court room, nervous chatter fills the air. The mounting anticipation is palpable as students wonder how they will perform in this new challenge. A law professor takes his place in front of the group and begins to speak.

The first day of Civil Procedure? In this case, no. Instead, this is the scene just before noon on the first Tuesday of October. Law students who only two months earlier had

Both the elementary school students and the law students think they benefit most.



never briefed a case already are acting on their desire to give something back to the community.

Although it only requires one hour per week, the mentoring program represents a small miracle among law students under heavy pressure to perform well on exams. In fact, the belief that law students were too preoccupied with their studies to dedicate time to the mentoring program nearly squelched the program before it ever got off the ground.

“A lot of people thought law students would be too busy and would flake out—and that would just give these kids another adult in their life who failed them,” Erickson said. “But that hasn’t been the case.”

Scharffs finds law students telling him the mentoring hour is the highlight of their day—even better than Scharffs’ own class. The professor does not mind though. “I believe that the lawyers who are most dissatisfied with the practice of law are probably those who are not making pro bono and public service work a regular part of their diet of legal work,” Scharffs said when asked about the mentoring program on KBYU’s “Eye on the Y.” “My hope for the law students is that they will catch a vision of public service that will enrich their lives for years to come.”



On the first mentoring day of fall semester, law students tend to sit together on one side of the moot court room while sixth graders bunch up on the other side. It is difficult to tell which group of students is more apprehensive. One thing is clear, however: students in both groups are anxious to meet a new friend.

Within minutes, Scharffs, Erickson, and Alexander are pairing up the two sets of students. Instantly, worries are calmed and friendships are born.

“It was fun to see my student each Tuesday,” said Emily Kunz, who mentored as a first-year law student in 2000–2001. “She was excited to tell me stories that happened to her during the week.”

Many of the pairs remain in the moot court room while completing assignments made by sixth-grade teachers. Sometimes,

the algebra problems assigned to the sixth graders challenge the law students more than all but the most brutal application of the Socratic method in contracts.

But there is one significant difference between contracts and algebra: algebra—at least as completed by a law student and a sixth grader—is as much about friendship as it is about rules.

Another thing: At the end of every algebra session is at least 10 minutes of Foosball, Frisbee, touch football, or just shooting the breeze. Every once in a while, there's a Halloween costume parade or a pizza party.

"It was so much more relaxing than legal studies," Kunz said.

A Mutually Beneficial Program

The most telling characteristic of the J. Reuben Clark Law School's sixth-grade mentoring program is that both the elementary school students and the law students think they benefit most.

"It's great for both sides," said Ron Firmage, a sixth-grade teacher at Sunset View who immediately embraced the mentoring idea once Scharffs proposed it. "The law students love it, and it's great for my kids to have a buddy in college. Some of the kids don't (otherwise) have much exposure to college."

Firmage believes the sixth graders who benefit most are those whose parents are blue-collar workers, because the mentoring program gets the youngsters thinking about education after high school. He smiles when he hears students who probably never had the intention of attending college now talk about what they would like to study.

That payoff, in his mind, is more than enough to qualify the program as a success. It's not always easy, though. There are buses to schedule, lesson plans to juggle, and concerned parents to reassure.

Some families who are not members of The Church of Jesus Christ of Latter-day Saints initially expressed concern that their children might feel uncomfortable at BYU, but that has not proven to be the case. "They can stay back at the school if they choose to," Firmage said. "But the other kids are so excited and talk about the program so much all week that those who don't go feel left out."

On one Tuesday late in fall semester 2001, the sixth graders and their mentors celebrated their hard work throughout the semester with pizza and soda pop. Having completed most of their schoolwork, the pairs of students fanned out. While some played Foosball in the Student Bar Association room, others joined in a game of hide-and-seek. Everyone had a friend.

"The thing I've enjoyed the most is remembering what it was like to be a sixth grader," said first-year law student Jason Hadley. "I don't have to think about law. I can just pretend like I'm a sixth grader."

An elementary school student observing the Foosball action agreed that his mentor provides an academic boost and a welcome break from the mundane. "It's fun," he said. "We do math problems and then when we're done sometimes we go to the vending machines."

The Provo School District annually has about 400 mentors, nearly one-fourth of whom are BYU law students. Alexander calculates that the district spends about \$12 per student each year to operate the mentoring program, including providing materials, training, and supervisors. She believes that's a bargain when viewed in light of what the young students get out of the program. Alexander believes the encouragement, friendship, and example of law students pay big dividends.

"The main thing we ask you to do is be role models to these students," Alexander tells law students. "We want you to be their friends. Help them set goals for school. Talk with them about what you have to do financially and academically to get to college. Plant those seeds."

When Scharffs observed a similar program at Georgetown University Law Center before coming to BYU, he noted that it served mostly disadvantaged inner-city students. In Provo the economic and educational opportunities may be more readily available to all students, but the professor knows from his own experience that everyone needs a mentor.

"We're not singling out students because they are especially needy or especially gifted," Scharffs told the KBYU audience. "We are saying to every child, 'You are special.'"

True Learning

All those involved with the program have been amazed at the willingness of busy law students, especially first-years, to volunteer their time. With their days filled with briefing cases, outlining courses, researching, and writing, law students could easily say they simply cannot free up one hour each week for a child they don't even know.

Those who participate, however, say they feel mentoring left them in a much better position than if they had not done it. Securing 90 mentors out of 450 law students—many of whom are precluded from mentoring because of jobs or externships—is a testament not only to the recruiting capabilities of Scharffs and Erickson but also to the spirit of service permeating the Law School.

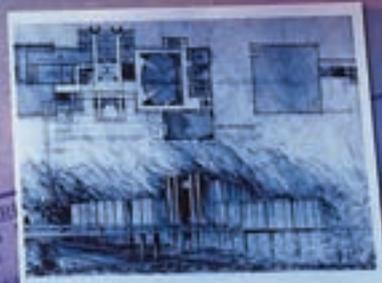
"From my experience, it was kind of nice to take a break," Erickson said. "It's something that doesn't benefit your grades but it benefits you in other ways." Erickson, like many mentors, has children of his own at home. Still, he wanted to do something for someone outside his own family. He said his wife fully supported his decision to become a mentor. "You've got to have balance in life," he said. "The way I look at it, that means time for yourself, your family, and others. It's a sacrifice, but it pays off."

Scharffs tells worried law students that mentoring will not hurt them academically. If anything, he says, it will help, because it's a stress-reducer.

Kunz agrees. "They're pretty good about cutting back when it gets close to finals, but there were still times I had a paper due and got stressed," Kunz said. "It was good to have that perspective. That's what life will be like as a lawyer—there are conflicting demands, and you have to prioritize."

The law students' influence extends even beyond the sixth graders with whom they associate. Largely based on the example of their law-student mentors, many of the sixth graders choose to serve as mentors for second-grade students at Sunset View.

{ David O. McKay quote: "Why Education?" *Improvement Era*, vol. 70, no. 9 (September 1967), p. 3. }



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BY ELDER BRUCE C. HAFEN

Part of our purpose tonight is to remember the Law School's founding. In that spirit, may I recall just a few images from what was for me a magical time. It was exactly 30 years ago this month, 1971. I was practicing here in Salt Lake City, thoroughly enjoying the practice of law. Somehow as the season of the year turned to fall, I felt the tug and pull of the campus. But if I were to teach, I only wanted to teach law; and if I were to teach law, I only wanted to teach at BYU. I knew that BYU would never have a law school; BYU was an undergraduate institution.

I just never took the idea seriously. Then one day (in March 1971), I heard on my car radio the stunning announcement that Ernest Wilkinson would retire from being president of BYU, and Dallin Oaks, a professor of law from the University of Chicago, would be the new president. Furthermore, I heard that Ernest Wilkinson would play a key role in establishing the new J. Reuben Clark Law School.

Only a few weeks after hearing that announcement, President Wilkinson called me at my firm in Salt Lake City and said that he was coming to Salt Lake and wanted to meet me in the parking lot. He later explained that the parking lot was because he had promised the lawyers in Salt Lake City that he would never recruit from their firms—that's legal training at work. President Wilkinson asked me if I would like to be his assistant in getting the Law School started. I couldn't believe what I was hearing. I didn't know how to answer, because what I wanted to do was teach. I didn't want an administrative job; I've never wanted an administrative job. I just wanted to teach and study the law and write about it. So I told him I would think about it.

