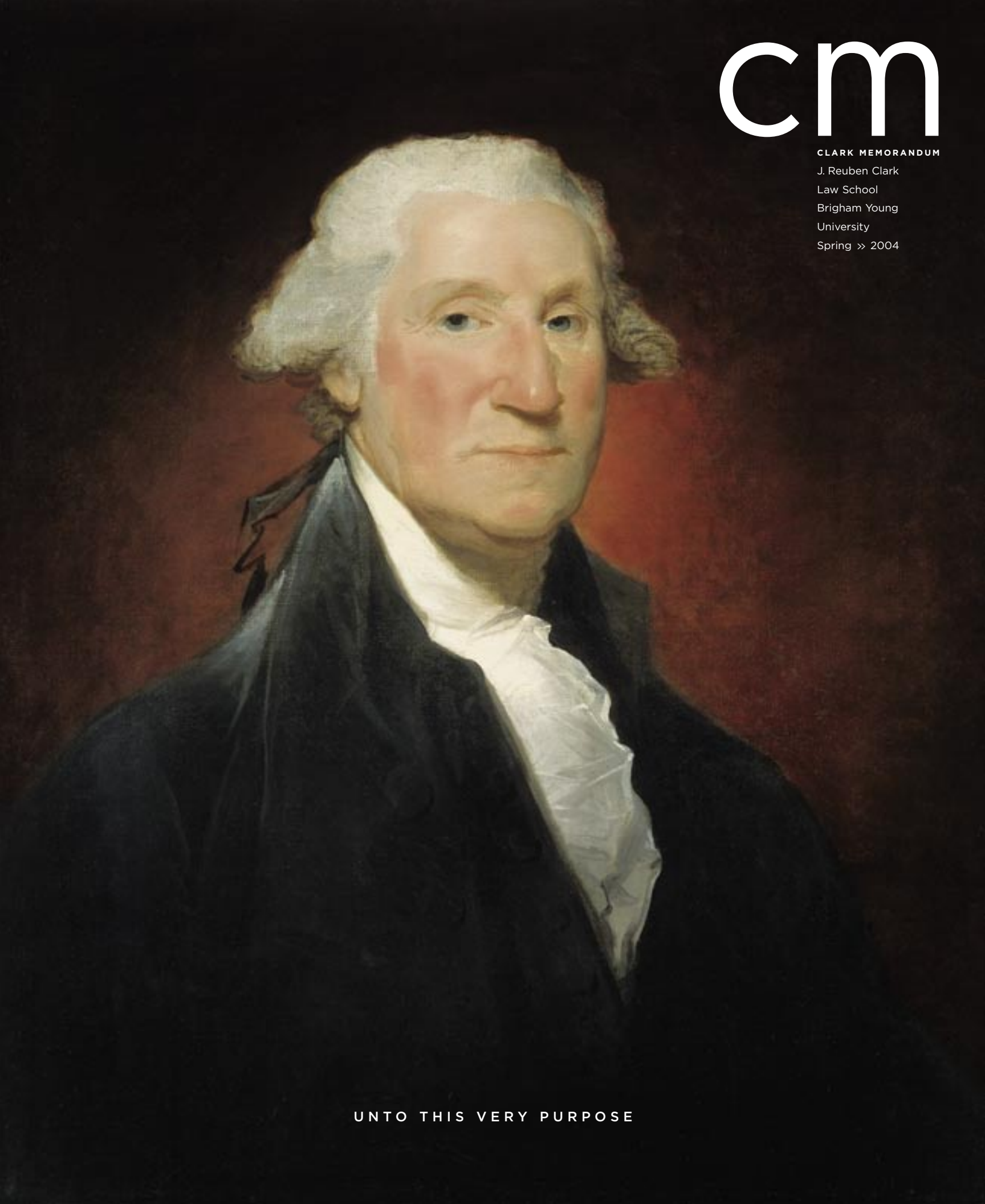
Spring 2004

Clark Memorandum: Spring 2004

J. Reuben Clark Law Society

J. Reuben Clark Law School



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CLARK MEMORANDUM
J. Reuben Clark
Law School
Brigham Young
University
Spring » 2004

UNTO THIS VERY PURPOSE

contents

Cover Artwork
Gilbert Stuart, *George Washington (Vaughan Portrait)*, Andrew W. Mellon Collection, Image © 2004 Board of Trustees, National Gallery of Art, Washington, 1795, oil on canvas.

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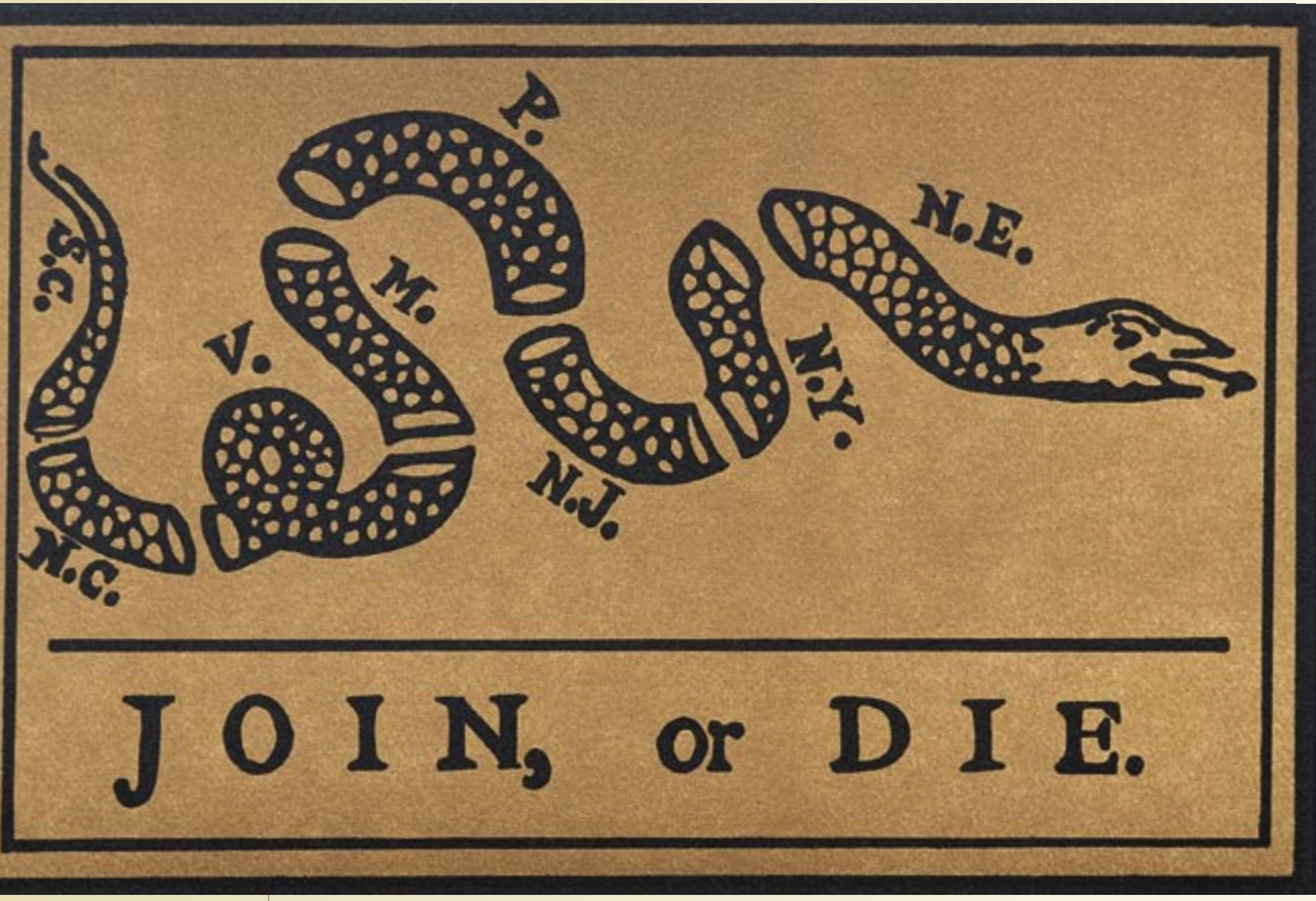
The *Clark Memorandum* is published by the J. Reuben Clark Law Society and the J. Reuben Clark Law School, Brigham Young University.

The J. Reuben Clark Law Society draws on the philosophy and personal example of the Law School's namesake, J. Reuben Clark Jr., in fulfilling the following mission: 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.

UNTO THIS



DRAWING BY BENJAMIN FRANKLIN (1754)

BY ELDER NEAL A. MAXWELL

The following speech was presented at the

VERY PURPOSE

President Faust—my mentor of many years—President Samuelson, Dean Hansen, ladies and gentlemen, brothers and sisters all: While anticipating this occasion, my reflections have turned in special gratitude to President Marion G. Romney for his personal role in founding the J. Reuben Clark Law School. Likewise, appreciation goes to Elder Dallin Oaks, President Rex Lee, and all who were, and now are, a part of that initial and continuing achievement, including Dean Reese Hansen and the current faculty. ‖ While I cannot speak to you from shared professional experience,

J. Reuben Clark Law School Founders Day celebration in Salt Lake City, Utah, on September 4, 2003.

almost all of us share a certain theology. The scriptures contain so many jewels over which we pass too lightly, especially some stunning one-liners. The compressed truth in these terse verses defies our full comprehension. Moreover, such divine declarations come without detailed explanations but are laden with so many implications. || One such cluster, as you well know, has to do with the unique founding of this American nation. Therein, the Lord revealed that He established our Constitution "by the hands of wise men whom [He] raised up *unto this very purpose*" (D&C 101:80; emphasis added). I know of no parallel declaration with regard to the Constitution of any other nation, ours being the first written constitution. Given in 1833 in Ohio, these verses were part of the Kirtland cascade of revelations. Moreover, revealed words, such as "unto this very purpose," clearly remind us that God's hand is in the details of such things—sometimes obviously, sometimes subtly (see D&C 59:21).

Granted, we noddingly accept these revealed words, but we seldom stretch our minds to explore their implications. However, if pondered—both as to its substance and the miraculous process of its coming forth—the Constitution is deserving of our prolonged, spiritual applause.

Think of all that the Lord had to oversee, including the shaping events that occurred long before the Constitution was *written*, *ratified*, and *implemented*. *First*, it was necessary for God to cause a handful of highly talented and wise individuals to be raised up. *Second*, they needed to live in one geographic area on this planet. *Third*, this contiguity also had to occur in a short time frame. *Fourth*, a citizenry had to be prepared who wanted and would then implement and sustain self-governance. This latter incubation was as important as the later ratification. Thus, the words "raised up" involve multiple and concurrent conditions. Without similar incubation, it is no wonder that establishing modern republics and democracies is not easy. Founders require foundational building blocks. Otherwise, holding elections can be cathartic but not consequential.

The late historian Barbara Tuchman has noted how our Founding Fathers have been called "the most remarkable generation of public men in the history of the United States or perhaps of any other nation" (Barbara W. Tuchman, *The March of Folly* [New York: Alfred A. Knopf, 1984], p. 381). Tuchman observed, "It would be invaluable if we could know what produced this burst of talent from a base of only two and a half million inhabitants" (Tuchman, p. 383).

The Constitution not only needed to be written but also ratified, and there were some dramatic moments and narrow margins of approval. The Massachusetts vote was "one hundred and eighty-seven [in favor] to one hundred and sixty-eight [unfavorable]"; Virginia was "eighty-nine to seventy-nine"; New York, "thirty to twenty-seven" (Catherine Drinker Bowen, *Miracle at Philadelphia* [Boston: Atlantic Monthly Press Book, 1966], pp. 290, 304, 306).

In one instance, extraordinary measures were used:

Early on Saturday morning [in Philadelphia], *September twenty-ninth, a mob . . . seized two assemblymen and carried them, fighting, to the State House, where they were thrust down in their seats, with clothes torn and faces—said one account—*

"white with rage." A quorum being thus achieved, it was decided, amidst approval from the gallery, that seated members who had answered to their names were a legitimate part of the House, no matter how they got there. [Catherine Drinker Bowen, *Miracle at Philadelphia* (Boston: Atlantic Monthly Press Book, 1966), Chapter XXIII, p. 274]

Thus, not only was a special parchment produced, but so were a sufficient number of approving and sustaining people.

One who fought for freedom in the War for Independence was asked why he fought. Was it the Stamp Act? The Tea Party? Or reading Locke? He replied in the negative, saying, "Young man, what we meant in going for those Redcoats was this: we always had governed ourselves and we always meant to. They didn't mean we should" (David Hackett Fischer, *Paul Revere's Ride* [New York: Oxford Press, 1994], p. 164).

President Wilford Woodruff boldly declared in general conference, April 1898:

I am going to bear my testimony to this assembly, if I never do it again in my life, that those men who laid the foundation of this American government and signed the Declaration of Independence were the best spirits the God of heaven could find on the face of the earth. They were choice spirits, not wicked men. General Washington and all the men that labored for the purpose were inspired of the Lord. [Conference Report, April 1898, p. 89]

This nation was blessed not only with Washington's wisdom and prestige but also by his superb character. One of his biographers wrote:

In all history few men who possessed unassailable power have used that power so gently and self-effacingly for what their best instincts told them was the welfare of their neighbors and all mankind. [James Thomas Flexner, *Washington: The Indispensable Man* (New York: Plume, 1984), p. xvi]

Washington was the rare man who would not be king!

The cumulative contribution came from such varied personalities. As Franklin's most recent biographer, Walter Isaacson, wrote,

Benjamin Franklin is the founding father who winks at us. George Washington's colleagues found it hard to imagine touching the austere general on the shoulder, and we would find it even more so today. Jefferson and Adams are just as intimidating. But Ben Franklin, that ambitious urban entrepreneur, seems made of flesh rather than of marble, addressable by nickname, and he turns to us from history's stage with eyes that twinkle from behind those newfangled spectacles. [Walter Isaacson, *Benjamin Franklin: An American Life* (New York: Simon and Schuster, 2003), p. 2]

God raised up not only these founders but the necessary supporting cast. Involved, therefore, were not only the obvious luminaries—Washington, Adams, Jefferson, Madison, Franklin, etc., and with Abigail Adams as an added measure of influence—but also, for example, John Marshall, who his biographer, Jean Edward Smith, calls the "definer of a nation" (Jean Edward Smith, *John Marshall: Definer of a Nation* [New York: Henry Holt & Co., 1996], subtitle).