A few days later I received a call from Dallin Oaks; it was the first time I had ever talked to him. He said, "I need to see you. I am coming to Provo occasionally now, in the middle of this transition. I'll be moving to Provo in August, but right now I've got to go back to Chicago. Anyway, meet me at the Salt Lake airport just before I get on my plane."

I found it rather strange that these important people wanted to see me in these inconspicuous, off-the-record places. At my first meeting with President Oaks, he told me that Ernest Wilkinson hadn't been authorized to offer me that job. Then he said that he and President Wilkinson sort of saw things differently about the Law School,

and he told me what kind of vision he had in mind for this school and that as president of BYU he'd been charged with that responsibility by the First Presidency. I said, "I love your vision of the Law School, and I just want to teach there, so put me on the list." Just as we parted he said, "Well, I am going to need an assistant to help get things going." And I said, "Well, I know you know a lot of fine people from the University of Chicago, and just remember me when you are gathering names for the faculty."

On July 4, Independence Day, 1971, Dallin Oaks called me at home and asked if I would like to be his assistant. I said, "Do you think this could lead to a teaching position?" He said, "I can't assure you that; we don't even know who the dean will be. In fact, your first job will be to help us assemble background information about the candidates for the dean. But I want to use you in other ways as well, and I would love to have you come."



THE FOLLOWING
EXCERPTS WERE
TAKEN FROM ELDER
BRUCE C. HAFEN'S
ADDRESS AT THE J.
REUBEN CLARK LAW
SCHOOL FOUNDERS
DAY DINNER ON
AUGUST 30, 2001.

I talked to Marie, and we prayed, and we came. We started at BYU the same day that President Oaks did: August 1. In fact, I distinctly remember getting lost that afternoon in the basement of the Wilkinson Center with President Oaks.

Let me relate some of the images that come to me from that time—just a few glimpses. I think of Rex Lee. We don't have these gatherings without me thinking about Rex and others who have been so much part of that experience: Rex, the charismatic 36-year-old lawyer from Phoenix who was asked to be the first dean. Rex loved to tell the story about the day after the interviews had been completed, when he had told them that he didn't think they should have a law school. And then how back in Arizona, his secretary had buzzed him while he was in a meeting with clients. The secretary said—I think this would be an approximate quote—"There's some guy named Harold Lee on the phone. He says it's important. What is this, some kind of relative?" Rex later said that if Harold B. Lee had asked him that day to become a custodian at BYU, he would gladly have done it. That's how he felt about the call.

Then I remember the day not long after when Rex and I were in Dallin Oaks' office when none of the top people we were recruiting for the faculty had said yes yet. We were honestly very concerned. President Oaks then took a phone call from Carl Hawkins. Carl was a stake president in Ann Arbor and a distinguished professor at the University of Michigan, one of the country's finest schools. President Oaks talked with Carl on the phone for just a minute. We couldn't hear the conversation. When he came back to the table where we were meeting on Law School business, I still remember—and always will—Dallin Oaks looking out the window at Timpanogos, saying, only partly to us, "The Lord must really want this law school," and then looking at us and smiling and saying, "and he really wants it to be a good one—Carl is coming." We whooped and hollered. It was like the days of Camelot for me, and this was like the news that one of the mightiest knights in all the land was coming to the round table. As soon as Carl said yes, then, like dominoes, so many others said yes, and then the students came.

I think of an early faculty meeting when we were brainstorming about unique ways

that we could unite our scriptural knowledge with the law. Somehow Rex, leading the discussion, wanted to open it up to a brainstorming mode and asked, "What are some law books that only we could write?" I still remember three of the possible titles: *How to Avoid Probate*, by the Three Nephites; *Jacob and Esau on Fraudulent Conveyances*; and a personal favorite of Rex's—because he found that other people didn't know this name in the Old Testament as well as he did—*Uzzab on Strict Liability* (that's the guy that was struck down for touching the Arc of the Covenant).

I remember when Rex and I were serving in the same student stake at BYU. He was on the high council (a calling, he once said in stake council meeting, that has the best ratio of work to glory of any job in the Church). I was sitting next to Rex in a sacrament meeting in that stake, and I noticed he was dozing, and the meeting was still going on and not very close to its end. As a little friendly reminder, I nudged him and said, "Rex, they just announced that you are going to say the closing prayer." He opened one eye and said, "The First Amendment to the Constitution of the United States protects the freedom of religion. You worship your way and I'll worship mine."

Then there was the day that President Romney interviewed me for my faculty posi-

tion. I had heard the same unfounded rumors that others had heard: that the Law School had some mysterious political objective. So I perked up in my interview when President Romney said, "Now let's talk about your politics." He continued, "Are you either a Socialist or a John Bircher?" I said, "Well, President Romney, some people think that those are the only two choices." He said, "I know; that's why I'm asking you. Are you either of those two?" I said, "No." And he said, "Then you're all right; now let's talk about something else." When I repeated that story to President Oaks, he said to tell that story often.

I always loved President Romney's clear statement about the mission of the Law School: "The purpose of that school is to teach and learn the laws of men in the light of the laws of God." As I look back, I honestly see the hand of the Lord in the formation and growth of this school. I pay revered tribute to those who have made the Law School community what it has become. For many years now, I've heard lawyers and judges from all over the country say that they have been persuaded about the Law School's quality by the quality of its graduates. It is the graduates—and the way they've lived and worked—who have established the Law School, as hundreds of personal examples of what it means to study the laws of man in light of the laws of God.



Bruce C. Hafen Professorship of Law

BY LOVISA LYMAN



“If I had a son

who was going to practice law, I can think of no finer example than Bruce Hafen in terms of the measure of the man, what he has accomplished, and what he stands for as a lawyer, advocate, servant of the Lord Jesus Christ, and a scholar,” averred Elder Ralph W. Hardy, Jr., Area Authority Seventy who, with his wife, Carole, was instrumental in establishing the Bruce C. Hafen Professorship of Law. The professorship, officially inaugurated September 21, 2001, recognizes Elder Hafen’s lasting positive influence on law students during his long and exemplary career as professor and dean

at the Law School and will help fund teaching, scholarship, and other forms of educational and professional achievement among outstanding faculty.

Of Elder Hafen’s contribution to scholarship, Carl S. Hawkins, former Law School dean, professor emeritus, and speaker at the September 21 meeting, observed that half of the school’s original faculty were practitioners turned law professors. To gain the respect of legal scholars and the judiciary, they needed to join the professional conversation. “Bruce led the way for the younger faculty” in the early days of the Law School when he had “five major law review articles published that won the respect of the legal academy and law policy decision makers.”

Elder Hardy concurred with Hawkins and predicted that the Law School’s “biggest mark and its biggest contribution” in the future will be “the way it helps to reinforce, refine, promote, and defend the institution and law of the family,” one of Elder Hafen’s best-known areas of scholarship.

Elder Dallin H. Oaks, also in attendance on September 21, endorsed Hawkins’ and Hardy’s assessments of Elder Hafen’s contributions, further noting Hafen’s multiple roles in the establishment of the Law School, including participation in selecting the first Law School dean, planning the building and library, and recruiting the first class.

At the same time Elder Hafen was working to get the Law School started, Elder Hardy was making his own significant contributions to the school. Dean H. Reese Hansen noted that Elder Hardy “got us believing that we could raise money to establish professorships to assist with Law School challenges with faculty salaries, summer research, and research assistantships” and championed a formal relationship between the new Law School and LDS lawyers worldwide. Besides donating generously in money and advice, Elder Hardy served as the first chair of the J. Reuben Clark Law Society. Elder Oaks remarked on Elder Hardy’s service to the Church as chair of the Washington Committee of Public Affairs and “key advisor to The Church of Jesus Christ of Latter-day Saints on all matters governmental.” He characterized Elder Hardy as a “remarkable lawyer and advisor,” a “modest man” who performs in “an invisible and savvy way.”

Elder Oaks concluded that it is “gratifying . . . to see a benefactor who is as worthy as the honoree.” In what he called a “coincidence of qualifications,” the Law School will be blessed by the “Ralph Hardy–funded professorship named for Bruce Hafen.”



by Elder Stephen A. West

a pairing of disciplines

a few years ago as I was taking a group through my employer's law department, where about 62 lawyers worked, a visitor asked what had prepared me as a lawyer. I think my answer surprised the listeners. • "Perhaps the most helpful skills were those I learned as a missionary for The Church of Jesus Christ of Latter-day Saints," I said.