As you would know better than I, Marshall and colleagues did their defining superbly, requiring successive and often unanimous Marshall Courts spanning many years. Even the replacement appointees were vital contributors. Presidents who differed with John Marshall nevertheless appointed justices who were, like Marshall, nation builders. Such was Jefferson's appointment of William Johnson, and Jackson's of John McLean.

Such individuals helped the Constitution to become firmly established in the difficult cases that faced the Supreme Court. Nevertheless, times of deep discouragement were experienced. Marshall's biographer, Smith, wrote :

As the states rights rhetoric escalated that autumn, Marshall's spirits sagged. In late September he wrote to Story in an even more despondent mood. "I yield slowly and reluctantly to the conviction that the Constitution cannot last. The Union has been prolonged thus far by miracles. I fear they cannot continue."

But a miracle of sorts was in the offing. Jackson was swept back into office in November and immediately moved to suppress the impending states rights revolt. . . . Jackson said the Supreme Court was the ultimate arbiter of the constitutionality of the nation's laws and that if the Court held a statute to be constitutional, it must be obeyed. [Jean Edward Smith, *John Marshall: Definer of a Nation* (New York: Henry Holt and Company, LLC, 1996), p. 519]

Such history should be borne in mind when, from time to time, we may wince—or more—over particular decisions by the ultimate arbiter.

Human history makes abundantly and sadly clear that not all mortals use power wisely. Unsurprisingly, therefore, certain of the Constitution's central features—such as the vital separation of powers and the precious First Amendment, as conceived and intended—were and are needed to foster moral agency (see D&C 121:39). This later condition is central to God's plan of salvation for all mortals. Back in the founding days, however, these and other key concepts needed "cleats" that would take hold early in the history of the American nation. Otherwise, things could have come apart soon after the birth of a nation.

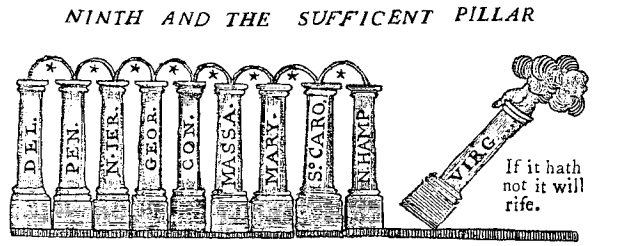
Dean Rex Lee observed of such central features:

In some ways the free-exercise-of-religion guarantee bears closer marks of kinship to the free-expression provisions of the First Amendment than to its sister religion clause. Like the speech, press, and assembly guarantees, the free-exercise-of-religion clause deals directly with the protection of individual liberties, whereas the establishment clause is a structural provision, regulating institutional relationships between church and state.

Moreover, speech and assembly are central to most religious activity. [Rex E. Lee, *A Lawyer Looks at the Constitution* (Provo: Brigham Young University Press, 1981), p. 135]

One cannot resist reflecting on the foliage of the First Amendment. I read somewhere of the contrast between a banyan tree and a Lombardy poplar that is a relevant metaphor. The latter, though a thing of beauty and symmetry, does not really offer much shade from the heat of the day or shelter from the storm, whereas a banyan tree is thick with foliage and has sturdy, wide branches. How ironical, therefore, for some to neglect to nourish certain branches of that First Amendment tree and then seek its shelter later on. Likewise, a persistent preoccupation with freedom of speech to the neglect of other freedoms can diminish the shelter available for religion and eventually for other precious freedoms. The intense twinings of all our freedoms is greater than we realize.

THE LAWS AND CONSTITUTION OF THE PEOPLE, WHICH I HAVE SUFFERED TO BE ESTABLISHED . . . SHOULD BE MAINTAINED FOR THE RIGHTS AND PROTECTION OF ALL FLESH.



"The ratification of the Convention of nine States, shall be sufficent for the establishment of this CONSTITUTION." (Article VII.)

Having pondered the miracle of the Constitution's emergence and just how God manages to be in so many details, while at the same time honoring our individual agency, I confess not to fully comprehend it all (D&C 59:21). Only God can strike the divine balance. Such was, nevertheless, the case with the inspired American Constitution. Clearly, God cares too deeply about our moral agency to force things—even things He desires. Clearly, too, God cares about how power is handled and not only in His kingdom. It is likewise clear that He also desires to protect all mortals by means of certain rights and principles:

According to the laws and constitution of the people, which I have suffered to be established, and should be maintained for the rights and protection of all flesh, according to just and holy principles. [D&C 101:77]

Elder James E. Talmage believed that our Constitution "is the pattern after which the organic laws of other nations shall be framed" (Conference Report, October 1919, p. 98). President George Albert Smith said in the dedicatory prayer of the Idaho Falls Temple that the Constitution was to be emulated by other governments in fulfillment of Isaiah's words about how "out of Zion shall go forth the law" (Isa. 2:3; see *Improvement Era* 48 [October 1945], p. 564). Years later, President Harold B. Lee recalled and endorsed President Smith's words (see "The Way to Eternal Life," *Ensign* [November 1971], p. 15).

The ongoing tug-of-war over power and over the preeminence of contending values continues, but does so within the context of a modern condition too little noted. Zbigniew Brzezinski described how "the political structure of the state guarantees the relativism of all values through constitutional protections." Brzezinski also noted how "the traditional socializing institutions—the family, the school, and the church—[when] fully intact . . . provided a moral grounding, a counterbalance to the indulgent propaganda of the mass media" (Zbigniew Brzezinski, "Weak Ramparts of the Permissive West," *At Century's End* [ed. Nathan P. Gardels, ALTI Publishing, 1995], p. 56).

But will the counterbalances check relativism, as was once the case? The heightened emphasis in our time on individuality, often at the expense of community, needs no elaboration with this audience. In my opinion, the big challenge for Christians is maintaining a moral grounding amid surging secularism, and, sometimes, amid arrogant irreligion. Operationally, except for thoughtful and genuine pluralists, irreligion may become, *defacto*, the established state religion with its own rituals, orthodoxy, and various tests for prospective office holders.

Yet, even given such relativism and secularism, many will still deeply honor what was handed down from Sinai centuries ago while, of necessity, being mindful of what is handed down from the marble steps of state or national capitols.

Significantly, regarding the fundamental doctrine of moral agency (D&C 101:78), the Lord conjoins individual accountability and constitutional freedoms:

And that law of the land which is constitutional, supporting that principle of freedom in maintaining rights and privileges, belongs to all mankind, *and is justifiable before me.* [D&C 98:5; emphasis added]

Why is all this so vital?

That every man may act in doctrine and principle pertaining to futurity, according to the moral agency which I have given unto him, that every man may be accountable for his own sins in the day of judgment. [D&C 101:78]

Whatever the persistence of secular permissiveness, the eventual and sobering reality of individual accountability lies ahead.

A quarter of a century ago, I ventured to write:

Hopefully, governments will use the test of "by their fruits ye shall know them," and hopefully those

This Plate, is with due RESPECT Inscribed to the CONGRESS of the United States, by

Chas. Smith

New York Published by C. Smith, 1790

officials who cannot thereby distinguish between a peach tree and a pyracantha will put away their pruning shears! First Amendment freedoms, tested before, will surely be tested again. Irreligion, protected by these same freedoms, will surely seek to snuff out real religion. [Neal A. Maxwell, *All These Things Shall Give Thee Experience* (Salt Lake City: Deseret Book Co., 1979), 116]

Almost tucked away in the same 1833 revelation are these words: "Therefore, it is not right that any man should be in bondage one to another" (D&C 101:79). Do we appreciate these revealed and discomfiting words, especially in view of their obvious relevance to so many human situations involving bondage of one form or another?

Given the obvious time span being covered by these remarks, as is by now apparent, I speak not of particular cases. Rather, I am spurred on by the sweep of history with the ebb and flow of Constitutional concerns mirrored therein. Surely the bestowal of such divine attention on a few mere colonies located on one planet is especially reassuring, given God's governance among "worlds without number," thus only adding to our wonderment (see Moses 1:33, 35).

SELF-GOVERNMENT PRESUPPOSES THE EXISTENCE OF VIRTUE AMONG ITS CITIZENS IN A HIGHER DEGREE THAN ANY OTHER FORM OF GOVERNMENT.

A few words about you and the law. As alumni, what you *are* is more important than what you *know* about the law. The long-term influence of your character is more significant than legal expertise, though how commendable when both are combined! Hence, adequate emphasis on character at the J. Reuben Clark Law School is as vital as the curriculum.

Therefore, as you help to manage conflict, you should always practice advocacy without acrimony and without animosity. Be eloquent, not only before the bench but also in your life's example. You need your own checks and balances, including at times the constraining influence of the Spirit.

The Lord expresses general confidence in the voice of the people; but a slack citizenry and cunning devices can, over time, corrupt even a constitutional system (Alma 10:13, 15, 19, 27). Lawyers can first shape and then exploit the voice of the people, which, if done amiss, can bring the judgments of God (see Mosiah 29:27 and Alma 10:19, 26.) Sixty-two years *after* King Benjamin's warning, we read:

For as their laws and their governments were established by the voice of the people, and they who chose evil were more numerous than they who chose good, therefore they were ripening for destruction, for the laws had become corrupted [Helaman 5:2 (30 B.C.)]

The precepts of men can give ascendancy to that which is more fashionable than it is constitutional (D&C 45:29).

The living Constitution remains a most remarkable document. Nevertheless, the various interpretations of the Constitution are finally more reflective of the moral status of America's citizenry, its lawyers, and its judges than we may care to acknowledge. A people, for instance, can actually lose the capacity for genuine self-governance by losing one of its precious prerequisites: "Obedience to the Unenforceable." Lord Moulton, the originator of that perceptive phrase, focused on an individual's obedience to that "which he cannot be forced to obey," which, significantly, Moulton, nearly 80 years ago, linked to free choice (The Right Honorable Lord Moulton, "Law and Manners," *The Atlantic Monthly* 134:1 [July 1924], p. 1).

Secular churning can lead to a heedless democratization of values and truths, which, after all, are not equal—hence, the hunger for a more proportional and a genuine hierarchy among competing values. For instance, would we approve all else that characterized ancient Sodom and Gomorrah if only assured that they balanced their budgets? It may be true, for instance, that the people of Sodom and Gomorrah had absolute free speech, but did they have anything worth saying? Those surfeited in sensualism may produce sounds all right, but scarcely the enlivening and enriching speech that John Stuart Mill and our Founding Fathers had in mind.

Virtue must reside in the people as well as in leaders. John Adams cautioned, "Our constitution was made only for a moral and religious people. It is wholly inadequate to the government of any other" (John R. Howe, Jr., *The Changing Political Thought of John Adams* [Princeton: Princeton University Press, 1966], p. 195).

No wonder Michael Novak was moved to write his timely book *On Two Wings*, lest we forget how America's becoming "airborne" reflected a spiritual wing, too, noting that

this "one wing of the American eagle . . . has been quietly forgotten" (Michael Novak, *On Two Wings* [San Francisco: Encounter Books, 2002], preface, p. 1).

Elder Dallin H. Oaks has written perceptively:

The citizens who founded this nation understood the relationship between self-government and citizen responsibilities. Their writings are replete with references to public or civic virtue—meaning the willingness of individual citizens to sacrifice their private interests for the well-being of the nation. . . . For example, in The Federalist Papers, *James Madison makes pointed reference to the fact that self-government presupposes the existence of virtue among its citizens in a higher degree than any other form of government.* [Dallin H. Oaks, *Mercer Law Review* (Macon: Walter F. George School of Law, 1985) vol. 36, p. 434]

Therefore, while we cannot fully fathom all that was done in order to raise up wise individuals, I nevertheless praise God for the miracle that came forth, disjointed and discouraging as some events must have been back then.

As you know, the Prophet Joseph Smith praised the Constitution as:

A glorious standard; it is founded in the wisdom of God. It is a heavenly banner; it is to all those who are privileged with the sweets of its liberty, like the cooling shades and refreshing waters of a great rock in a thirsty and weary land. It is like a great tree under whose branches men from every clime can be shielded from the burnings rays of the sun. [*History of the Church*, Vol. III, p. 304]

Note his metaphor of "a great tree" and also the constituency of "men from every clime" (see D&C 98:5; 101:77).

Joseph noted, however, that the Constitution had

but this one fault. Under its provision, a man or a people who are able to protect themselves can get along well enough; but those who have the misfortune to be weak or unpopular are left to the merciless rage of popular fury. [*Teachings of the Prophet Joseph Smith*, p. 326]

After the Civil War, of course, came the 14th Amendment, prescribing equal protection for citizens.

Having attempted, at least briefly, to demonstrate a particularized divine detail with one powerful example—the American Constitution—God willing, I hope to speak sometime soon of even more strategic revelations and stunners so fundamental to the grand mosaic of God's master plan. Ironically, young Joseph Smith went into the grove merely wanting to know which Church to join, where there began to unfold a supernal serendipity of stunners.

These revelations, as with the one discussed tonight, likewise belong to all mankind (see D&C 98:5).

Paul's words of commendation about Abraham are an applicable caution to us. Given the stretching and reassuring promises made about his posterity, yet Abraham staggered not in disbelief (see Romans 4:20). There is a risk that we might stagger in the face of such stunning truths.

If Joseph Smith had taught only one of the Restoration's major revelations, it would be, standing alone, sufficient to insure his prophetic greatness, to say nothing of the cumulative cascade of revelations that came through him. We may smile at Joseph's occasional imperfect spelling, but instead we ought to be breathless over the gospel restored through him. Besides, Joseph said, "I never told you I was perfect—but there is no error in the revelations which I have taught" (Andrew F. Ehat and Lyndon W. Cook, *Words of Joseph Smith* [Provo: Brigham Young University, 1980], p. 369).

Some of us have grown too content with the largesse of mere gumball machines and are scarcely prepared for the promised deluge, when the windows of heaven are opened and God gives to the faithful "all that [he] hath" (See D&C 84:38). Oh, the poverty of our *perceptions!*

God bless you all, in the name of Jesus Christ, amen.

ART CREDITS

Images from "We the People," a limited-edition folio featuring authentic reproductions of the founding documents of the United States, published by Edouard Weiss. Presented by David Fischer, '76, to the J. Reuben Clark Law School in 2001. (See "Gift Commemorates Law School 30th Anniversary," *Clark Memorandum* [Spring 2001] 37–38.)

PHOTO BY BRADLEY SLADE

"No person [has come] to the dean's calling better prepared."[1]

So said Dean Carl Hawkins in May 1990 on the appointment of H. Reese Hansen as dean. This assessment was not gratuitous. Dean Hansen was acting dean for 10 months prior to his appointment, and for 15 years before, he had been the Law School's consummate "first mate," responsible for admissions, student affairs, general administration, and the preparation and defense of every budget submitted by the Law School to the university since 1974.