*This article was
adapted from a talk
presented March 16,
2001, to Latter-day
Saint students
attending the
University of Idaho
Law School.*

“Why is that?”

someone asked.

“I learned to talk to people with opinions contrary to my own,” I replied, “to help them move from where they were to where I hoped they would be in such a way that they would feel comfortable and benefitted by the progress that they had made.”

I still believe that a lawyer—whether involved in litigation, negotiation, or arbitration—fulfills a role similar to that of a missionary to the degree that both help people change their thoughts and behavior. There are some wonderful parallels between being a Christian and being a lawyer. The Savior said, “What manner of men ought ye to be? Verily I say unto you, even as I am.”³ Given that a Christian is one who strives to be like the Savior, let me draw some parallels between what the Savior did and what we should expect a lawyer to do. First, the Savior is a peacemaker. Second, He is a healer. Third, He is a counselor, an advocate, and a judge.

PEACEMAKER

Like the Savior did during His sojourn on Earth, a lawyer makes peace. A peacemaker is one who shows others solutions they cannot see on their own. If we can settle disputes in ways where both parties to the dispute feel that justice has been done and that they have been heard, we can help make peace and bring harmony where there was turmoil.

Jesus Christ said, “Blessed are all the peacemakers, for they shall be called the children of God.”⁴ He demonstrated the skill of making peace on many occasions, including one potentially turbulent confrontation with the scribes and Pharisees who brought before him “a woman taken in adultery.”⁵ The scribes and Pharisees pointed out that the Law of Moses dictated that the woman be stoned. In response, the Savior “stooped down, and with his finger wrote on the

ground, as though he heard them not. So when they continued asking him, he lifted up himself, and said unto them, He that is without sin among you, let him first cast a stone at her.”⁶ Eventually, the scribes and Pharisees “went out one by one . . . and Jesus was left alone, and the woman standing in the midst.”⁷

The Savior later told his disciples, “Peace I leave with you, my peace I give unto you: not as the world giveth, give I unto you. Let not your heart be troubled, neither let it be afraid.”⁸

Before an attorney or anyone else can make peace, he must first have peace within himself. Early in my legal career, I learned the importance of gaining inner peace through prayer. This lesson came as a result of being in the same high priests quorum as George Romney, a former governor of Michigan, who was then serving as secretary of the Department of Health, Education, and Welfare. As we talked in the quorum about prayer, Brother Romney mentioned that when he arrived at his office in the morning, his secretary knew that his door would be locked for the first few minutes. “I go in and kneel at my desk and pray for guidance before I start the day,” he said.

A lawyer who aims to make peace must see all sides of a dispute. As a lawyer you quickly start to understand that there are at least two sides to all issues and that you need to understand all points of view to be effective. In addition, a peacemaking lawyer knows there are times when applying cer-

tain legal principles is not appropriate. For example, determining fault is not always compatible with making peace.

HEALER

As a follower of Jesus Christ, a lawyer should be a healer. A healer remedies ills while taking care not to cause further harm. Just as the Savior spent time with sinners, a lawyer works with those in need of help. The Lord said, “They that are whole have no need of the physician, but they that are sick.”⁹ As lawyers we often help people reconcile transgressions and leave mistakes behind.

John W. Davis, a lawyer for J. P. Morgan and AT&T, a leader of the New York Bar, and the name partner in the Davis and Polk law firm, said in describing the role of a lawyer:

*We build no bridges. . . . We paint no pictures. . . . There is little of all that we do which the eye of man can see. But we smooth out difficulties, we relieve stress; we correct mistakes; we take up other men’s burdens, and by our efforts we make possible the peaceful life of men in a peaceful state.*⁸

That concise job description helps explain why the law is a profession and not just a job.

If a Christian lawyer is to be a healer, he or she must possess integrity. I learned some lessons while clerking for Judge A. Sherman Christensen, then a federal judge for the District of Utah. His secretary had

c o u n s e l o r

p e a c e m a k e r



h e a l e r

a d v o c a t e

j u d g e

in her desk drawer the government's stationery and stamps, and she also had the judge's personal stationery and stamps. The judge was careful that no personal letter ever went out on government stationery or with a government stamp. He was careful that U.S. government ballpoint pens did not leave the office in his shirt pocket and that there were always some of his coins and bills in his secretary's desk to take care of his personal expenses.

I also remember having Judge Christensen point out to me, as a young law clerk, the litigation performance of James E. Faust, then a practicing lawyer in Salt Lake City. The judge said to me in his chambers, "If you watch James Faust and follow the way he does things, you will know how you should act as a lawyer. Look at these pleadings."

Although it was a complex case, the document was plainly and precisely drafted. As to all of those matters that could be

agreed upon, there was a signed stipulation of all parties to that effect. As to those matters in dispute, that also was indicated. The judge suggested that I continue to watch the pleadings that James Faust filed in this and in any subsequent litigation and the way he represented his clients in court to see, in the judge's words, "How it should be done." I have never forgotten that experience and have followed it both in early days as to matters of law and in more recent times as to matters of religion.

COUNSELOR, ADVOCATE, AND JUDGE

A lawyer who seeks to follow Christ emulates Him in fulfilling the roles of counselor, advocate, and judge. Although those roles may seem at times conflicting, their complementary qualities allowed the Savior to more effectively work out his mission. A lawyer who teaches, argues on behalf of, and righteously judges others also will be at his best.

Proverbs says, "In the multitude of counsellors there is safety."⁹ Practicing law teaches you to see people as individuals and not to think of them in stereotypes. You start to see some good in all men as you get to know them and understand what is happening in their lives. Later, you often find that there are reasons that they are as they are, and you start to understand that there is some good in almost everyone.

A lawyer may serve as both a judge and an advocate. The Savior has been categorized as both our Judge¹⁰ and our Advocate¹¹ with the Father. It is unusual to think of a judge later being the defendant's attorney in what may be thought of as a higher court—but in many ways, why not? The judge has heard both sides of the story and has weighed all the facts and the laws that relate to the issue. Who better could be an advocate at the next level than such a person? How reassuring it is to know that the Savior will be not only our Judge but also our Advocate with the Father.

There are some wonderful
parallels between being a Christian
and being a lawyer.

Lawyers do not fare well in literature, and even the scriptures make remarks critical of lawyers. However, a wonderful defense argument given by a lawyer representing unpopular clients is found in the book of Acts. The Sadducees laid their hands on the Apostles and put them in a common prison, but an angel opened the prison doors and said, "Go, stand and speak in the temple to the people all the words of this life."¹²

After the Apostles had gone into the temple and while they were teaching, the high priests, not knowing the Apostles were gone, called the council together and sent to the prison to have the Apostles brought before the council. They then received word that the Apostles were not in prison but in the temple, teaching the people. So the officers went forth and arrested the Apostles and brought them before the council. The high priest asked them,

Did not we straitly command you that ye should not teach in his name? and, behold, ye have filled Jerusalem with your doctrine, and intend to bring this man's blood upon us.

Then Peter and the other apostles answered and said, We ought to obey God rather than men. . . .

When they heard that, they . . . took counsel to slay them.

Then stood there up one in the council, a Pharisee, named Gamaliel, a doctor of the law, had in reputation among all the people, and commanded to put the apostles forth a little space;

And said unto them, Ye men of Israel, take heed to yourselves what ye intend to do as touching these men. . . .

And now I say unto you, Refrain from these men, and let them alone: for if this counsel or this work be of men, it will come to nought:

But if it be of God, ye cannot overthrow it; lest haply ye be found even to fight against God.

And to him they agreed: and when they had called the apostles, and beaten them, they commanded that they should not speak in the name of Jesus, and let them go.¹³

This is a fine scriptural description of a lawyer, representing what may appear to some to be guilty men, doing the work a lawyer should do.

As lawyers who counsel, advocate, and judge, we learn the wisdom of adherence to

rules. We learn how to draft and establish rules. We learn about fairness in rules. We learn about the desirability of having everyone who is bound by them understand and accept rules and laws and principles. However, we know there are some laws that we have to keep whether or not we understand them or accept them, because they are the law. Examples of such laws might be eminent domain laws, selective service laws, and yielding right-of-way laws.

In this regard, in a religious context, we think of Adam saying, when asked why he offered sacrifices, "I know not, save the Lord commanded me."¹⁴ When Noah was told to build an ark, he responded by doing so though he must have thought it an unusual request. When Abraham was asked to sacrifice his son, it required adherence to a directive he must have had great difficulty understanding. We also learn that there are times when obedience to a law or rule or principle has to be automatic and immediate.