H. Reese Hansen steps down as dean of the J. Reuben Clark Law School in June of 2004. Here is a portrait of the 15 years of his tenure.

SAFE PASSAGE

by Scott W. Cameron

Dean Hansen had, at one time or another, directed almost every part of the Law School administration. Now, 15 years later, he is stepping away from administration and into full-time teaching.

By the fall of 2003, Dean Hansen had greeted 15 entering classes with the same sage observation: a student's achievement at graduation is better gauged by what the student has become than by what the student has learned.[2] A careful look at what the Law School has become in the past 15 years is also the best gauge of this dean's effectiveness. Years of seamless progression are the hallmark of his leadership for over half of the Law School's existence. Associate Dean Constance Lundberg, with her insider's view, attributes this smooth advancement directly to Dean Hansen: "I have never known anyone with equal insight into the governance of organizations." In characteristic fashion, Dean Hansen would direct this credit to the entire Law School community, invoking the blessings of heaven on "efforts to become the best in all ways that we can be."[3]

Dean Hansen's focus has been on nurturing the Law School community viewed in context of the founders' aspirations, its growth in its first 15 years, and continuing its progress through the last 15 years. A look at the Law School's interaction with those affected by its mission through the last 15 years is a good way to gauge the effectiveness of Hansen's deanship.

The University

Dean Hansen has been quick to acknowledge the dependence of the Law School on Brigham Young University and "the unwavering support of The Church of Jesus Christ of Latter-day Saints."[4] He attributes every accomplishment to the direction of the Board of Trustees and the generous funding the Law School has received. In return the university and its board have expressed confidence in Dean Hansen by extending his deanship. All academic deans serve at the behest of their respective university presidents and boards of trustees, with the average tenure nationwide being approximately six years.[5] At BYU, deans generally serve for a five-year period and, on occasion, an additional five-year term. Dean Hansen has served an unprecedented three terms, working successfully under three presidents of the university and gaining their esteem. Always acknowledging the interdependency of the Law School with the undergraduate institution, Dean Hansen has maintained his strong advocacy for the Law School tempered by his acknowledgment of the needs of the university and of the kingdom.

Having prepared the Law School budget for over 30 years, Hansen can look to the appropriate acquisition and disposition of funds as a particular strength of his deanship. There have been years of plenty and years of relative scarcity. Dean Hansen has carefully navigated each year, managing to keep the Law School on an even keel—no small task when the budget has increased more than 12 times since 1974. Originally the Law School received 100 percent support from the university, while now over 25 percent of the budget comes from the endowment. The budget has a personal face to the dean: it affects the daily lives of more than 80 full-time Law School faculty and staff members, 29 adjunct faculty members, and 483 students. To first create a plan that projects the needs of the institution, then to advocate for the level of funding sufficient to meet those needs, and then finally to control the purse strings to ensure that those needs are met is a formidable task. The fact that the budgetary voyages have been without incident attests to the dean's skill as navigator.

The Endowment

With one eye on the needs of the Law School in its quest for excellence, Dean Hansen focused on increasing the Law School Endowment to supplement the generous economic base provided by the university. While he did not think he was well suited to be a fund-raiser, becoming captain of the ship propelled him into the fund-raising arena. With enthusiasm, savvy, and the able assistance of a full-time development director,[6] Hansen has increased the Law School Endowment fourfold in 15 years and protected it in a difficult market. The increase in the endowment has been fueled by implementing such diverse projects as the Rex E. Lee Chair, the Scholley Mediation Project, the Scholley Library Collection Endowment, the Mary Alice Woolley Fund, the Christensen Advocacy Fund, and the Rex E. Lee Advocacy Program. In addition, efforts to increase funding for the Wilkinson and Sutherland Chairs and seven existing professorships were handled simultaneously along with the establishment of four new professorships, now averaging $450,000 each as well as with the establishment of five new scholarship funds.

Even with the increase in the endowment, another $11 million was needed for the expansion and remodeling of the Law Library on Hansen's watch. Working with a committee of alumni and members of the J. Reuben Clark Law Society, a grassroots campaign was augmented by several major donors and capped by a generous matching gift from Utah philanthropists Jon and Karen Huntsman. The entire cost of the project was raised before construction was completed, and the dedication of the Howard W. Hunter Law Library was held on March 21, 1997. In addition to the 90,000 square feet of new space, the remodeled library has more window space than the rest of the Law School combined.[7] These funds were raised apart from the endowment, and when added to the other Hansen generated monies, ranked the Law School among the top 20 percent of law schools in the nation in terms of donated funds.

BYU Law Alumni Association and the J. Reuben Clark Law Society

Solidifying ties with the Law School's alumni and friends has progressed hand-in-hand with the endowment's increase. When Hansen commenced his service as dean, the BYU Law School Alumni Association existed in name only. Fifteen years later it boasts a membership of 4,200 and a dedicated board of 90 (three representatives per graduating class). Through the work of the Law School Alumni Association, graduates are not only continuing their associations with one another and with the faculty, they are also contributing to the growth of the Law School. For instance, in 2003 the annual fund raised $300,000.[8] Alumni also assist the Law School in mentoring students, answering questions about law school and the profession, sponsoring internships and clerkships, and helping third-year students secure permanent employment. Virtually all moot court, trial advocacy, negotiations, and other competitions both intraschool and extracurricular are judged by alumni.

The idea to establish the J. Reuben Clark Law Society was born the year before Hansen became dean through a collaboration between

From H. Reese Hansen

As I conclude my tenure as dean of the Law School, I want to use this space to express my gratitude and best wishes. It has been a singular honor to have been dean of the BYU Law School. In the years prior to 1989 when I assumed the deanship, I had the blessing of working under three deans: Rex E. Lee, Carl S. Hawkins, and Bruce C. Hafen. They were leaders of uncommon vision and extraordinary skills, each in his own way and time, providing just what was needed in establishing and nurturing the Law School. Although I had worked closely with them as associate dean and had a fair knowledge of the workings of the Law School, I did not understand the multitude of blessings that would come to me in my role as dean.

I have enjoyed working with the wonderful men and women in the faculty, administration, and staff at the Law School. Their constant and reliable service has been critical to the successes we have enjoyed. The students have provided a seemingly inexhaustible infusion of eagerness, energy, and optimism. The remarkable accomplishments of our graduates testify to their innate goodness as they serve with distinction in the profession, in their communities, and in the Church. We have been blessed by the growth and strength of the J. Reuben Clark Law Society, a product of the vision and commitment of the society's leaders over the years. All of these associations have richly blessed my life. I am also grateful for the unwavering assistance of the university and the Board of Trustees, who have ensured our success through their willing support.

I have an increasing sense that the mission of the Law School is becoming more evident and that the lives of our graduates will demonstrate the wisdom of those who established a law school at BYU. I have seen a growing number of unexpected opportunities for the Law School to impact important issues in our society. I have absolute confidence in the Law School's future because of all who believe in and support what we are doing. I will be eternally grateful for the privilege of being the dean of the J. Reuben Clark Law School for a season, and I extend my hope for continued blessings as the mission of the Law School unfolds.

Dean Bruce C. Hafen and Washington, D.C., attorney Ralph Hardy. But it was during the administration of Dean Hansen that the Society grew from an idea to an organization of more than 6,500 lawyers who emphasize the Society's values of "public service, loyalty to the rule of law and the Constitution of the United States, and an appreciation for the religious dimension in both American society and a lawyer's personal life."[9] The Law Society has been organized into 48 chapters in cities throughout the United States, with international chapters in Canada, Mexico, England, Brazil, New Zealand, and Australia. Each chapter plans events on a quarterly basis for its members, ranging from pro bono activities to CLE presentations to social events.

The Law School, the BYU Law School Alumni Association, and the JRC Law Society also sponsor a fall Founders Day dinner that has attracted thousands of participants and drawn on speakers like Elder Bruce C. Hafen, President James E. Faust, and Elder Neal A. Maxwell. These activities and the positive effect on the lives of those involved were not anticipated 15 years ago. The *Clark Memorandum*—the law alumni and Law Society publication—was in its infancy when Hansen became dean. Fifteen years and 30 issues later, it has had an impact on alumni and Law Society readership. The publication of *Life in the Law*, a compilation of speeches given at the Law School and printed in the *Clark Memorandum*, has sold over 2,000 copies. The J. Reuben Clark Law Society directory, which is published annually and includes 6,500 attorneys, has proved to be a valuable resource for members to keep track of colleagues and for the referral of clients.

The Students

The most valuable resource of the Law School is its students, and while the culture of a law school is affected by its alumni and friends, a dean's primary focus is on educating students. At first glance, the dean's responsibility to law students seems quite simple: (1) prepare them with the requisite knowledge to pass a bar examination, (2) give them the skills necessary to function as capable attorneys, and (3) arm them with the ethical standards to protect the trust that will be reposed in them as counselors at the bar. However, the process of selecting and admitting the students is more complex. For example, what are the criteria on which to predict which students will have the requisite ability to acquire the knowledge and the skills that will be necessary? What should the make-up of the student body be? What skills or attributes are most important? How do you find students with those qualifications and attributes? How do you admit them? How do you insure that they will attend this school once admitted?

Dean Hansen did not answer these questions casually or by chance. Along with his faculty and administrative colleagues, he sought to improve the demographics of the Law School. One year into his deanship, the faculty adopted a policy statement that has been a catalyst for expansion of the Law School's role and vision:

The J. Reuben Clark Law School seeks diversity, not simply as a desirable improvement but as indispensable to quality legal education. The Law School is guided by the conviction that legal education must teach students to examine the moral integrity of the law and of their role as prospective lawyers. . . . Given the growing numbers of law firm colleagues, clients, disputants, and jurists who are women, people of color, the differently-abled, and others from underrepresented communities, we seek to equip our graduates to adjust to the cultural changes and to speak responsibly to the challenges that lie ahead.[10]

That policy statement has become a reality. In 1990 less than 25 percent of the law students were women, while in 2004 more than 40 percent of the students are women. The LLM program for foreign students was established under Dean Hafen's administration, but it was not until 1992 that the requisite number of students was being admitted yearly. The admission of these foreign students coupled with the increase of students from diverse backgrounds from under 8 percent to over 17 percent has happened while Dean Hansen was at the helm.

Speaking to the class of 1999, Dean Hansen noted the progress that had been made:

A groundbreaking ceremony on May 1, 1995, initiates an expansion of the Law Library that would double its floor space.

Your class is made up of people who come from many walks of life, from all over the country and the world. You are surrounded by a group of people who have been carefully selected to bring together persons of uncommon intellectual ability who also have life experiences and cultural backgrounds that will enrich your education . . . Because to study law is to study the regulation of human interaction, a knowledge of the different mind-sets, world views, ethnic groups, tribes, religions, and genders that make up the global family of man and is essential in your education.[11]

These demographic changes have been accompanied by significantly higher entrance statistics among admitted students. The median score on the Law School Admissions Test (LSAT) has increased from 160 to 164 (83rd to 92nd percentile) and the median undergraduate grade point average (UGPA) has increased from 3.4 to 3.6. Based upon these two indications (LSAT and UGPA), the Law School's 2003 entering class ranked 14th among U.S. law schools in selectivity.[12]

Another indicator of the strength of the admitted students as well as the strength of the program is the percentage of graduates passing state bar examinations. While the bar passage rates have been consistently high over the years, they have increased in every jurisdiction over the past 15 years. For example, in 2003 all 62 of the Law School's 2003 graduates passed the summer administration of the Utah State Bar examination. The overall pass rate in all jurisdictions combined was in excess of 90 percent, including a pass rate of over 90 percent on the California Bar, which is generally the most selective bar examination. In 1989 the Law School was ranked among the second 50 law schools by *U.S. News & World Report*. In the past five years, the Law School has ranked between 29th and 37th in that ranking.

The Faculty

The stories of the recruitment of the first faculty are legendary, and the influence of these professors on the school has been monumental.[13] The retirements of Deans Lee, Hawkins, and Hafen and professors Sabine, Parker, Riggs, Kimball, Jacobs, and Davis and the recruitment of new faculty were among the weightiest decisions of the Hansen administration—a 38 percent change in faculty occurred during this period. In a symposium on the deanship, Dean Hansen opined that the selection of the faculty would have the most lasting impact on an institution.[14]

This burden was made lighter by sharing it with longtime friend and colleague Clifton Fleming. Having both come to the Law School in 1974 and having worked together as associate deans to Bruce Hafen, it was natural for Fleming to continue as academic associate dean with Reese as dean, a position Fleming has now held for 18 years. Knowing that "[t]he reputation of a law school depends primarily on . . . [the faculty] and the quality of their work in the classroom, in published scholarship, and in professional and civic service,"[15] the deans worked carefully with the faculty recruitment committee in the selection of 10 new professors who would continue the tradition of faculty excellence. The wisdom of their decisions in hiring David Dominguez, Fred Gedicks, Jim Rasband, Kif Augustine-Adams, Larry EchoHawk, Marguerite Driessen, Tom Lee, Brett Scharffs, and John Fee will be felt over the next generation. When asked his view of his colleagues on the faculty, Dean Hansen said, "The Law School has been blessed with a remarkable faculty of men and women who are committed to the mission of the Law School. In addition to their teaching and scholarship, their lives have demonstrated the successful integration of faithfulness and professional excellence."

To assist with new programs at the Law School, 10 part-time faculty members have been added in the past 15 years, and the number of adjunct faculty, now numbering over 40, has more than doubled in this period. Changes in the faculty and the addition of part-time and adjunct faculty have enhanced the curriculum, balancing theoretical and practical courses. Cooperation with faculty in solving questions regarding changes in the curriculum has been a hallmark of Dean Hansen's administration. This is no small feat. One university president has said that modifying the curriculum was "roughly equivalent to moving a cemetery."[16] The creation of the Rex E. Lee Advocacy Program has altered the teaching of research and writing in the first-year curriculum, and coupled with the Schoolley Mediation Project, the number of skills-related instructors has increased by 14. In addition, three faculty positions have been added to the Law Library.

The Administration and Staff

Dean Hansen has attracted and then maintained a steady administrative crew. Last year saw the retirements of Carolyn Stewart and Lola Wilcock, but still serving are associate deans J. Clifton Fleming, Constance Lundberg, Scott Cameron, and Kathy Pullins; Law School registrar Nancy Hamberlin; administrative assistant Peter Mueller; and associate law librarian Gary Hill—all having served the entire deanship. With the growth of the Law Library, J. Reuben Clark Law Society, the BYU Law School Alumni Association, and the expansion in curriculum, the administrative team has been strengthened by associate dean Kevin Worthen, assistant deans Mary Hoagland and Carl Hernandez, administrative assistant Lisa Cope, and the Law School budget director Jeanette Befus.