In conclusion, let me tell you of an experience I had at an interdenominational religious service sponsored by the Interfaith Council of Metropolitan Washington, D.C., commemorating the birthday of Martin Luther King, Jr. It was held in a megachurch in the center of the District of Columbia. A group of young grade school students were brought in carrying a large banner made of butcher paper. They spread themselves all the way across the front of this great chapel with this long banner. All of the students had put their painted handprints on the banner. Across the top of the banner it read, "I HAVE A DREAM," the famous quotation from Martin Luther King, Jr.

Under each of the students' handprints was an explanation of each child's dream, what each wanted to become. The banner read something like this: a truck driver, a beautician, a lawyer, a professional basketball player, a carpenter, a lawyer, a farmer, a baseball player, a lawyer. Fully one-third of

the young people had written "a lawyer," a fact that surprised me. As my eyes went across the banner, I saw one handprint that had written underneath, "A lawyer because of what I can do for my people."

I thought of *Brown v. Board of Education* and several other lesser-known cases that have brought dignity and a measure of equality to large groups of people, and I thought that these young students had seen what so often many in society forget—that the law and lawyers can bring about great and lasting change in a nation, state, or community. I also thought of the fact that *Brown v. Board of Education* was initiated by a combination of ministers and lawyers and how many other things of significance in the histories of our country and many other countries have been brought about by Christians and lawyers working together. It is a powerful pairing of disciplines. May we who carry both designations live up to the responsibilities that each discipline puts upon us.

ENDNOTES

1 3 Nephi 27:27.

2 3 Nephi 12:9.

3 John 8:3.

4 John 8:6–7.

5 John 8:9.

6 John 14:27.

7 Mark 2:17.

8 Address, New York, 16 Mar. 1946, in 1 Record of the Association of the Bar of the City of New York, 101, 102 (1946), quoted in Frederick R. Shapiro, *The Oxford Dictionary of American Legal Quotations*, 273 (1993).

9 Proverbs 11:14; see also Proverbs 24:6.

10 2 Nephi 30:9; Moroni 10:34; D&C 137:9.

11 D&C 29:5; D&C 32:3; D&C 38:4; D&C 45:3; D&C 62:1; D&C 110:4.

12 Acts 5:20.

13 Acts 5: 28–29, 33–35, 38–40.

14 Moses 5:6.

WHEN JAY S. BYBEE, '80, ARRIVED IN WASHINGTON, D.C., IN NOVEMBER 2001 AS THE NEWLY CONFIRMED ASSISTANT ATTORNEY GENERAL FOR THE OFFICE OF LEGAL COUNSEL, HE FACED SOME DAUNTING CHALLENGES. FIRST, HE WANTED TO SETTLE HIS FAMILY OF SIX IN SUBURBAN VIRGINIA AFTER THEIR MOVE FROM LAS VEGAS, WHERE BYBEE TAUGHT AT THE UNLV BOYD LAW SCHOOL.

Next, he needed to immediately get up to speed on legislation his office was reviewing for constitutionality in order to make recommendations to Attorney General John Ashcroft and President George W. Bush.

On top of that, Bybee was still grading UNLV law students' final exams, and he had to figure out, for the first time, how to work a cellular phone into his lifestyle.

"It has all moved fast and furious," Bybee said in an early-morning telephone interview in December before hustling off to a meeting.

In overseeing the Office of Legal Counsel, Bybee supervises the work of 18 attorneys who render opinions on whether new congressional legislation passes constitutional muster. As a result of the September 11 terrorist attacks, much of Bybee's work involves striking a balance between security and civil liberties.

"As the focus of the president and the attorney general has changed, our focus has necessarily changed as well," Bybee said. "We've had a lot of terrorism-related questions."

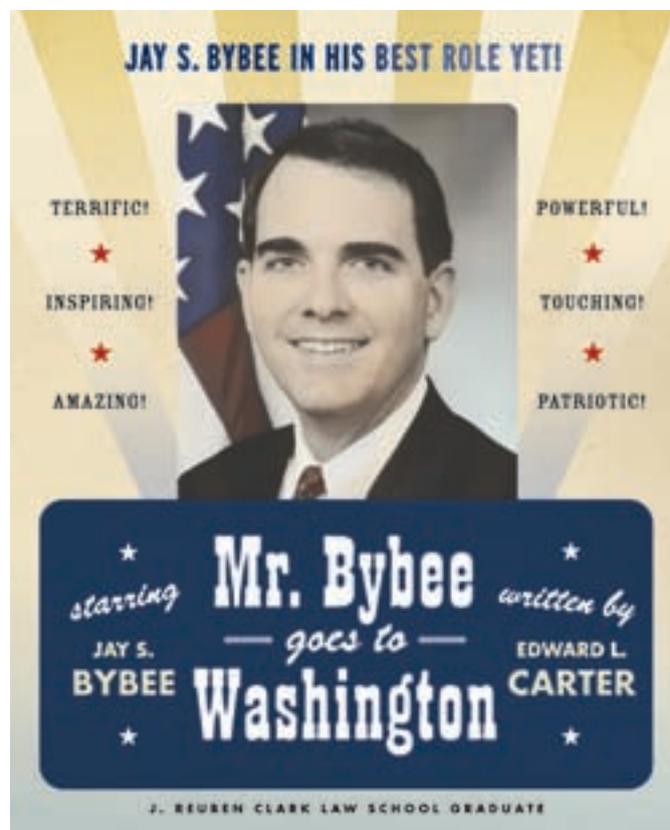
Bybee professes feeling unprepared for the enormous task of providing legal advice to the president and attorney

general in post-September 11 America. He also feels the weight of following great legal minds like Supreme Court Justice Antonin Scalia and Chief Justice William Rehnquist, both of whom once occupied the position he now holds.

But Bybee is as ready as anyone could be. He spent five years in the Justice Department's Office of Legal Policy and Civil Division, appellate staff, from 1984 to 1991. He then worked for two years as associate counsel in the White House Counsel's Office under the elder President George Bush.

After teaching law for seven years at Louisiana State University, Bybee became one of eight founding faculty members at UNLV's Boyd Law School in January 1999. At UNLV he taught constitutional law, which gave him the opportunity to explore the legal and policy issues that now confront him. "I've been dealing with these issues in the classroom," he said, "but to make these decisions in the real world is different."

Throughout his career Bybee has relied on the foundation he established at the J. Reuben Clark Law School, where he enrolled in particularly memorable classes taught by former deans Rex Lee and Carl



Hawkins. "I certainly had great training at BYU Law School," he said. As a member of the fifth graduating class at the Clark Law School, Bybee used resourcefulness, persistence, and Rex Lee's reputation to get summer jobs and eventually a position at the Washington, D.C., firm of Sidley & Austin. Bybee also clerked on the U.S. Court of Appeals for the Fourth Circuit.

"Rex Lee was just an enormous resource for us because he had a tremendous reputation," Bybee said. "When we went places, there were people who knew Rex Lee and said, 'If he thinks you're OK, that's good enough for us.'"

After the Senate confirmed Bybee as assistant attorney general on October 23, 2001, Bybee and his wife, Diana, left their Las Vegas home and moved their four children across the country. Bybee took a leave of

absence from UNLV, where he expects to return after his service in Washington is finished.

Bybee knows that the "pressure-cooker" inside the Beltway may present some stressful situations, but he will approach them the same way he always has—by simply being the best lawyer he knows how to be. "We knew there would be stress and the hours would be long. That's one of the costs my wife and I took into account," he said.

"This is not a policy office," Bybee continued. "This is an office that provides legal advice. One of the functions is that we must be free of [improper outside influence] so we can provide dispassionate legal advice."

Doing top-flight legal work in an intense setting is something Jay Bybee has done for a long time. Managing that new cell phone, though, is another story.

portrait

VANCE EVERETT, MANAGER OF THE LAW SCHOOL COMPUTER SYSTEM, AND HIS WIFE, LAURIE, PUT

by Matthew Kennington

Sometimes family home evenings at Vance and Laurie Everett's home aren't what you'd call typical. In a family of 12, with a wide range in ages and interests, the Everetts have found unusual ways to honor their commitment to putting family first. Instead of a formal lesson, they some-

times gather around the piano and harmonize or play their musical instruments together, or they might simply take a soccer ball out back to kick around. With 10 children, all of them adopted, the Everett family is a study in making things work in extraordinary ways.