To help meet the administrative demands accompanying the new programs, nine staff

positions were added during the Hansen deanship. The close cooperation of the administration and staff has created a warm atmosphere at the Law School. Significantly, Dean Hansen has always been concerned about the working conditions at the Law School and has used earnings from the endowment to enhance the work environment.

Conclusion

An institution's safe passage is not the work of a single individual; however, the person at the helm charts the course. The health and vitality of the Law School can be seen in its continuing close relationship with the university, the significant growth of its endowment, the development of its constituent organizations (J. Reuben Clark Law Society and the BYU Law School Alumni Association), the increased strength in the credentials and the demographic breadth of its students, the expansion of its curriculum, and the scholarly productivity of its faculty. In opening ceremonies for the new Law School, then university president Dallin H. Oaks opined that the "special mission of the Law School and its graduates will unfold in time."[17] The unfolding of that mission continues in the individual lives of the students and alumni who are or have been trained here and the progress the Law School has made under the leadership of H. Reese Hansen.

The changing of the deanship is a time to chart growth, check bearings, and gauge progress. The accomplishments of the past 15 years should be celebrated, and Dean H. Reese Hansen, who has been at the center of each of them, deserves the universal thanks of each person whose life has been affected by its safe passage. Associate Dean Kevin Worthen speaks for the entire Law School community when he observes: "I've often wondered whether Reese has a crystal ball hidden away in his desk. I'm sure his extraordinary ability to discern in advance what issues would be important, how people would respond, and where things would end up is largely due to his keen intellect, perceptive insight, and vast experience, but his judgment of such things is so often dead-on that I am convinced that he has some kind of special advantage in that regard. He is truly blessed with the kind of 'wise and . . . understanding heart' that God granted to King Solomon (1 Kings 3:12)."

Tied with his professional accomplishments have been the dean's personal contributions; perhaps the dean's greatest contributions have been personal. Reese and his wife, Kathryn, who Dean Kathy Pullins correctly observes "complements Reese in every respect," have been exemplary human beings. The past 15 years have also witnessed Reese's successful but wrenching bout with cancer and two surgeries on his right arm—as well as nine years as a stake president. The Hansens have met both opportunities and obstacles with optimism and grace. The ceremonial obligations attended, the chicken dinners eaten, and the miles traveled are all legion. The Law School community, alumni, and friends are grateful for the extraordinary service of this wonderful couple. Reese will continue as professor of wills, trusts, and estates at the Law School. He will continue to share the wisdom he has gained in navigating the Law School for the past 15 years.

John Snyder (2)

Church President Gordon B. Hinckley looks on as Dean Reese Hansen speaks at the dedication of the Howard W. Hunter Law Library on March 21, 1997.

NOTES

1 Carl S. Hawkins, *The Founding of the J. Reuben Clark Law School* (1999), 117.

2 H. Reese Hansen, "A Special Obligation," *The Clark Memorandum* (Fall 1999), 17.

3 Ibid., 19.

4 The Law School Bulletin, Letter from the Dean, 2000–2005.

5 Allan Tucker and Robert A. Bryan, *The Academic Dean* (New York: Macmillan, 1991), 266.

6 Bruce M. Snow, June 1987 to August 1999; Lothaire Bluth, June 1978 to February 2000; Winston Wilkinson, May 1999 to September 2001; Richard Fitt, November 1999 to July 2002; and Kelly Reeves, August 2002 to the present.

7 Seismic upgrades to the Law School building were also added at this time. While the avant garde structural beams may not have added aesthetically to the building, the Wasatch Fault does not seem quite so ominous to those who study, teach, and work at the JRCB.

8 This sum includes matching funds from the President's Leadership Council, which doubled the amount donated by alumni.

9 The J. Reuben Clark Law Society Brochure, Brigham Young University (1988), 3.

10 "Diversity: A Unifying Commitment to Equal Opportunity and Excellence," appendix to *Self Study* (Provo, Utah: J. Reuben Clark Law School, 1991).

11 H. Reese Hansen, *A Special Obligation*, 18.

12 2003 American Bar Graduate Schools, *U.S. News & World Report* (selectivity rank of students).

13 Carl W. Hawkins, "The First Faculty Recruits," chapter 3 in *The Founding of the J. Reuben Clark Law School* (Provo, Utah: BYU Studies, 1999), 13–21.

14 H. Reese Hansen, "Except for the Problems, Being a Dean Is a Very Good Job," *The University of Toledo Law Review*, 33, no. 1 (Fall 2001), 78.

15 Ibid., 78.

16 *The Academic Dean*, 37.

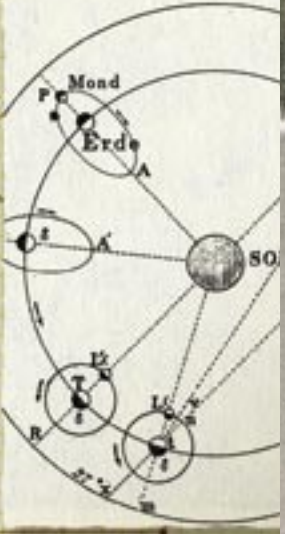
17 Dallin H. Oaks, "Address at the Ceremony Opening the J. Reuben Clark Law School, August 27, 1973" (Provo, Utah: J. Reuben Clark Law School, 1973), 4–5.

by John W. Welch

and with all thy

mind

President Samuelson, brothers and sisters: I am humbled to address you. For almost 40 years my wife and I have been blessed by the full life of the mind offered by Brigham Young University—first as students, where we met in the library, and now as we both serve on the faculty. For 23 years I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have taught in the Law School and worked in various campus assignments. We are grateful to all who have worked to make BYU so intellectually inspiring. I hope my words will in some small way repay the many to whom I am deeply indebted.

And thanks to each of you for coming and bringing the Holy Ghost with you. Brigham Young's instruction to the BYU faculty was that they "ought not to teach even the alphabet or the multiplication tables without the Spirit of God" (in Reinhard Maeser, *Karl G. Maeser: A Biography* [Provo: Brigham Young University, 1928], 79). I would state a corollary to that: As students, you should not *learn* even the multiplication tables without the Holy Ghost. It does little good for someone to *teach* with the Holy Ghost if you aren't ready to *receive* with the Holy Ghost.

Today I would ask: What does it mean to you to love God with all your mind? We *feel* what it means to love Him with our heart, but what does it mean to love Him with our mind? I have asked many people this question. I get many different answers. What would your answer be?

This devotional address was delivered in the Marriott Center on September 30, 2003

At the outset, let me turn to a passage in Mark 12, which I find terribly important. A highly educated scribe (their equivalent of a college graduate) who had overhead Jesus reasoning with some Sadducees, asked the Savior, "Which commandment is the first of all?"

Jesus answered: "Thou shalt love the Lord thy God with all thy heart, and with all thy soul, and with all thy mind, and with all thy strength."

"And," Jesus added, "this is the second: Love thy neighbor as thyself."

To this the scholar responded, "Teacher, you speak very well and in truth, for to love God with all one's heart and all one's understanding and all one's strength, and to love one's neighbor as oneself is more advantageous than all burnt offerings and sacrifice."

Seeing that this person spoke with keen intelligence, Jesus declared, "You are not far from the kingdom of God." (See Mark 12:28–34; author's translation in part.)

This brief encounter is deeply interesting to me. Since Jesus was dealing with a craftsman of words, let me mention some notable vocabulary in their conversation. When Jesus stated the prime commandment, He carefully included the mind. The Greek word used for *mind* is *dianoia*, meaning with all your "way of thinking" or your "perception of things." In his response the scholarly scribe used an even more dynamic word, *synesis*, meaning "understanding, getting things all together, comprehensive comprehension, synthesis, and insight." And then, escalating a third step, Jesus told this man that he was not far from the kingdom because he spoke *nounechos*, literally "having *nous*," the highest term in some philosophical pantheons for true, even divine, intelligence. These three words regard the mind highly, the last being especially strong.

How many lessons can we draw from this inspiring exchange between the Savior and this educated individual? Let us not pass lightly over this stunning scripture; divine declarations often come without much elaboration yet are laden with profound implications. I would speak today of seven dimensions of loving God with our all our mind, drawn from words in this account.

:: It Is *Possible*

First, we learn with assurance that it is *possible* to get near to the kingdom of God while having intelligence. This smart man was close to the mark, and Jesus congratulated him for it.

Likewise, we on the faculty congratulate and welcome you. At this university and in this religion, you don't need to check your brains at the door. To be a gospel scholar, you'll need all the brilliance you can muster, for we have the double challenge of knowing not only the ways of the world but also the ways of the Lord—and then, getting the two together. In this sense the world actually has the lighter assignment. Of course, in another sense, our task is the easier. Because of modern scriptures and the temple, we have more pieces in life's puzzle, as well as the picture on the box.

I hope you are excited and humbled to be at Brigham Young University, where we boldly affirm that "the glory of God is intelligence" and that "to be learned is good," so long as we avoid the vainness, the frailties, and the foolishness of men and also "hearken unto the counsels of God" (D&C 93:36; 2 Nephi 9:29). Ancient and modern prophets offer role models of highly intelligent people who have loved the Lord with their minds. Until only recently, President Hinckley has enjoyed reading the classics in Latin and Greek, which he learned in college. Isaiah was a brilliant writer, and Paul was amazingly articulate. Alma went head-to-head against the stubborn issues of his day. As Limhi promised his people, "If ye will turn to the Lord with full purpose of heart, and put your trust in him, and serve him *with all diligence of mind* . . . , he will . . . deliver you" (Mosiah 7:33; emphasis added). Thus it is indeed possible to get near to the kingdom of God with intelligence.

:: It Is *Commanded*

Second, Jesus makes it clear that we are *commanded* to love God with our mind. Pondering this, I realized that I should approach this commandment as a responsibility, not just as an opportunity or privilege. I wondered: Do you think of this commandment when you partake of the sacrament or when you answer the recommend question about striving to keep the Lord's commandments?

Like keeping any commandment, keeping this one will surely take conscious effort. We don't keep the Word of Wisdom by accident. We don't keep the Sabbath day without planning and devotion. So what do you do to keep this commandment deliberately? Do you earnestly strive to love God with all your mind? I doubt that a flimsy "Well, I guess so," is going to be good enough. Speaking to the pure in heart in the city of Nephi, Jacob exhorted them to "look unto God with firmness of mind" (Jacob 3:1). And Alma made it clear that God will give people knowledge of His mysteries only "according to the heed and diligence which they give unto him" (Alma 12:9). There is a direct connection between answers obtained and our effort in keeping this commandment.

I know that God will help us keep this commandment, for He will give no commandment save He shall prepare a way for us that we can keep it (see 1 Nephi 3:7).

:: With *All* Thy Mind

Third, the word *all* is all important here. It appears seven times in this scripture—itself a symbolic number of completion, often associated with sacrifice in Leviticus. Keeping this commandment requires genuine, dedicated completeness. You are commanded to love God with *all* thy heart, *all* thy might, and *all* thy mind. We have a word *wholeheartedly*.

Maybe we should coin a word *wholemindedly*.

The gospel is not a cafeteria plan. We can't just pick and choose the parts we like.

Elder Neal A. Maxwell has spoken often about discipleship, submissiveness, and consecration, especially in intellectual settings. He has sensitized us to the dangers of what he calls "holding back," of not loving God with all the mind that we could. He said in a talk at a banquet for the Foundation for Ancient Research and Mormon Studies (FARMS) on September 27, 1991:

Whatever our particular fields of scholarship, the real test is individual discipleship, not scholarship. . . .

. . . We usually tend to think of consecration in terms of property. . . . But there are so many ways of keeping back part and so many things we can withhold a portion of besides property. All things [including our minds] *really ought to be put on the altar.* ["Discipleship and Scholarship," *BYU Studies* 32, no. 3 (summer 1992): 7]

GETTING THE SPIRIT AND INTELLECT

IS LIKE SEEING WITH TWO EYES.

Minds must bend, as well as knees.

An idea is often the last thing we are willing to let go of. Our pet ideas are often the beginning of our undoing. A wise drama teacher once said, "Forget your best idea." Clinging to it will often block the flow of even greater creativity and more expansive inspiration.

Fortunately, each of us has been blessed with definite mental talents, with plenty to give forth. And remember, in the world of the New Testament, even one talent of gold or silver was an enormous sum, worth several million dollars in today's markets. It is true that some minds work better in one mode than in another, but that's irrelevant: we can and must love God with our weakest mental abilities, as well as by playing to our strengths. Surely God cares less about what we give Him than if we have brought all of our best, whatever that may be.

:: Many Ways to *Love*

Fourth, this all has to do with *love*. Sister Welch and I have a pillow on our bed. On it are words of Elizabeth Barrett Browning: "How do I love thee? Let me count the ways." With similar fervor, let us count the ways we love God with our minds and love Him "to the depth and breadth and height / My [mind] can reach, when feeling out of sight / For the ends of Being and [eternal] Grace . . . to the level of everyday's / Most quiet need, . . . freely, . . . purely, . . . with the passion put to use, . . . and, if God choose, [even] better after death" (*Sonnets from the Portuguese* [1850], no. 43).

We love Him with our minds by being observant of the things He has created—by appreciating the amazing things that He has given us in the worlds of chemistry or geology, scriptures or linguistics. If you love a person, you notice and admire the fantastic things he or she has done. President Hunter once said, "He loves God with all his mind who . . . sees God in all things and acknowledges him in all ways" (*CR*, April 1965, 58; also "And God Spake All These Words,'" *Improvement Era* 68, no. 6 [June 1965]: 512).

We love God with our mind by caring about the problems He cares about. We love God with our mind by embracing His work, giving it the best of our planning, research, and problem solving. Figuring out what you can do as a home teacher to motivate someone to repent is truly a challenging intellectual task, and learning the names of everyone in your ward is another way to love God with your mind.

When we love God, we want to be like Him—and remember, He knows everyone's name. It takes careful thought to internalize all that we can know of Him.

It takes mental effort to forgive other people as He does, for that begins by thinking nonjudgmental thoughts about them and seeing them as He does.