To meet the challenges of rearing a family with children of diverse backgrounds, the Everetts draw on their creativity, commitment, and faith in the Lord.

Early in their marriage, when Vance was nearing completion of his degree in music education at BYU and Laurie was finishing hers in therapeutic family life, they talked about someday having “about a dozen children.” Vance’s heart was set on teaching music, and he had already begun to do some recording, but he didn’t want to end up selling insurance in the evenings and hot dogs on the weekends like many of his fellow music teachers had to do to make ends meet. After a great deal of soul-searching, the Everetts decided they wanted something more conducive to family life.

So Vance started over. He went back to BYU, and picked up a second bachelor’s in computer science. Laurie had decided that after graduating she would begin raising a family, but when it became apparent that nature and medical science weren’t accomplishing much, the Everetts tried another route. They became foster parents. It was a frustrating emotional roller coaster—some foster children were in their home for only a day, others for several years—but the Everetts stuck with it and have fostered more than 40 children to date.

Eventually, through the Utah Foster-Adopt program, the Everetts found their first child, a beautiful baby girl of Latin American descent, reminiscent of the children Vance had grown to love as a missionary

in South America. It took two long years to complete the adoption, and after that struggle the Everetts might well have been gun-shy about adopting again. Instead, they responded to spiritual promptings and began to work with LDS Social Services, with whom Vance had come in contact through his work as a bishop. Through that agency, the Everetts found their second child, a boy, also of Latin American descent. Approached by a state adoption worker, the Everetts then had strong feelings that they should foster a set of three siblings with the hopes of a short adoption process. In fact, the legal battle took seven years, and in the interval a fourth sibling was born, but eventually the Everetts successfully adopted all four children.

Vance had begun working for the J. Reuben Clark Law School on a programming contract through West Publishing. He was asked to stay at the Law School to manage the new computer system that the school was installing. Eight years had passed, and Vance and Laurie had had continual feelings that their family wasn’t complete. Because demand for adoption is very high in Utah, the Everetts began looking out of state. Eventually they found child number seven, an African American baby boy in Ohio. One year later, another child, also African American, joined them from Florida.

In some ways, it was like starting over with a second family, except that this time Vance and Laurie had help. “It’s amazing how much easier it gets the more children you have,” Vance says, “except when they get ill.” For all the challenges, the Everetts have found ways to make it work. For example, on a recent excursion to the Hill Air Force Base Museum, each older child tended a younger child as they meandered through the displays of jets and rockets, leaving Vance and Laurie to enjoy their time alone together.

Recently the Everetts adopted two more children, from the Marshall Islands. Because of the priorities they set years ago, they are able to find one-on-one time with each child. Right now, two of the boys are nearing their Eagle Scout awards. Vance has taken them to pow-wows, Scout camps, and high-adventure camps, and he has pushed the merit badges. When one son was preparing to meet with a Pleasant Grove city official to arrange his Eagle project, Vance sat down with him in the kitchen and role-played the conversation with him.

With older children to help, the Everetts have found ways to pursue their passion for music. Laurie has home-schooled each child and involved all six of the oldest in piano lessons as well as another instrument of their

choice. Vance accepted a calling to sing in the Mormon Tabernacle Choir. When Vance was called to join the choir, Laurie was asked, “Will you support your husband in this calling?” She said, “Yes.” Then she heard, “That means accompanying him on all the tours and trips whenever spouses are invited.” Laurie raised her eyebrows, but she accepted.

Although the Everetts didn’t realize at the time exactly how difficult it would be to keep that commitment as more children came into the family and the demands on time and finances increased, Laurie has been able to accompany Vance on every tour and concert. They have a firm belief that when they are obedient to the counsel of Church leaders and the prompting of the Spirit, they will be able to find a way to make things work.

To meet the challenges of rearing a family with children of diverse backgrounds, the Everetts draw on their creativity, commitment, and faith in the Lord. In a state as racially homogeneous as Utah, there may be difficulties when it comes to friends, dating, and marriage. But Laurie and Vance continually find joy in the life of each child, celebrating their individual personalities and divine parentage, and look forward to children yet to come. Whatever challenges the future brings, the Everetts will find a way to make things work.



Hannah Clayson Smith Named U.S. Supreme Court Clerk

HANNAH CLAYSON SMITH, '01, has been named clerk to Justice Clarence Thomas of the United States Supreme Court starting July 2003. Currently she and her husband, John M. Smith, '01, are clerking for Judge Samuel A. Alito, Jr., of the United States Court of Appeals for the Third Circuit.

Smith credits Professor Tom Lee, a former clerk to Justice Thomas, and Professor Cole Durham with help in obtaining the clerkship. Jay T. Jorgensen, '97, a clerk for Chief Justice William H. Rehnquist during the 1999–2000 term, was also supportive. Smith will be the 10th Supreme Court clerk from the J. Reuben Clark Law School.

Latter-Day Saint

LATTER-DAY SAINT attorneys, scholars, and professors participated in forums on criminal law, constitutional law, contract law, and corporate law at the Latter-day Saint Perspectives on Law Symposium. Held October 19, 2001, at Brigham Young

James Rasband, left, and Michael Young, right.



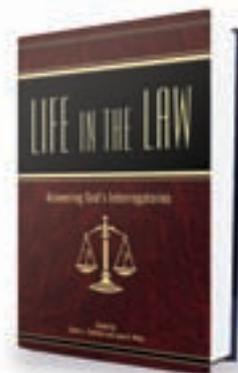
Life in the Law Published and Available Online

A NEW BOOK entitled *Life in the Law: Answering God's Interrogatories* showcases essays and articles from men and women who have examined the things that matter most in their professional and private lives. The majority of the writings were first published in the *Clark Memorandum*.

Authors featured in the book include Elders Dallin H. Oaks and James E. Faust, Marion G. Romney, members of the Seventy, Law School Deans Rex E. Lee, Bruce C. Hafen, and Carl S. Hawkins, and many other members of the bar.

In the book's preface, H. Reese Hansen, current dean of the J. Reuben Clark Law School, conveys his hope that the contents "will influence the ways we think about our roles as a lawyer in the context of our being Christian."

Dean Hansen indicates, "The volume follows the organization of Elder Marlin K. Jensen's 1997 talk "Answering God's Interrogatories" [included in the book]. The first section, "Adam, Where Art Thou?" asks where we are and speaks to the concepts of balance, law school and law practice priorities, and preparation. Next, the section "What Is Property unto Me?"



looks at materialism, economic issues, and integrity. The third section focuses on what a faithful lawyer does, service to others, and "Unto What Were [We] Ordained?" The final section,

"What Think Ye of Christ?" examines more directly our duty and devotion to God, asking about our relationship to the master Advocate of us all, Jesus Christ. . . . The authors explore their choices in addressing these pivotal questions through the circumstances and the people they encountered along the way."

Life in the Law: Answering God's Interrogatories may be ordered online at www.law2.byu.edu/clark_society/law_society_handbook.htm, by printing and filling out the order form and faxing it to the Law School's accounting department. The book is \$20.

Perspectives on Law Symposium

University, the event was sponsored by the J. Reuben Clark Law Society and the J. Reuben Clark Law School. The keynote address was given by Michael Young, dean and professor of law at George Washington University Law School, who focused on the ease of compartmentalizing responsibilities in life by keeping one's religious life separate from one's professional life. He wondered out loud if this was the reason that Latter-day Saint students he knew through his law school weren't more involved in humanitarian externships.

Throughout the conference, many of the presentations and much of the discussion centered around the reconciliation of sec-

ular and religious beliefs. Martin Gardner, Steinhart Foundation Professor of Law at the University of Nebraska, presented a paper entitled "Crime and Punishment from an LDS Perspective," an attempt to reconcile mercy and justice. James Gordon, professor of law at the J. Reuben Clark Law School, addressed the group in a luncheon address on "Ethics and the Religiously Affiliated Law School." Rodney K. Smith, from the Humphreys School of Law at the University of Memphis, drew similarities between Oliver Cowdery and James Madison and the conflict surrounding separation of church and state. Eric Anderson, professor of law at the University

of Iowa, in his paper "Three Degrees of Promising," contrasted the differences between ordinary contracts, promises under oath, and religious covenants. D. Gordon Smith, professor of law at Vanderbilt University Law School, and his wife, Sue Smith, presented a

paper on "Prosperity: Principles of Zion Applied to Corporate Governance." They stated that law can't compensate completely for unrighteousness. Corporate governance systems should be adjusted for greater efficiency in choosing men and women of integrity to serve them.

◆
Left to right: Steven Huffner, Dan Burke, Christian Johnson, and Gordon Smith.



law briefs

THE J. REUBEN CLARK LAW SOCIETY

The Mid-Atlantic Chapter has funded an annual award that will go to a second- or third-year law student committed to public service. The Rex E. Lee Advocacy and Public Service Award is a \$2,000 stipend intended to fund a public service externship in the Washington, D.C., area.

◆ Charles E. Jones has been named the next chief justice of the Arizona Supreme Court. Judge Jones was previously the vice chief judge of the court. He

received his undergraduate degree from BYU and his JD from Stanford Law School.

◆ Richard D. King is the president of Rotary International. King received his undergraduate and JD degrees from the University of California, Berkeley.

THE LAW SCHOOL

Kif Augustine-Adams has received a Fulbright appointment to work at the Center for Interdisciplinary Gender

Studies of the University of Buenos Aires during the winter 2003 semester.

◆ Papers by Cole Durham and Marguerite Driessen and by Steve Wood and Brett Scharffs will be presented at the 16th Congress of the International Academy of Comparative Law held in Brisbane in July 2002.

◆ Jim Rasband will be a visiting professor at the University of Queensland during summer 2002.

◆ Cliff Fleming will do a lecture tour of Brisbane, Sydney, and Melbourne in July 2002 under the auspices of the University of Queensland.

Doug Floyd has been appointed to the AALS Committee on Bar Admission and Lawyer Performance; Dave Thomas, to the AALS Committee on Libraries and Technology; and Gerry Williams, to the Planning Committee for the Plenary Session of the 2003 AALS annual meeting. Cliff Fleming has been appointed to a AALS task force to study the AALS accreditation process.

◆ Jim Backman and Cole Durham have received BYU Mentoring Grants of \$30,000 each. The grants support student work in the Law Help mediation lab and training project and at the International Center for Law and Religion Studies, respectively.

Each October for the past eight years, the moot court room at the J. Reuben Clark Law School becomes the center of international attention. On an otherwise unremarkable evening in October, scholars and dignitaries from countries as diverse as Russia, China, Mozambique, Chile, and Belgium start gathering in the Law School. The event is the opening of the annual International Law and Religion Symposium, one of the world's leading religious liberty conferences, which in 2001

attracted 49 delegates from 28 different countries.

The symposium provides a unique opportunity for interchange between scholars, governmental leaders, and practicing attorneys on legal structures influencing freedom of religion throughout the world. A United Nations diplomat attending last year's conference explained the value of this kind of conference to diplomats and government leaders: "The opportunity to hear from and share thoughts

within Islam. In the opening session, Senator Gordon H. Smith, of Oregon, who spoke after a British expert on Islam, made a strong appeal for religious tolerance and the protection of religious freedom in the wake of the events of September 11: "We need to remember that religion has the power to be a great force for good in the world; democracies need to protect that power and potential." As numerous participants noted, the religious overtones embedded within the

The International Law and Religion Symposium:

by Bill Sawkiw

Bridges for Religious Freedom

with academics and legal experts from different countries [is] most important and significant. This is rare in the United Nations, where participants are largely diplomats and civil servants." Symposium delegates and speakers regularly include U.S. senators and congressmen, constitutional court justices, members of parliaments, religious affairs directors, heads of government-sponsored human rights organizations, premier scholars, and practicing attorneys from around the world.

In light of the events of September 11, 2001, last fall's conference devoted heightened attention to issues involving Islam and the law. Representatives from Pakistan, Indonesia, Central Asia, and other Islamic countries and regions appreciated the opportunity to discuss variations

current war on terrorism have brought heightened attention to religious liberty and tolerance, making the work of the symposium even more significant.

The annual Law and Religion Symposium is organized by the BYU International Center for Law and Religion Studies with the help of other BYU institutions and the law schools at George Washington and Catholic Universities. Much of the legwork and planning, however, is done by a core of dedicated students who give up hours of study time and much of their placement break to organize translation of the symposium sessions into 12 or 13 languages or work out the details of picking up and dropping off 50 to 75 delegates at the airport—many of whom do not speak English. Natalie Peterson, a student who has worked on the Law and

Religion Symposium for the past three years, mentioned that she “would really like to help” with the 2002 conference, “but I guess I have to graduate this year.”

Symposium delegates are invariably impressed with the students’ enthusiasm and ability. For example, a Russian civil servant commented, “I am amazed at how much American students care about my country. They understand my country and my language so well.” A delegate from the Philippines saw the warmth and hospitality of the students and faculty who hosted him as demonstrating “traits which are very Filipino.” The friendship and concern of law students and faculty seem to transcend linguistic and national borders.

The good feelings, knowledge, and contacts gained by symposium delegates serve them well even after they return home. As described by one Russian delegate, “I realize that a conference like this is a great cost. But I think the other participants would agree that this is money worth spending. I appreciate the opportunity to meet colleagues who are now my friends. For example, I had to come to the U.S. to meet my counterparts in Armenia, Estonia, and Ukraine.” Professors Cole Durham and Elizabeth Clark, the directors of the BYU International Center for Law and Religion Studies, regularly keep in contact with past symposium delegates. Such contacts have resulted in many opportunities, including chances to work with government officials on draft religion laws in Albania, Romania, Slovakia, the Czech Republic, Peru, and Lithuania, as well as opportunities to plan future

conferences in Russia, Africa, and Latin America.

The annual Law and Religion Symposium originated in 1994 when Professor W. Cole Durham, BYU Susa Young Gates Professor of Law and director of the center, pooled resources with law and religion centers at several other law schools to bring foreign experts to the United States to discuss religious freedom issues. The success of this first symposium planted the seed for continued growth. Since its inception in 1994, the symposium has continued to grow, bringing a total of more than 220 participants from 63 countries to the Law School. The symposium is now established as one of the leading annual conferences on religious freedom at the global level each year.

But the true measure of success of the conference is found in its impact on the participants. At the conclusion of one symposium, a South African law professor struggled to find the right words to describe the experience: “I only know the appropriate superlatives for the logistics and content of this conference in my native language. I wish to give you the warmest of thank-yous.” A Bulgarian attorney likewise expressed what he saw as “the real magnitude of the conference”: “My English is too poor to put it into words, but it has had a tremendous effect on me and on all of us.”

Planning is already under way for the Ninth Annual International Law and Religion Symposium, which will be held October 6–8, 2002, at the J. Reuben Clark Law School. More information about the symposium and the center can be obtained at www.law2.byu.edu/law&religion.



◀ Opening session of the symposium.



◀ Dr. Siti Musdah Mulia, from Indonesia Department of Religious Affairs, and Professor Elizabeth Clark, associate director, BYU International Center for Law and Religion Studies.



◀ Dancers performing at conference dinner at Aspen Grove.



◀ Delegates Viktor Yelensky, adviser to the chair of the Ukrainian State Committee for Religious Affairs, and Professor Olexandr Sagan of the Ukrainian Institute of Philosophy.



◀ Professor Gerald Williams, BYU Law School, and Farooq Hassan, attorney from Pakistan.



◀ International Children’s Choir singing at symposium luncheon.



◀ Student organizers Jennifer Hodge, Karin Berg, Jonathon Tichy, Taeya Via, Billy Gonzalez, and Natalie Peterson; and the center’s executive secretary, Deborah Wright.



Clark Law Society Gathers for Training

The largest assembled group of its international board members, chapter leaders, and law school liaisons in the J. Reuben Clark Law Society's history gathered in the Huish Lodge at Aspen Grove on October 5, 2001. Present were almost all of the past chairs of the Law Society Board: Ralph Hardy (1987–1992), the founding chair; Honorable

Charles "Bud" Jones (1995–1997); Ralph Mabey (1997–1999); and Marsh Tanner (1999–2001). Only Gary Anderson (1992–1994) was absent.

On the previous day Clark Society members met with law students at the J. Reuben Clark Law School and were introduced to the new Clark Society mission statement: "We affirm the strength brought to the law by a lawyer's personal religious conviction. We strive through

public service and professional excellence to promote fairness and virtue founded upon the rule of law." The basic values and attitudes exemplified by Clark Society members in their practice of law were reiterated as (1) public service, (2) loyalty to the rule of law, and (3) appreciation for the religious dimension in society and in a lawyer's personal life. Sessions on delegating, balancing religious and professional commitments, and using meetings to align organizations were held. A fireside featuring President Merrill J. Bateman and Jeffrey Marsh as speakers concluded the day's activities.