Loving God also means loving His words. I love the scriptures, although admittedly some chapters are harder to love than others. We love God with our mind by memorizing scriptures. The conversation between Jesus and the scribe was possible because both of them knew that scripture by heart. We rely too much on our books, notes, and hard drives. Your mind can actually retain far more than you imagine. One of the best things I ever did was to take a challenge from my leader in the MTC to memorize all of the Sermon on the Mount. In an honors Book of Mormon class, I had my students memorize most of King Benjamin's speech. One student recalled: "When we first got the assignment, it was overwhelming; but it was probably the most rewarding assignment I've ever had at BYU."

We love God with our mind by skillful analysis of problems; it is often said that "God is in the details." But don't forget also to love God by skillful synthesis as well, seeing things as one great whole. When I go to the temple, I give attention to its tiniest details and carefully presented words; at the same time, my mind sees the temple as a huge pattern and cosmic road map that tells me where I am and where I need to go.

We love God with our mind by asking good and righteous questions. There is nothing wrong with asking. In fact, we are commanded to ask, seek, and knock (see Matthew 7:7). Our scribe in Mark asked Jesus a good question, much better in fact than the unlikely hypothetical one posed by the Sadducees about a supposed seven-time widow who had remarried six of her husband's brothers (see Mark 12:18–27). We need

John W. Welch

John W. Welch is the Robert K. Thomas Professor of Law at the J. Reuben Clark Law School, where he has taught tax, business, and legal history since 1980. A prolific scholar, his extensive list of publications spans topics addressing religion, archaeology, art, and law.

Raised in Southern California, he served a mission in South Germany during the 1960s, where he discovered chiasmus in the Book of Mormon. He graduated from BYU in 1970, receiving both a bachelor's degree in history and a master's in classical languages. After studying Greek philosophy at Oxford University for two years as a Woodrow Wilson Fellow, he earned a law degree at Duke University. He practiced law in the tax area for five years before joining the BYU faculty.

Professor Welch leads a variety of organizations. He serves on the board of the Foundation for Ancient Research and Mormon Studies (FARMS), which he founded in 1979, and the Institute for the Study and Preservation of Ancient Religious Texts (ISPART), which in 2001 consolidated the work of FARMS and other related endeavors at BYU. Editor in chief of *BYU Studies* since 1991, he also currently is the director of publications for BYU's Joseph Fielding Smith Institute for Latter-day Saint History.

The first general editor of the *Collected Works of Hugh Nibley,* Welch has also served on the board of editors for Macmillan's *Encyclopedia of Mormonism.* In 1997 Welch worked as codirector of the Masada and Dead Sea Scrolls exhibitions that he brought to the Museum of Art at BYU from Jordan and the Hebrew University in Jerusalem. He continues to serve on the executive committee of the Biblical Law Section of the Society of Biblical Literature.

He has authored, coauthored, or edited numerous books and articles, especially on legal, literary, and historical elements in the scriptures, including *Echoes and Evidences of the Book of Mormon,* "The Factor of Fear in the Trial of Jesus," *Charting the New Testament,* "The Good Samaritan: A Type and Shadow of the Plan of Salvation," *Chiasmus in Antiquity,* and *Illuminating the Sermon at the Temple and Sermon on the Mount.*

Professor Welch has served many years in BYU student wards and stakes and is currently the bishop of the Provo Edgemont 14th Ward. He is married to Jeannie Sutton, who teaches French and supervises the Foreign Language Student Residence at BYU. They have four children and seven grandchildren.

to spend more time discerning between good questions and bad ones. It won't do to be knocking on the wrong door. For examples of good questions, look at the 50 questions Alma asked in Alma 5 (see John W. Welch and J. Gregory Welch, *Charting the Book of Mormon: Visual Aids for Personal Study and Teaching* [Provo: FARMS, 1999], charts 61–65). Or look at the many questions Jesus asked people in the New Testament gospels, and then go and do likewise (see John W. Welch and John F. Hall, *Charting the New Testament* [Provo: FARMS, 2002], chart 9-16).

We love God by listening better to Him and to those who speak for Him. A good measure of people who love each other is how well they listen to each other. Listening is a mental process. It involves attentively processing what we hear. Notice that the scribe repeated back (a good communication strategy) what Jesus said, and thoughtfully commented on its implication.

How do we love God? Let us count the many ways. It is here at BYU, more than at any other place, that you can specialize in learning how to love God with all your mind and as an integrated soul.

It is here that we see no irreconcilable conflict between the heart and the mind. The restored gospel of Jesus Christ exquisitely harmonizes the traditional paradoxes of life, embracing both study and faith, reason and revelation, truth and goodness, thought and action, spirit and mind. The one is not without the other in the Lord. The gospel strives, above all, for the fullness of eternal life, not just either half of it. An incomplete view is partial in more ways than one.

Getting the heart and the mind together is a joyous experience. It is not easy to describe the collaborative workings of the two, but analogies can help. Getting the spirit and intellect together is like seeing with two eyes, allowing depth perception lacking through a single lens. It is like playing a violin that requires two hands, each performing its own function to produce a harmonious melody (see John W. Welch, "The Power of Evidence in the Nurturing of Faith," in *Echoes and Evidences of the Book of Mormon*, ed. Donald W. Parry, Daniel C. Peterson, and John W. Welch [Provo: FARMS, 2002], 17–53). Or, as a student suggested, it's like chocolate and milk: they taste fine alone, but better together.

:: With All Thy *Mind*

Fifth, I learn from the conversation in Mark that Jesus cares very much about our *minds*. He carefully noticed that the scribe answered with great intelligence. This means that He notices and cares what we think, write, and teach. I know that God watches over our intellectual endeavors. The surgical testimony of Elder Nelson shows that God will help things happen that far exceed human ability (see Russell M. Nelson, "Sweet Power of Prayer," *Ensign*, May 2003, 7–9). Have miracles ceased? No. In fact, Mormon says that miracles are ministered "unto them of strong faith *and a firm mind* in every form of godliness" (Moroni 7:30; emphasis added).

I have asked for and have received His support in many academic pursuits, often through the unimaginable help of other people. One day, with no appointment, a person walked into my office with the precise skill set I had been praying for, only to tell me she didn't know why she had come but that she had decided not to stay with another job and wondered if I needed any help.

Last Christmas, facing a crucial year-end deadline after months of work, my staff finally downloaded a huge collection of scanned Church historical documents onto 74 DVD production masters; with those master disks safely in hand, they watched as our linked hard drives crashed irrecoverably only a few hours later.

I cannot believe that these things were mere coincidences.

I know that God will support us as we strive to love Him with our minds. My colleagues and I have attended and presented papers at many academic conferences. Not infrequently, results have been transformational in ways that we gladly attribute to the Spirit of the Lord.

I know that God inspires us, but most often only after we have studied things out in our minds (see D&C 9:8) and have paid the price of thorough research directed by the light of faith. Many LDS scholars and regular members as well can tell of sacred experiences they have had in discovering things through study and faith that they never would have found on their own.

I myself treasure several such discoveries. I remember searching for an answer to a recurring criticism of the Book of Mormon about the resurrected Savior's use of the

Sermon on the Mount in 3 Nephi. As I dug into the task, confident that there must be an answer, the apparent problem turned into a strength as the temple and covenant settings of both texts distilled upon me as the dews from heaven (see John W. Welch, *Illuminating the Sermon at the Temple and Sermon on the Mount: An Approach to 3 Nephi 11–18 and Matthew 5–7* [Provo: FARMS, 1999]).

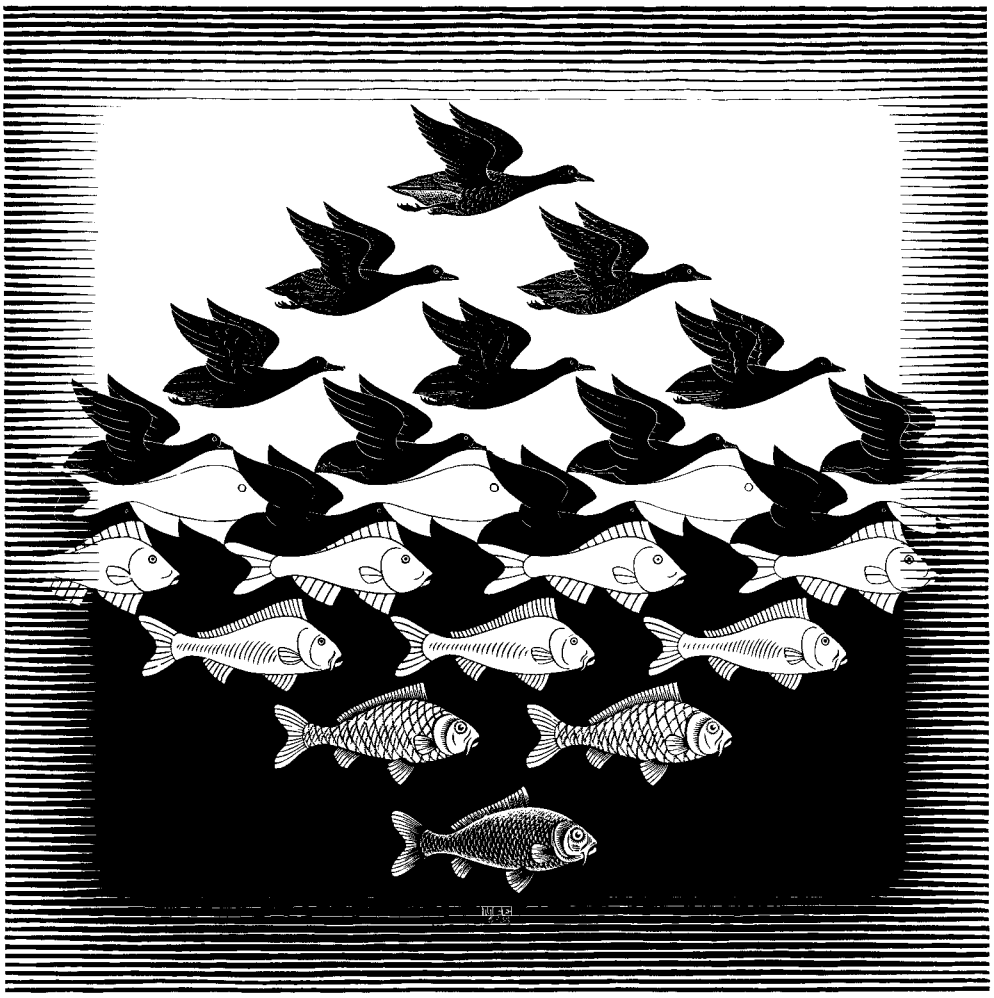
I also remember one early missionary morning in Germany when the significant literary feature of chiasmus in the Book of Mormon amazingly unfolded to my view. Outside study and spiritual promptings had set the stage, but a mind firmly and tenaciously pursuing the implications of my testimony of the Book of Mormon caused that discovery actually to happen (see John W. Welch, "Chiasmus in the Book of Mormon," *BYU Studies* 10, no. 1 [autumn 1969]: 69–84).

My testimony does not depend on finding such things; rather, my mind looks with confidence for such things precisely because I know the Book of Mormon and the gospel are true. Faith precedes the miracle of insightful understanding. As President Packer has cautioned and encouraged, we should not say, "I know the gospel is true, however . . ." Rather, say, "I know the gospel is true, therefore . . ." And for me, that has made all the difference. (See Boyd K. Packer, "The Mantle Is Far, Far Greater Than the Intellect," *BYU Studies* 21, no. 3 [summer 1981]: 270; also *Let Not Your Heart Be Troubled* [Salt Lake City: Bookcraft, 1991], 113.)

I also know that God rewards us after long hours of service. Some of my favorite scriptural insights—making intellectual sense and dissolving spiritual challenges throughout my life—have come at weary hours of the night during my service as a bishop. Ironically, my most productive years as a scholar have been the years when I have been busiest as a bishop.

:: It Is the *First* Commandment

Sixth, what of the fact that this is part of the *first* commandment? Loving God is the prime commandment because all else follows from it. Loving God is the wellspring of all righteousness. Loving Him with all our mind is the taproot of true intelligence.



Loving Him with all of the integrated faculties of our whole being echoes the integrated harmony of the Godhead and godhood itself.

John 14:15 can also be translated "If you love me, you *will* keep my commandments." When you love God with all your mind, you will mind Him and mind all His precepts. And by minding Him always, by obeying Him always, you remember Him always. In Hebrew, the same word, *zakhor*, means "to remember" as well as "to obey" (see "'O Man, Remember, and Perish Not,'" chapter 35 in John W. Welch, ed., *Reexploring the Book of Mormon: The* FARMS *Updates* [Salt Lake City: Deseret Book; Provo: FARMS, 1992], 127–29).

If you love God, you will think of Him often. You will want to share with Him your whole day, every day and every night, Fridays as well as Sundays, everything you have thought, said, and done. You miss Him and hope to see Him again.

You will think kind and loving things about Him. In the face of any type of inconclusive uncertainty, love gives the benefit of the doubt.

You will also think correct things about Him. Although you cannot talk yourself into loving God or anyone else, it is possible to talk yourself out of love, so give heed to what you think.

Loving God leads to all else that is of the divine nature.

:: It Is Possible to Break This Commandment

Finally, we must also acknowledge that it is possible to disobey this commandment. How do we break the commandment to love God with all our mind, and, if we have transgressed, what must we do?

We break this commandment when we think contrary to the degree of knowledge we have received, when we know better.

We break this commandment when we promote ideas that injure other people, for with knowledge comes power, and with any power comes duty and accountability.

We break this commandment when we harbor in our mind errors or excuses that deny the existence, love, power, or knowledge of God. As a bishop, I've heard people say: "Everyone is doing it." "I couldn't stop." "It's my life, I can do what I want with it." "Every point of view is equally valid." "I have no friends." "No one will notice." But where do

these mental mistakes leave God? Is God doing it? Couldn't God help you stop? Is it really your life? Does God's view count? Isn't He your friend? Doesn't God know and notice everything, including your thoughts?

We break this commandment whenever we believe Satan, the enemy of all righteousness. Beware: Satan is the father of lies. And he's a good liar. Take the lie of pornography. Satan tells us we will find satisfaction by staring at pornography. This is simply a lie. Can we love God with *all* our mind if even part of our mind is filled with this pollution? When I came to BYU in the sixties, we were just beginning to worry about environmental pollution. Previous generations had foolishly believed that the oceans could absorb an endless amount of garbage and waste. We learned that pollution doesn't just go away.