Meetings at Aspen Grove the next day focused on ways to motivate and show the benefits of pro bono service to volunteer boards. Many of the past chairs spoke in a lunch session introduced by Reese Hansen, dean of the Law School. Ralph Hardy, a 1968 graduate of De

Paul University with a practice in Washington, D.C., told of the work of former dean Bruce Hafen in reaching out and expanding the influence of the Law School. It was Dean Hafen's feeling that the J. Reuben Clark Law School should impact all Latter-day Saint attorneys and that efforts should be made to reach those who were not alums of either BYU or the Law School. Ralph Mabey, a 1972 Columbia Law School graduate, stated that the work of the Clark Society should be a way to bind Latter-day Saint attorneys together irrespective of the circumstances of their practices. Bill Atkin, Office of General Counsel for The Church of Jesus Christ of Latter-day Saints—who took over the chair's duties from Marsh Tanner later in October—joined Tanner and Dean Hansen in the closing remarks.

class notes

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CLASS OF 1976

Scott Cameron, former associate dean of the Law School, is serving as president of the Pennsylvania Pittsburgh Mission.

Daniel J. Carpenter is in accounting for ATI Tools (a division of Snap-On Tools, Inc.) in Escondido, CA.

Stan Ellis (Houston, TX) has been called to serve as president of the Brazil San Paulo North Mission.

Stuart T. Matheson has left ELF Technologies, Inc., and is now with Matheson, Mortenson, Olsen, Jeppson in Salt Lake City.

John L. Valentine, partner at Howard, Lewis, & Peterson in Provo, is serving in the Utah Senate.

CLASS OF 1977 (Reunion Fall 2002)

Ralph L. Dewsnup (Salt Lake City) is serving on the Board of Governors of the Utah Trial Lawyers Association.

Stan Hatch (Albuquerque, NM), partner at Hatch, Allen & Shepherd, has served as president of the Albuquerque New Mexico Stake for the past eight and a half years.

M. Dwight Hurst (Albuquerque, NM) is a board-certified specialist in trusts, estate planning, and probate.

Marianne Jennings (Tempe, AZ), an award-winning newspaper columnist, had the article "The Evolution and Devolution of Journalistic Ethics" published in the Hillsdale College magazine *Imprimis*.

Scott Johansen is a juvenile judge.

Steven G. Johnson, director of Legal and Administrative Services, Norbest, Inc., recently returned from the Tigray Region of northern Ethiopia where he taught promoters how to help farmers organize and manage cooperatives.

Rick D. Nydegger, of Workman, Nydegger & Seeley, Salt Lake City, has been appointed to the national executive committee of the American Intellectual Law Association.

Don E. Powell and Alan B. Gunter (Richland, WA) have been in partnership for 22 years, practicing in the areas of real estate, construction law, and estate planning.

Tom Seiler (Provo) is serving on the Utah Trial Lawyers Association Board of Governors.

Steven Snow (St. George, UT) practices with Snow Nuffer. He has served as an Area Authority Seventy for the Utah South Area since April 1999.

J. Frederic Voros is now chief of the appellate division of the Utah Attorney General's Office in Salt Lake City.

CLASS OF 1978

David R. Clark has been called as president of the Poway California Stake.

Lynn P. Heward is an attorney at DeBry's new office in Utah County. The firm practices mainly in the area of personal injury.

CLASS OF 1979

David F. Evans (Salt Lake City) is serving as president of the Japan-Nagoya Mission.

Rondo Fehlberg is an executive vice president for Switchpoint Networks, Inc.

Thomas L. Kay is a district judge in Davis County in Utah.

CLASS OF 1980

Richard Rife (Orem) is serving as president of the Korea Taejon Mission.

Stephen A. VanDyke (Farmington, UT) is serving as judge for the Second District Juvenile Court.

CLASS OF 1981

Michael L. Allen has joined the law firm of Ballard, Spahr, Andres & Ingersoll in Salt Lake City.

Dana S. Kinnison (Bakersfield, CA) is a deputy public defender at the Kern County Public Defender's Office.

Clark Price is a senior judge on the Navy-Marine Corps Court of Criminal Appeals.

James W. Stewart, formerly of Jones, Waldo, Holbrook & McDonough, has joined the firm of Wood & Crapo in Salt Lake City.

CLASS OF 1982 (Reunion Fall 2002)

Randall J. Bunn is with the U.S. Air Force in the Judge Advocate's Department, serv-

ing as chief, technology division, of the Air Force Material Command Law Office in the Wright-Patterson Air Force Base in Ohio.

Dennis Jensen is with the law firm Garrett & Jensen.

Evan A. Schmutz is with Hill Johnson & Schmutz in Provo.

CLASS OF 1983

Michael R. Brown (Laguna Hills, CA) is employed with Michael R. Brown, a law corporation.

Stephen J. Dahl (Las Vegas, NV) was voted the top-rated justice court judge by the Clark County Bar Association for the third consecutive time.

David J. Holdsworth, president of the Utah Employment Lawyers Association, has relocated his office to Sandy, UT, specializing in employment law.

Steven J. Lund (Provo) is president and CEO of NuSkin Enterprises.

J. Craig Smith (Salt Lake City), with Nielsen & Senior, was recognized as the outgoing chair of the Energy, Natural Resources, and Environmental Law Section of the Utah State Bar.

J. Scott Williams (Irvine, CA) is in solo practice.

CLASS OF 1984

Rick N. Bryson is a shareholder at Sanders & Parks, Phoenix, AZ.

John J. Egbert is a partner at Jennings, Strouss & Salmon, Phoenix, AZ.

Scott Ferri (Provo) is a professor for BYU Education Leadership and Foundations.

Joseph Higley (Higley, AZ) placed third out of 245 law graduates on the February Arizona Bar Exam.

Kevin Johnson was recently elected partner at the Denver firm Holland & Hart LLP, where he practices in international and domestic business transactions.

Mark D. Olsen (Idaho Falls, ID) is managing counsel of Bechtel BWXT Idaho, the management and operating contractor of the Idaho National Engineering and Environmental Laboratory.

Ryan E. Tibbitts is general counsel of Lineo, Inc., in Lindon, UT.

CLASS OF 1985

Claudia Laycock, a Utah County prosecutor, was named to the Fourth District Court.

Darrell K. Smart (Yakima, WA) is in solo practice in the area of plaintiffs workers' compensation.

Miriam A. Smith is assistant professor at San Francisco State University, where she teaches law management and ethics and entertainment law in the broadcast and electronic media department.

CLASS OF 1986

D. Cornell Evans, a civilian leader attorney at Hill Air Force Base, UT, practices labor law with the U.S. Air Force.

Rick Roskelley is a shareholder in Littler & Mendelson, Las Vegas, NV, a large employment and labor law firm.

CLASS OF 1987 (Reunion Fall 2002)

William J. McCann is the first vice president of First of Michigan, a division of Fahnstock & Co., Inc., a member of the New York Stock Exchange.

James M. Rettalick was appointed vice president of Corporate Counsel for Cryocon, Inc., of Ogden, UT.

David Ricks has been elected new bar president for Southern California.

CLASS OF 1989

Mark Cottle is employed with Newton, Cottle & Westenhaver. After eight years on the city council, he is now serving as mayor of Sherwood, OR.

Michael B. Knudsen (Sacramento, CA) has formed his own firm, Knudsen & Associates, specializing in California legislative and regulatory advocacy.

David M. McGrath accepted a position as in-house counsel for Zion's First National Bank in Salt Lake City.

Chad B. McKay has been practicing solo for the last 12 years. His eight sons help run their farm in Huntsville, UT.

W. Shan Thompson is an equity shareholder with Copeland, Cook, Taylor & Bush PA, practicing litigation, insurance-related matters, and employment law.

CLASS OF 1990

J. Jordan Christianson is an attorney at DeBry's new office in Utah County. The firm practices mainly in the area of personal injury.

Alan K. Flake accepted the position of vice president and general counsel for EmWare, Inc., a device-networking software company located in Salt Lake City.

John Geddes, general manager of Triple Play, a new indoor entertainment center, in Hayden, ID, has practiced law in Coeur d'Alene for 10 years.

Patricia L. LaTullippe (Salt Lake City) has ventured out on her own, practicing in the areas of family law, business, real estate, and personal injury.