I wonder if people aren't just as naïve today. They foolishly think that the human mind can absorb an endless amount of filth and violence and that somehow we can just push a delete key in our brain and erase all that. You have been blessed with an amazing brain, with incredible retentive powers. Whether or not you can recall that information during a test, it's all still there. Old folks often find that their brains retain things they haven't thought of for decades. Mental pollution sticks; there are no Teflon brains. Just as it is true that "whatever principle of intelligence we attain unto in this life, it will rise with us in the resurrection" (D&C 130:18), so, too, whatever degree of unrepented smut or cynicism we attain unto, it will rise with us as well.

Thus, Moroni says, "Come unto Christ, and be perfected in him, and deny yourselves of all ungodliness; . . . and love God with all your might, mind and strength" (Moroni 10:32). It says, "Be perfected *in him.*" We cannot perfect our minds without His help. We know the effects of the Fall on our bodies, but our minds are also in a fallen state. Our minds must also be redeemed. This happens by repenting of our bad or erroneous thoughts and submitting to the mind and will of Christ.

We must repent of our academic pride. Pride is the main occupational hazard for scholars, who too quickly suppose "they know of themselves" (2 Nephi 9:28). Being right is part, but only part, of being righteous.

We must overcome our rebellious thoughts every bit as much as our disobedient actions. We must pray "and lead us not into *intellectual* temptation" as much as any other kind of temptation (see Matthew 6:13). Satan knows a lot of truth, but that's not enough, for he still rebels.

We must feel godly sorrow for our mental sins. Like Zeezrom, we must suffer spiritual migraines over our intellectual mistakes (see Alma 15:3, 5). In many ways, their effects on ourselves and on others are the hardest to undo, but through the Atonement, the human intellect can be transformed into an instrument for loving God.

So the question becomes: Has your mind been sanctified by the atoning blood of Christ? (see Welch, *Echoes and Evidences*, 44–47). As described in Mosiah 3:19, has your mind "yield[ed] to the enticings of the Holy Spirit"? Or, as stated in Mosiah 5:2, have you "no more disposition" to think evil? Has the finger of the Lord touched our inert cerebral stones and turned them into light-giving gems? To use the words of Paul in Romans 12:2, have you been "transformed by the renewing of your mind [your *nous*]"?

If so, the Lord will light up your mind, as He did King Lamoni's (see Alma 19:6). He will cause your mind to expand, as Alma promised (see Alma 32:34). He will write His covenants upon your mind, as Jeremiah guaranteed (quoted in Hebrews 8:10; see Jeremiah 31:33). He will bless your heart and mind with peace that passes all understanding, as Paul assured (see Philippians 4:7–9).

And in the end, if you love God with all your mind, you will be fit for the *kingdom*. What a promise! At BYU we are playing for keeps, "for as [a man] thinketh in his heart, so is he" (Proverbs 23:7), and in the day of judgment, our unrepented thoughts will weigh against us (see Alma 12:14). But if you "worship him with all your . . . mind," the scriptures say, "ye shall in nowise be cast out" (2 Nephi 25:29) and "the hope of his glory and of eternal life [shall] rest in your mind forever" (Moroni 9:25).

WE LOVE GOD WITH OUR MIND BY

SKILLFUL ANALYSIS OF PROBLEMS . . .

in the details

. . . [AND] BY SKILLFUL SYNTHESIS AS WELL,

SEEING THINGS AS ONE GREAT WHOLE.

:: A Final Blessing

In conclusion, as a bishop and teacher, may I offer a prayer in your behalf?

May you not just pass through BYU, but may the spirit of this university pass through you.

May you know it is possible to love God with all your mind.

May you love Him with invigorating questions.

May you perceptively discern between truth and error.

May your intellect be keen and sharp but never harm even the least intelligent of the children of God.

In your academic freedom, may you intellectually "choose liberty and eternal life, through the great Mediator of all men," not "captivity and death" (2 Nephi 2:27).

May you pray over your books, as you would bless food for thought.

May you pray as you go to class, and not just as you enter the Testing Center.

May your love of God give harmony, value, and joy to all that you think and do, that you may become perfected in Christ.

And in all of this may God find you, too, not far from His kingdom.

In the name of Jesus Christ, amen.

ART CREDITS

ILLUSTRATIONS BY GREG MABLY

THE MEN WHO created THE MARKET

BY JANE WISE

How professors Larry Farmer and Stanley Neeleman parleyed an idea for automating legal services into the dominant document assembly system in the industry today, HotDocs by LexisNexis.

THE IDEA

1976

It was 1976. Bill Gates celebrated Microsoft's first birthday. It would be 12 whole months before Apple II hit the market. *Roe v. Wade* was three years old, and *Bakke v. Regents of the University of California*, the first affirmative action case, was moving up to the Supreme Court.

In the halls of the three-year-old J. Reuben Clark Law School, professors Larry Farmer and Stanley Neeleman were playing "What if?" with each other: "What if legal services could be automated and delivered via computer systems?" "What would that do to efficiency?" "How could something like that be designed and marketed?" "Who could utilize a system like that?"

It was a time when computers were expensive and not common to the firms and offices generating legal documents. But Farmer and Neeleman continued to brainstorm, and in 1979 they came up with a prototype for generating estate-planning documents on a computer. The program initially was a word processor that worked with a list-processing system to automatically prepare wills.

In 1980 Marshall Morrise, a computer scientist, was hired to develop the advanced software necessary to create more complex documents in estate planning, which eventually evolved into the CAPS program. He was the first to build a practice system using the original CAPS software. Larry and Stan's idea was to create an "authoring environment and an application environment" for practitioners—in other words, they wanted to make it possible for practitioners to have a dialogue with their computer in producing all kinds of automated legal services.

CAPS

1980

Computer-Assisted Practice Systems (CAPS) was initially run from the Law School and

its central computer system with Marshall Morrise and Vance Everett as programmers. Right from the beginning the programs were designed to ask the practitioner a series of questions, analyze the data received, and create a custom document. CAPS was shown to reduce the time required for the production of certain legal documents by 80 percent, although it was still being used primarily in estate planning.

But in order for CAPS to succeed commercially, the programmers would have to find a way to make the program workable for a personal computer. It had been designed to work with a VAX minicomputer (a small mainframe-like computer) on a network BYU installed in 1982 with a broadband cable snaking its way from the Harold B. Lee Library over to the Law School and that served other departments on campus as well. For those with access to the VAX, it worked well. Within the Law School, students could use the system to search for job postings, information about the computer system, and Law School general policies from the 30 workstations installed in the Law Library. There were also four draft-quality printers and two laser printers hooked to the VAX. Faculty had workstations in their offices where they could type documents and send "electronic mail" to coworkers and students.

At this point CAPS also developed software for legal research and for training students and other legal professionals. Other universities with huge network systems jumped on board and established their own CAPS centers.

Already interested in developing practice systems, West Publishing Company came on board with money to fund the project. Its underwriting began in 1981 and continued through 1986. Once the Law School team of programmers and designers grew to 20 people, the CAPS project was moved off campus.

But customizing the software to fit individual practices and the needs of a wide range of clients was still a challenge. Larry Farmer was invited to teach a computer seminar course at Harvard and was there for three years. He was instrumental in getting a CAPS system installed at the Legal Services Center, a poverty law clinic operated by the Harvard Law School and the Greater Boston Legal Service Center. It proved a great success, saving so much time in information gathering and legal document production that legal services became much more affordable for low-income clients.

THE CLASS 1983

In the midst of all of the CAPS work, Farmer and Neeleman started the first computer-based practice class for Law School students interested in integrating technology into the practice of law. It was 1983, and the idea for the class was to duplicate and then automate what lawyers do.

Mark Morrise, '82, helped with the first seminar that simulated everything, a far cry from the class today that prepares students through hands-on work in class and projects at local law firms as implementers and designers. Many of the students received offers for positions doing document automation from the people they met while doing projects.

The allure of technology and the law has led many of Farmer and Neeleman's former students to forego traditional practice and work as technology practice consultants, application developers, legal software engineers, and practice system developers.

Blair Janis, '01, was offered a position at a law firm while a law student working on a document automation project for the Farmer/Neeleman class. That has led to working with other practice applications. He now speaks at various legal technology conferences and has participated on an ABA e-Lawyering task force exploring and presenting seminars on e-Lawyering topics.

Clifford Jones, '83, has been a law practice consultant for over 20 years; Peter Johnson, '03, developed a remarkably innovative application for patent lawyers that is being implemented in Advanced Bionics; Craig Miwa, '97, is now a software engineer on the HotDocs project at LexisNexis; Pattie S. Christensen, '97, is a practitioner/consultant; Jim Robertson, '96, started by managing LexisNexis practice systems consulting and is now with AccuDraft, a HotDocs licensee; and Jack Pate, '92, is a patent attorney who uses technology in his practice. These are only a few of the many students who found a niche in the legal/technology world introduced in Larry Farmer and Stan Neeleman's class.

CAPSOFT 1987

However, when the IBM personal computers came out, West Publishing Company withdrew their support and cancelled further development in the area. In 1987 Stan and Larry renegotiated a contract to commercialize CAPS into CAPSOFT.

CAPSOFT was born outside the Law School, with BYU retaining a royalty interest. Farmer and Neeleman continued to test and develop applications for its licensor, Matthew Bender. Matthew Bender sold it to Lexis/Nexis, and CAPSOFT changed its name to HotDocs.

HOTDOCS 1998

Now the dominant document assembly system in an industry that generates hundreds of millions of dollars, HotDocs is a system that displays a series of questions to the user. Some questions ask for client information and others ask for the practitioner to make decisions regarding language that should

> THEY WANTED TO MAKE IT POSSIBLE FOR PRACTITIONERS TO HAVE A DIALOGUE WITH THEIR COMPUTER IN PRODUCING ALL KINDS OF AUTOMATED LEGAL SERVICES.

be included in the document. Based on the answers and its internal instructions, the system will then insert the appropriate clauses into the document, fill in the blanks with the information the practitioner has provided, and adjust the text (such as gender-specific pronouns and changing verb tenses to agree with their subjects).

A great advantage to document assembly is that the system will automatically select and organize documents from its vast store of document clauses. Also, each piece of information—like the client's name—is entered only once, to be automatically inserted throughout the document.

Some advantages to the system include more complete and accurate first drafts, facilitated by the automated checklist that prompts the lawyer to think of issues or provisions that otherwise might have been missed in the first draft.

But the most significant feature of automated document preparation is simply the time savings: lawyers who use document assembly reduce their preparation time by 50 to 90 percent. This means service to clients is improved, costs are better controlled, a greater volume of cases can be handled, and profitability is increased.

WHERE DO WE GO FROM HERE?

Sylvan Morley, '99, took the computer seminar class his second year of law school. The class opened his mind to ways for using his law degree other than just the practice of law. For five years he was a consultant on office technology for HotDocs/LexisNexis and currently is the manager of contract administration for NetJets, Inc., where he negotiates contracts and works with Federal Aviation Administration guidelines—all because of HotDocs. He handles the technology side of the office, automating core business documents and overseeing an initiative to convert all contracts into an electronic format. The company is in the process of integrating their reporting database with the documents themselves.

To illustrate how he thinks the techno/legal world is going, Morley gives an example:

One attorney I met recently demonstrates for me a small glimpse into the future of technology in the law. He has gone virtually paperless, storing almost all his documents electronically when they are received and then shredding the originals. He submits all his filings electronically with the court, digitally captures all depositions, and presents almost all of his exhibits in the courtroom via an indexed DVD and portable projector. He drafts documents using voice recognition, and he conducts meetings with government officials (he represents several county governments) via video conferences from his boat. He submits his court filings electronically and tracks his caseload using document management/case management software.

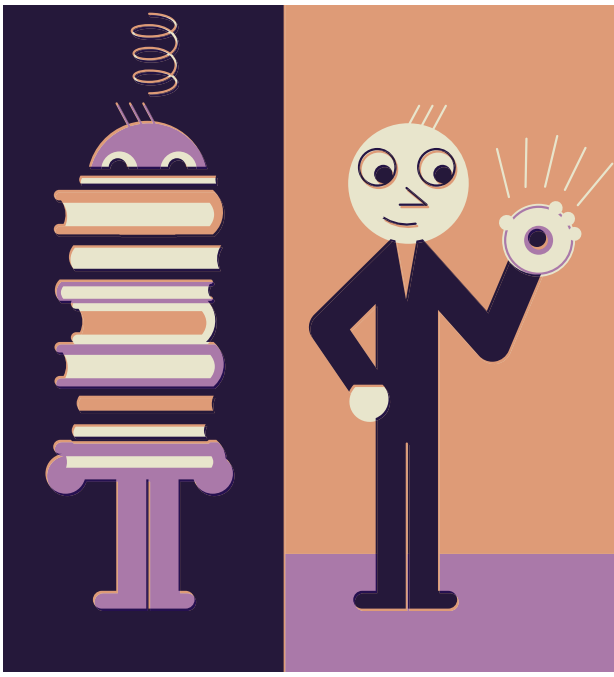
Although this just sounds like a story about a grown man who likes to play with his toys, this person has turned his solo practice with an office staff of one into an extremely lucrative practice. Significantly, he does all this while spending a large portion of his time with his family at home or relaxing in the Caymans.

Morley also notes that courts have changed their rules, paving the way for technology to enter in at the door. "Only a few years ago the Iowa State Bar made a licensing agreement with HotDocs, licensing it for all members of its bar. All court-approved documents are now accessible and submittable through HotDocs, because the bar invested a significant amount of resources programming court forms to make them available. I believe that the trend will be courts adopting technology that makes them more efficient and accessible."

Blair Janis, '01, who now heads practice automation for a 450-attorney law firm, sees legal technology innovations in three main categories. "First are the legal-practice applications, software applications that automate the practice of law. The most significant area right now may be the integration of document management, case management, and document automation.

"The second category is nonlegal specific software—applications not specific to lawyers but that can be used in their practice. For example, the use of PDF files is prevalent in the practice of law. New advances in the ability to work with these files has dramatically affected the practice of law: the federal court system requires PDF files for its e-filing system. Now document automation can integrate with Adobe and build PDF files that can be filed directly to a court.

"Finally, other devices and equipment like computers, laptops, PDAs, smart phones, cell phones, and other equipment lawyers use in their practice continue to be improved and released at an incredible pace. My two-year-old laptop is already a dinosaur, compared to the new devices. These products are making it more and more convenient for lawyers to work efficiently away from the office. An intriguing new device is the new tablet PC, essentially a laptop computer with a touch screen. With the right software you can take notes directly on the computer as if you were writing on a notepad. You can then categorize and organize your notes any way you please."



Mark Morrise says, "I see the legal profession slowly but surely adopting technology in various areas such as desktop personal computers, fax machines, voice mail, e-mail, and, most recently, the Internet. One emerging area is on-line filing of documents, which is permitted by some courts and government agencies but will eventually become widespread. An area that is growing is on-line preparation of documents, which in well-defined situations can be a real benefit to consumers of legal services."

No, the men who created the market—Larry Farmer and Stanley Neeleman—do not own a portion of HotDocs, and even BYU no longer has any royalty interest. Yes, they have received awards for their innovation and service, but they reiterate that the best reward of all is seeing the story of how legal services and technology are coming together in the lives of their students.

Bradley Slade

Bill Atkin Addresses Church's Role in Expanding Religious Freedom

More than 200 LDS attorneys, spouses, and guests met at the South Coast Westin Plaza Hotel in Costa Mesa, California, on September 26, 2003, to hear Bill Atkin, associate general counsel over Church international legal affairs and immediate past chair of the J. Reuben Clark International Law Society, speak on international legal challenges to religious liberty and the Church. The dinner was sponsored by the Orange County Chapter of the J. Reuben Clark Law Society.

Under Atkin's leadership the Law Society has grown to 50 chapters, including seven foreign chapters in New Zealand, England, Brazil, Mexico, and Canada. The Los Angeles and Orange County Chapters are two of the largest in the Society.

Following introductory remarks by Bill Bollard, Orange County Chapter chair, and Joseph Bentley, chair elect of the International Society, Atkin detailed how Brigham Young called the Church's first general counsel, Franklin S. Richards. When Brother Richards told President Young that he had always wanted to be a doctor, Brigham said, "Would you rather do what you want or what the Lord wants you to do? Then you will be a lawyer because the time will come when the Latter-day Saints will need lawyers of their own to defend them in the courts and strive with fearless inspiration to maintain their constitutional rights." Brother Richards remained as general counsel for over 50 years, taking the Church through its most intense periods of legal persecution.

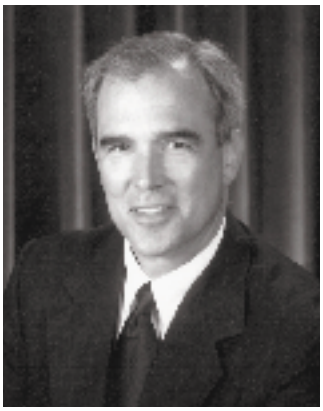
Today the Church's general counsel is Elder Lance B. Wickman, the first General Authority to act in that capacity. As associate general counsel, Bill Atkin oversees all international legal affairs for the Church. His counterpart in the office, Boyd J. Black, oversees all domestic legal affairs, mainly through the Salt Lake City firm of Kirton & McConkie. Prior to work with the general counsel's office, Atkin managed the Moscow, San Francisco, and Venezuela offices of the international law firm Baker & McKenzie.

Atkin addressed the Church's support of expanding religious freedom throughout the world. He stated that many leaders of nations have been impressed with President Hinckley's affirmation "We only go through the front door." Through BYU's International Center for Law and Religion Studies, foreign nations have strengthened rights of religious freedom for all churches, including rights to worship, to assemble, to travel freely, to declare beliefs, and to achieve legal entity status. For 10 years ministers of religion and other foreign dignitaries have attended International Conferences of Religious Liberty in Provo, along with the Church's general conference in Salt Lake City.

When concluding a recent meeting with the Church's general and associate counsel, President Hinckley said, "Brethren, be peacemakers." Bill noted that each LDS lawyer is on a unique lifetime mission to apply his or her legal training and experience to advance the Lord's work. This can come by opening doors to nations and building bridges of friendship and understanding or by simply being in the right place at the right time while doing one's best to know and do the will of the Lord.

Bryan Jackson, '86, was on the cover of *Los Angeles Lawyer,* a magazine for Southern California attorneys with a circulation of 30,000. His article "Under Construction," which gives advice to construction litigators and arbitrators, was featured in the publication.

Ryan E. Tibbitts, '84, general counsel for SCO Group, Inc., was featured on the cover of the January 2004 issue of *Corporate Counsel magazine.*



David G. Campbell and Michael W. Mosman Appointed Federal District Judges

On July 8, 2003, the Senate confirmed the nomination of David G. Campbell to the United States District Court for the District of Arizona.

A native of Utah, Campbell attended the University of Utah, where he earned his undergraduate degree in 1976 and his JD degree in 1979. He served as a law clerk to Judge J. Clifford Wallace of the Ninth Circuit Court of Appeals from 1979 to 1980 and to then Associate Justice William H. Rehnquist of the United States Supreme Court. Campbell is currently the chair of the District of Arizona's Lawyer Representatives and a member of the Ninth Circuit's Lawyer Representatives Coordinating Committee. He is a member of the J. Reuben Clark Law Society and was a visiting professor at the J. Reuben Clark Law School, where he was named Professor of the Year.

On September 26, 2003, the Senate confirmed the nomination of Michael W. Mosman to serve on the United States District Court for the District of Oregon.

Born in Eugene, Oregon, and raised in Moscow, Idaho, Mosman graduated valedictorian from Utah State University in 1981. He received his JD degree in 1984 from the J. Reuben Clark Law School, where he served as editor in chief of the *BYU Law Review.* He served as a clerk for Judge Malcolm Wilkey of the U.S. Court of Appeals for the District of Columbia Circuit from 1984 to 1985, as well as for United States Supreme Court Justice Lewis F. Powell from 1985 to 1986. Mosman joined the Department of Justice in 1988 as an assistant U.S. attorney for the District of Oregon, and he was appointed U.S. attorney in 2001.

Augustine-Adams

Studying Women's Issues in Argentina

When Professor Kif Augustine-Adams was named a Fulbright scholar the fall of 2002, she received a grant to study women's citizenship in Argentina for seven months. In March 2003 she and her attorney husband, Stirling Adams, packed up their three children—Sofia, age nine; Jacek, age six; and Isabelle, age three—and traveled to Buenos Aires.

Augustine-Adams received the social science award for her proposal to study women's citizenship in Argentina, but the material she needed was located in the Ministry of Foreign Relations in the midst of a police holding yard. There were no catalogues or organization of the materials—most of it was stacked in boxes in a large warehouse. Not only did the lack of organization of the materials prove difficult, but Kif was permitted access to them on only one occasion.

Kif changed the focus of her research to gathering information from women's passport applications from 1816 to 1820. She reviewed more than 1,000 passport applications, comparing the reasons women gave for traveling to the reasons men gave for traveling. She discovered that travel was an area where women were fairly autonomous.

Most women were traveling with servants and children to join a spouse or to "take care of their own matters." Some women traveled on their husband's passports, but many had their own. One woman had her husband travel on her passport because he was blind.

The passport application included a line where the bureaucrat filling out the form listed the profession of the applicant. On the women's passports, this line was always left blank, except for female slaves. On the men's applications it was always filled out—even boys of 14 years of age would be described as "scholars" or "students." Attached to the passports were often letters documenting the reasons for travel.

This research is important to Augustine-Adams as she answers questions on women's freedom of movement. "I am curious as to who got to travel and why," she says. "I am also interested in the invention of the passport—why did the passport become the key to identity? The passport represents one documented moment in these women's lives; the only other information to chronicle their lives would be christening, marriage, and death records. That's all."

Some of the passport applications were signed by the women applicants. Others were marked with an X. This raises other questions: were these women illiterate, or did the passport official just mark the line for them with the expectation that the women were illiterate?

The official, judging with his own eyes, also wrote down the skin color of the applicants. Descriptions were "pink," "white," "wheat-colored," "toast," or simply "the color of these people." There is a strong class structure in Argentina based on economic and racial factors with a clear European influence from an influx of immigrants from Spain, Italy, and England.

Augustine-Adams is also exploring the law as it pertained then to married women, single women, and widows in Argentina. She is studying the historical/legal role between citizenship, identity, and freedom of movement. Again, questions arise. "So much is inherently artificial in the very nature of a passport. And yet it represents citizenship, one of the last bastions of rights based on where you were born and to whom."

Because she served a mission in Mexico, Kif speaks Spanish, and she and her husband speak Spanish at home. It only made sense, then, to enroll their children in Spanish-speaking schools. She found that the schools became the center of their family's involvement in the community. Their children's private schools had relationships with some of the poorer public schools and supported a public dining hall to help feed children on the weekends, serving lunch to 100 to 150 needy children. Kif and her family helped cook and serve the food. She and her husband were pleased with the public spiritedness of the private schools. In fourth grade the children make a civil pledge to give service to others.

Kif Augustine-Adams was joined by her husband, Stirling, and their three children as she did research in Buenos Aires, Argentina.

Making Music on Temple Square

BY LANDON COWAN

Third-year law student Laura Sakulich and first-year law student Trent Christensen have not yet entered the profession of law, but as professional musicians they routinely set aside laptops and class notes to pick up their instruments, attire themselves in concert black, and journey to Salt Lake City for performances with the Orchestra at Temple Square.

"I've always wanted to be an attorney," says Trent, "but music has made me who I am." Laura agrees: "It's good to have something to do besides law school. The orchestra has kept me grounded, kept me playing."

Created in 1999 by Church President Gordon B. Hinckley, the Orchestra at Temple Square has joined forces with the Mormon Tabernacle Choir in forming the Mormon Tabernacle Choir recording label and in producing three CDs: *Consider the Lilies*, *Spirit of America*, and, most recently, *Peace Like a River.* Musicians accepted into the orchestra pass through a rigorous selection process that includes submitting tapes of styles of their playing and a live audition before the choir director, Craig Jessop, and the orchestra conductor, Igor Gruppman. The approximate 110 musicians in the orchestra perform for the Sunday morning broadcasts of *Music and the Spoken Word*, tour with the choir, record in sessions, and play three concerts per year.

A native of Michigan, Laura Sakulich started picking out notes on the piano from songs she had heard when she was four years old. At age six she started piano lessons, which she continued through the ninth grade. She added the oboe in elementary school, when she scored highly on a musical aptitude test and was encouraged to take another instrument. However, in high school she picked up the trumpet so she could be part of the marching band. The decision proved to be a meaningful one.

Before her last year of undergraduate studies at Western Michigan, Laurie played the trumpet at a music festival in Georgia. There she met a friend who introduced her to the LDS Church. She was baptized in July of 1999. "Playing the trumpet is a special thing because it was the impetus that led me to joining the Church," Laura says. "Playing at Temple Square completes the circle."

From her master's program in trumpet performance at the University of Georgia in Athens, Georgia, Laura transferred into a similar program at BYU, even though her plans were to pursue a PhD in music, something BYU didn't offer. "I didn't come to BYU for the trumpet playing," Laura says. She found out about the Orchestra at Temple Square from a trombone player sitting next to her at an informal concert sing-along at the Delta Center. He urged her to try out, so she called for an audition, played for the conductor, and was immediately invited to join the orchestra and its tour to Washington, D.C., for the inauguration of President George W. Bush.

About this same time, a friend suggested that Laura stay at BYU and go to law school. Laura took the LSAT, applied only to the BYU Law School,

The Law School and the Mormon Tabernacle Choir

In addition to the two student musicians who play in the Orchestra at Temple Square, the Law School can claim two other connections with the choir and its Sunday morning broadcasts. || Vance Everett, computer systems manager at the Law School, has sung with the Tabernacle Choir since July 1990 and will be eligible to sing until 2010 (members may sing with the choir either for 20 years or until age 60, whichever comes first). Vance is a baritone, the assistant section leader, and a member of the choir's social committee. || Jane Wise, editor of the *Clark Memorandum* and legal writing instructor in the Rex E. Lee Advocacy Program, has been writing messages for the Sunday morning broadcasts since 1998. "Only Richard L. Evans wrote all of his own messages," she says. "Lloyd Newell writes some, as well as seven other writers who contribute the 'spoken word' part of the broadcast." And which comes first, the message or the music? "Generally, the message is written first, and then conductor Craig Jessop matches the music with the words," explains Wise. "The choir receives the written part about 12 weeks in advance of the production of the program."

was accepted, and began her class work in the fall of 2001.

Looking back on a series of events that simply fell into place, Laura has experience in recognizing God's hand in her life. "I know something is right when I try to do something, and it all works," Laura says. "That was true when I joined the Church, when I transferred to BYU, and when I came to law school."

As part of his family's tradition, Trent Christensen started taking music lessons at age eight. "At eight you get baptized and then you start piano lessons," relates Trent. A further incentive to be musical came when his elementary school featured an "early out" program that allowed students studying musical instruments to leave school early to practice. Trent started playing the drums, which was fine with his mother as long as he played when she wasn't home. He started playing the drums professionally at age 15.

Trent auditioned for the Temple Square Orchestra soon after returning home from his mission. Although he had sold most of his drum paraphernalia to fund his mission, he acquired enough of a set to play for his audition. Trent performed the only timpani solo, to his knowledge, in existence. "It was the best audition of my life," Trent says. The unique nature of his audition made him stand out to then conductor Barlow Bradford and assistant choir director Mack Wilberg, and he was accepted as principle percussionist.

Trent has been with the orchestra since its inception. "The makeup of the orchestra has changed, but its mission hasn't. We are building the kingdom through our music," says Trent. In fact, performers are set apart as musical missionaries, glad to give of their time and talents. "If the audience feels a fraction of what I feel during a performance, our work is done," Trent adds. "Craig Jessop and Mack Wilberg inspire both musical and spiritual vision. The good that we do is part of a legacy that will reach to the four corners of the world."

Although both Laura and Trent are now focusing on law school, music continues to be part of their lives.

Mark Hedengren (2)

Chinese Judges Visit Law School

BY D. RAY MANTLE

Twenty-six judges attending the People's Republic of China National Judicial College visited Brigham Young University, the J. Reuben Clark Law School, and other points of interest as part of their month-long visit to the United States during August 2003. Judges from all levels of the People's Republic of China (PRC) courts were selected to participate in an intensive legal training program focusing on English language skills, common law jurisprudence, and the U.S. justice system, a program originally envisioned by former U.S. Supreme Court Chief Justice Warren E. Burger and former PRC Premier Deng Xiao Ping. After completing two months of Technology Assisted Language Learning (TALL) in Beijing, the judges visited New York University; Washington, D.C.; and BYU to enhance their understanding of U.S. law.

After enjoying sightseeing trips to Park City, Salt Lake Temple Square, and Yellowstone National Park, the judges toured the BYU campus and attended a lecture by Professor Brett G. Scharffs. Scharffs and Professor W. Cole Durham engaged the judges in a discussion highlighting similarities between common law and civil law systems and the role of emotion in jurisprudence under both systems.