Dean L. Rostrom is senior associate director for Deutsche Bank Securities, Inc., New York, NY.

Karl M. Tilleman, of Dalton Gotto Samson & Kilgard, has been called as president of the Tempe Arizona West Stake.

CLASS OF 1991

Jeffrey L. Laurence (Redmond, WA) is working as corporate counsel at Safeco Life Insurance Company.

Witney E. Peterson (Santee, CA) is general counsel, vice president, and secretary of Mad Catz, Inc.

Michael A. Royal, a partner at Cohen John Day Jones & Royal in Las Vegas, NV, is serving a two-year term as justice of the peace.

Ed Zendejas, the first Omaha Tribe judge with a law degree, practices law and teaches at the University of Nebraska at Omaha.

CLASS OF 1992 (Reunion Fall 2002)

Steve Baldridge is employed at Southern Virginia University.

David Barrett is an assistant attorney general with the Missouri Attorney General's Office in Jefferson City, MO.

Steve Bowman is senior corporate counsel for Latin America for Blockbuster, Inc.

Kimberly Allred Chatlin is with Trafton, Chatlin & Olsen, Ltd., in Las Vegas, NV, and Denver, CO.

CLASS OF 1993

Patrick J. Ascione recently expanded his private practice to a firm including three additional partners.

Michael D. Bouwhuis (Ogden, UT) is in solo practice.

Steven P. Haight works at the Defense Appellate Division in Washington, D.C., and was promoted to major in June 2001.

Grant Kratz has been promoted to the rank of major in the U.S. Air Force. He prac-

tices government contract litigation for the Air Force and is stationed in Dayton, OH.

Nathan Pace (Salt Lake City) is employed at Pace & Hughes.

Linda Thorne moved to Lander, WY, to practice tax and estate planning with Macy & McKee LLC.

CLASS OF 1994

Curtis Anderson was recently hired by Barker Botts LLP, where he will practice corporate law.

Alan K. Hyde (Phoenix, AZ) has teamed up with three other attorneys to form Holm, Wright, Hyde & Hays.

Gregory R. Knight (Scottsdale, AZ) was recently promoted to vice president and general counsel of Olympus Hospitality Group, an international hotel company.

Brian P. Miller recently became a shareholder at Snow, Christensen & Martineau in Salt Lake City, where his practice focuses on defending doctors and hospitals in medical malpractice cases.

Roy L. Montclair (Salt Lake City) is employed with Snow Nuffer.

Michael D. Rawlins (Henderson, NV) is associated with the law firm of Rooker Gibson & Later.

Glenn A. Rowley (Irvine, CA), an associate with Crowley & Moring LLP, is deploying to Kuwait for 106 days as a Reserve Judge Advocate in the California Air National Guard.

Arwen Westover (Provo) is employed with Hill, Johnson, Schmutz.

CLASS OF 1995

Shawn M. Guzman, chair of the Springville Planning Commission, works as a legal counselor and director of the Utah Association of Counties Insurance Mutual.

Todd Nielsen (San Diego, CA) has joined Brobeck, Phleger & Harrison, where he practices in the area of real estate transactions.

CLASS OF 1996

Erin Givens is employed by Nexus-Lexus in Salt Lake City.

Robert M. Jensen (St. George, UT) formed the new law firm of Jenkins & Jensen, practicing in construction, real estate, and general litigation.

James Lee is with Lewis and Roen LLP in Phoenix, AZ, practicing in estate planning and tax-exempt organizations.

Jim Phipps joined Wiley, Rein & Fielding in Washington, D.C., after he and his family returned from Saudi Arabia last year.

Kurt Rowley is assigned to a special prosecution unit in the San Bernardino County District Attorney's Office and handles crimes against children.

CLASS OF 1997 (Reunion Fall 2002)

Jim Alder has recently joined the law firm of Clyde Snow Sessions & Swenson in Salt Lake City as an associate and practices water law.

David M. Buchanan is now an associate in the office of Brobeck, Phleger & Harrison in San Diego, CA.

Bob Carlson was recently elected to the 14-member board of governors of the 1000-member Oregon Trial Lawyers Association.

Pattie Christensen resigned her position as associate for Holme Robert & Owen in October 2000 to accept the position of vice president of e-trust Network.

Kennes Ma is employed with the Los Angeles District Attorney's Office.

Colin W. McMullin (Salt Lake City) is associated with the law firm of LeBoeuf, Lamb, Greene & MacRae.

Kirsten Hall McNelly is an associate practicing environmental litigation with Foster, Swift, Collins & Smith PC in Lansing, MI.

Andrew P. Pickering is an assistant prosecutor in the civil division of the Clark County Prosecutor's Office, Springfield, OH.

Christopher P. Simkins is an associate in the office of Wilmer, Cutler & Pickering, Washington, D.C., with a general litigation practice.

Christopher D. Wall is with McDermott, Will & Emery, Washington, D.C.

CLASS OF 1998

Jeffery B. Adair is with Olson & Hoggan in Logan, UT, and specializes in estate planning.

James L. Ahlstrom has joined Parr, Waddoups, Brown, Gee & Loveless of Salt Lake City, following a clerkship with Justice Charles E. Jones of the Arizona Supreme Court.

D. Nicholas Carroll is a partner with Zufelt & Carroll in Sheboygan, WI.

Conrad H. Johansen (Salt Lake City) is with Babcock, Bostwick, Scott, Crawley & Price, specializing in construction law.

Christopher J. Kyler (Salt Lake City) is general counselor with the Utah Association of Realtors.

Daryl Sam (Salt Lake City) has joined the law firm of Snow, Christensen, & Martineau.

CLASS OF 1999

D. Heath Bailey (Henderson, NV) is associated with the law firm of Rooker Gibson & Later.

David M. Carter recently joined Snell & Wilmer in their Salt Lake City office, practicing business and finance law.

Rodrick J. Coffrey has returned as an associate to the firm of Morrison & Hecker LLP in Phoenix, AZ.

Paul C. Farr (Logan, UT), in practice at Perry, Malmberg & Perry, recently authored the article "Will NEPA Curtail Design-Build Contracting?" in *Contract Management*, September 2000.

J. Dax Hansen in practice at Perkins Coie, has been elected to the Board of the Washington Japan-America Society.

Laura Jane Hansen (Kaysville, Utah) is the permanent law clerk for Judge Ted Stewart, U.S. District Court in Salt Lake City.

Todd Hilbig (Salt Lake City) is an associate practicing litigation at Morgan, Meyer & Rice LC.

Jeanette McGlamery is an associate in the litigation department at Holland & Knight LLP in their Boston, MA, office.

Dewayne Nobles is a law clerk to U.S. District Court Judge Roger L. Hunt.

Jon A. Stenquist is a tax attorney for a Houston energy company, practicing IRS controversies and litigation.

CLASS OF 2000

Eric Baxter is an attorney with the U.S. District Court in the Eastern District of Michigan.

Jennifer Decker is an associate at Fabian & Clendenin in Salt Lake City.

David D. Garner, employed at Lewis & Roca, in Phoenix, AZ, will be finishing up his clerkship with Judge Michael Ryan of the Arizona Court of Appeals this August.

Julie H. Gheem (Salt Lake City) is practicing intellectual property law at Kirton & McConkie.

Rebekah Griffin created a Provo affiliate of the Western Boys Baseball Association (WBBA) in 1999.

Joseph P. Hardy is an associate at Beckley Singleton, Las Vegas, NV.

Yanne T. Kobayashi has accepted a position as a real estate securitization underwriter at UBS Warburg in Tokyo, Japan.

Kimberly A. Mantz is employed with Kutak Rock LLP in Scottsdale, AZ, with an emphasis on commercial litigation and bankruptcy-creditors' rights.

Jason S. Nichols (Salt Lake City) has joined Parsons Behle & Latimer, concentrating on real estate and corporate law.

David A. Nill is working at Woodbury & Kesler in Salt Lake City.

Kurt Richter works with Netigy Corporation in Bountiful, UT, as a senior consultant.

Dawn Steadman is a judicial clerk for the U.S. Court of Appeals for Veterans Claims.

CLASS OF 2001

Jeffrey J. Drouby has joined the Salt Lake City firm of Parsons Behle & Latimer as an associate.

Clark Memorandum

J. Reuben Clark Law Society
J. Reuben Clark Law School
Brigham Young University



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Michelangelo Merisi da Caravaggio

The Supper at Emmaus

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