On their last day in Utah the judges visited several sites in Salt Lake City, including Welfare Square and the Humanitarian Center. A luncheon was hosted at the offices of Parsons, Behle & Latimer, where the judges were introduced to several practice area directors of the firm. The judges also visited the Utah Supreme Court to meet with Justices Michael J. Wilkins, Jill N. Parrish, and Ronald E. Nehring; and Presiding Judge Norman H. Jackson of the Utah Court of Appeals. The justices and judges enjoyed comparing caseloads, average adjudicating times, and jurisdiction sizes, as well as the relative age of judges in China and the United States (PRC judges are on average 35 years of age).

Lovisa Lyman, Collection Department Librarian at the Howard W. Hunter Law Library, who served as one of the TALL teachers in China, handled most of the logistics for the visit. Others participating from the Law School community included Dean H. Reese Hansen; Associate Dean Constance Lundberg; Associate Dean Scott Cameron; Deputy Law Librarian Gary Hill; Michael Chen, '01; Spencer Macdonald, '04; and D. Ray Mantle, '04.

Habitat

for Humanity

In liaison with Habitat for Humanity, BYU law students help rebuild a duplex for a family on the west side of Provo. Since 1976 the international organization—a pet project of Jimmy Carter—has built more than 50,000 houses with families throughout the U.S. and over 100,000 houses around the world.

Mark Hedengren (4)

Kevin J Worthen Appointed New Dean of the Law School

President Cecil O. Samuelson and the Board of Trustees of Brigham Young University announce the appointment of Kevin J Worthen as the fifth dean of the J. Reuben Clark Law School. Appointed professor of law in 1992, Dean Worthen has served as associate dean for academic affairs since 1999.

"Kevin Worthen brings to his new assignment a remarkable combination of outstanding academic and professional accomplishments, proven administrative abilities, sound judgment, and exceptional personal skills. He will provide the strong leadership required for the Law School to reach its full potential," says Dean H. Reese Hansen, who now returns to full-time teaching and research.

Dean Worthen received a bachelor of arts degree in political science from BYU in 1979. Three years later, in 1982, he graduated first in his class, summa cum laude, from the J. Reuben Clark Law School, where he was a member of the Order of the Coif. He was a law clerk to Judge Malcolm R. Wilkey of the U.S. Court of Appeals for the D.C. Circuit and to Justice Byron R. White of the U.S. Supreme Court before joining the Phoenix law firm of Jennings, Strouss & Salmon. He joined the BYU law faculty in 1987 and was a Fulbright scholar at the University of Chile Law School in Santiago during 1994.

The new dean is a nationally recognized expert on Federal Indian law and the impact of law on indigenous peoples internationally. He has published in numerous journals, including the Harvard, Minnesota, Vanderbilt, and North Carolina Law Reviews, and is the author of portions of the forthcoming revision to Felix Cohen's *Handbook of Federal Indian Law*.

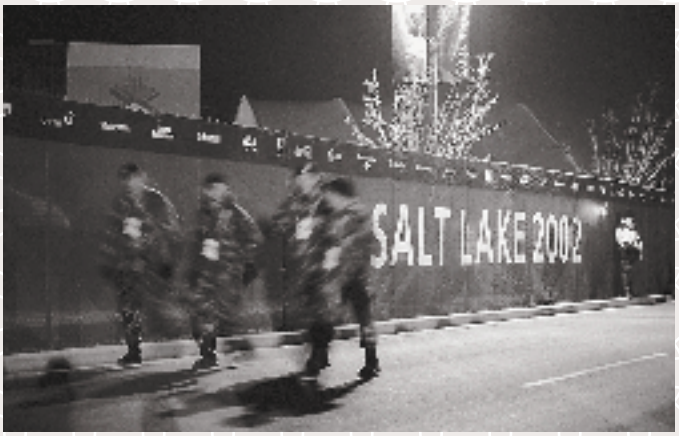
Courtesy of JRCLS

Bradley Slade

Kirton & McConkie Enters Agreement with Chinese Law Firm

The Salt Lake City law firm of Kirton & McConkie has recently entered into a cooperation agreement with a law firm in Nanjing, China—a first for an American law firm in all of Jiangsu Province, an area of 72 million people. A delegation of Kirton & McConkie attorneys recently returned from China. The group included David Wahlquist, '81, partner and longtime member of the American Arbitration Association Panel of Arbitrators.

While in Nanjing, the delegation conducted a daylong seminar on international arbitration and litigation for more than 100 members of the Jiangsu Bar Association. It also lectured at the Department of Law of Nanjing Agricultural University, where Michael Chen,'01, has been named dean of the Department of Law. Nanjing Agricultural University is a national university administered by the Ministry of Education.



David Eliason

Prosecution Wasn't Going to Reform Olympic Movement

BY MICHAEL GOLDSMITH | *The following article appeared in the* Salt Lake Tribune *on December 21, 2003.*

In 2000, federal prosecutors indicted two former Salt Lake Olympic Bid Committee leaders for bribing members of the International Olympic Committee (IOC) to award the 2002 Winter Games to Salt Lake City. The Olympic bribery case ultimately collapsed when a federal judge ruled that prosecutors failed to present enough evidence even to warrant jury deliberations. Judge David Sam rebuked the Department of Justice for nearly ruining the lives of two innocent men based on the weakest case he had seen in 40 years.

Before trial, prosecutors signaled the weakness of their case by secretly offering to drop 15 felony counts for an easy "no jail" misdemeanor plea. So the judge's dismissal must not have surprised them. The rest of the world, however, might wonder why a federal judge would dismiss charges despite overwhelming evidence that defendants caused lucrative benefits to be conferred upon IOC members. Why did Judge Sam reject prosecutors' requests to let their case go forward as a message "to stop Olympic corruption"?

Allowing the case to proceed would have violated basic principles of criminal law and done nothing to stop corruption in the Olympic movement. Under American principles of justice, criminality requires a confluence of conduct, intent, and attendant circumstances as prohibited by statute. If even one of these required elements is missing, there can be no violation. Thus, payments alone do not constitute a crime.

The Olympic bribery scandal proved to be a case of prosecutors seeking a crime to fit the conduct. As federal law does not directly prohibit commercial bribery, prosecutors resorted to an obscure Utah statute. The Utah law prohibits (1) conferring benefits (2) upon an agent, employee, or fiduciary (3) contrary to the interests and (4) "without the consent" of an employer or principal. Prosecutors transformed this state misdemeanor into a federal racketeering indictment by charging that defendants crossed state lines and used the mails when they violated the Utah statute.

In their zeal, however, prosecutors neglected to verify that defendants' conduct met each element of the underlying Utah law. At trial, this failure proved fatal. IOC members are not paid, lack authority to bind the IOC, and don't hold positions of special trust. Thus, IOC members were not employees, agents, or fiduciaries under Utah law. Plying them with benefits, therefore, was not illegal.

More to the point, the evidence established that the majority of IOC members happily accepted (and sometimes demanded) lavish benefits. Prior to the Salt Lake City scandal, the IOC had historically tolerated, if not encouraged, such payments. Indeed, Nagano, Atlanta, and most other bid cities routinely employed similar methods. As a practical matter, the IOC's historic acquiescence meant that prosecutors could not prove defendants had conferred benefits without IOC consent. Nor could prosecutors prove criminal intent, as prior IOC practices gave defendants reason to believe that the IOC consented to their generosity.

Sending this case to the jury would have done nothing to stop corruption in the Olympic movement. If prosecutors wanted to strike at Olympic corruption, they indicted the wrong men. They should have charged IOC violators with extortion. (Admittedly, the Olympic Games would never again have been awarded to any American city, but that doesn't justify indicting Salt Lake City defendants instead.)

For years, too many IOC members have routinely exploited vulnerable bid cities through extortionate demands. Rather than aggressively investigate such practices, the IOC issued rules restricting gifts to $200. The rules, however, are paper tigers. Before the highly publicized Salt Lake City scandal, the IOC rarely enforced them.

After the Salt Lake scandal broke, the IOC expelled several members. Other IOC actions, however, suggested business as usual. Although he received gifts exceeding the $200 limit, former IOC President Juan Antonio Samaranch was not among those sanctioned. Nor was Un Yong Kim, who was elected vice president, despite allegedly receiving $78,000. (Maybe only IOC members guilty of accepting more expensive benefits than IOC officers warrant expulsion). If the IOC were serious about enforcement, it would have established a compliance program designed to detect and deter corruption.

These considerations led a courageous federal judge to spare two men the trauma of further prosecution. His ruling also sends a message to the Department of Justice: Misplaced enforcement and prosecutorial overkill will not achieve Olympic reform and have no place in our federal courts.

Michael Goldsmith, a law professor at Brigham Young University, was a member of Thomas Welch's defense team.

Anxiously Engaged

A bronze sculpture depicting missionaries riding bicycles was unveiled at the Provo Missionary Training Center in December 2003. Titled *Anxiously Engaged*, the piece was made the previous summer by Erasmo Fuentes and his son, Alex Fuentes, '06. Erasmo, a sculptor and guitarist, is a native of Mexico, and Alex is an artist and first-year law student.

Bradley Slade (3)

Class Notes

E-mail your professional news to copel@lawgate.byu.edu

IN MEMORIAM

The J. Reuben Clark Law Society and Law School mourn the untimely deaths of Z. Todd Staheli, '91, and second-year law student Spencer Terry Farris.

Z. Todd Staheli, '91, a Shell Oil executive, and his wife, Michelle (Davis), were brutally attacked in their Brazilian home on November 30, 2003. The two had been bludgeoned by a sharp instrument: Todd was dead at the scene, and his wife died five days later. Their son, aged 10, and three daughters—ages 13, 5, and 3—were returned to Utah, along with the bodies of their parents, by relatives a week later.

The Stahelis had moved to South America less than four months earlier for Todd's work as a vice president for Shell Oil's Southern Cone gas and power unit. The family had lived in such places as London, Ukraine, Switzerland, and Saudi Arabia before relocating to the upscale Barra de Tijuca neighborhood of Rio de Janeiro.

Raised in Spanish Fork, Utah, Todd served a Church mission in Melbourne, Australia. He earned a bachelor's degree from Utah State University, where he met Michelle, a native of Logan. The two were married in the Logan Temple in 1987.

A memorial fund has been set up at Zions Bank in the name of "Todd Staheli and Michelle Davis Staheli Memorial Fund."

Spencer Terry Farris was a second-year law student when he died of cardiac arrest on December 18, 2003. He had valiantly battled a lifelong series of health problems.

Born in 1977 in Monterey, California, Spencer grew up in Thermopolis/Casper, Wyoming, and later moved to Colorado. An Eagle Scout and a cyclist, he greatly enjoyed the outdoors as well as debating. After serving a mission in the Oakland/San Francisco area, he married Hilary Hadley in the Denver Temple. The joy of his life was the birth of his daughter, Ashley, last year.

A trust fund has been set up for Ashley at Far West Bank. Condolences and memories may be expressed by e-mail: tgfarris@infowest.com.

CLASS OF 1976

R. Bruce Duffield has become a fellow of the American College of Trial Lawyers. He is a partner of the firm of Lord, Bissell & Brook and has been practicing in Chicago for 27 years.

Robert J. Grow (Salt Lake City), founding chair (emeritus) of Envision Utah, has received the American Public Transportation Association's Local Distinguished Service Award.

CLASS OF 1978

Allen D. Butler (Tempe, Arizona) successfully argued the case of *Krohn v. Sweetwater Properties* before the Supreme Court of Arizona. The case has since been published in the sixth edition of Dale A. Whitman's casebook *Real Estate Transfer, Finance, and Development.*

CLASS OF 1986

Sterling Brennan recently left Morrison & Foerster to join Workman Nydegger in Salt Lake City, where his practice will continue to focus on litigation.

Carolyn White (Arlington, VA) has received the Judge Advocate General (JAG) Outstanding Civilian Attorney of the Year Award for the United States Air Force for 2002.

CLASS OF 1987

Victor Guzman has opened his own practice in New York City. The practice focuses on criminal defense, personal injury, immigration, and real estate for the growing Latino population in the area.

David R. Wright was elected managing partner of Workman Nydegger, a 50-lawyer intellectual property firm in Salt Lake City.

CLASS OF 1988

Paulo Bangerter, former general counsel for Unicity International, has reached an agreement to purchase the company and is presently acting as its CEO.

CLASS OF 1992

Paul Cooper was recently appointed as chief legal counsel to chief of police William Lansdowne of the San Diego Police Department. Paul acts as the chief's advisor for both legal and policy matters. The SDPD has more than 2,000 sworn officers and a budget of over $270 million.

CLASS OF 1996

Bruce Boehm and his wife, Tracey, and their children have moved from a large firm in Sacramento back to Salt Lake City. Bruce is now practicing employment law with McKay, Burton & Thurman in Salt Lake City.

CLASS OF 1998

Jim Feltis has begun working at Microsoft as program manager for the Platforms Source Licensing group.

Heath A. Havey, whose focus is on international labor and employment law in Baker & McKenzie's Tokyo Japan office, was recently appointed an adjunct professor of law at Temple University's Tokyo campus.

CLASS OF 2000

Tom Checketts has accepted a position in the real estate group at Kirton & McConkie in Salt Lake City. He previously worked in the real estate group and on the Enron investigation at Alston & Bird in Atlanta.

CLASS OF 2001

Daniel Dinger was made attorney supervisor at the juvenile division of the Ada County Prosecuting Attorney's Office and was recently published in the *Idaho Law Review.*

Alex Kennedy, an associate in the New York City office of Milbank, Tweed, Hadley, & McCloy LLP, coauthored an article entitled "New Audit Committee Charter Requirements," which appeared in the November 2003 edition of *Wall Street Lawyer.*

Matt McGhie was promoted to assistant counsel in the Office of the Legislative Counsel for the United States Senate in August 2003.

J. Adam White has accepted a position with Thelen Reid & Priest in their construction and government contracts group.

CLASS OF 2003

Timothy Burridge has opened his own law firm/practice in Salt Lake City.

Edward Carter is clerking for Judge Ruggero Aldisert on the Third Circuit Court of Appeals.

Melanie Reed is clerking for Judge Timothy Tymkovich on the 10th Circuit Court of Appeals. Her paper "Western Democracy and Islamic Tradition: The Application of Shari'a in a Modern World" is pending publication with the *American University International Law Review.*

Jennifer Rowe has a paper, "High School Exit Exams Meet Idea—An Examination of the History, Legal Ramifications, and Implications for Local School Administrators and Teachers," pending publication in the *BYU Education and Law Journal.*

Stacey M. Snyder completed a judicial clerkship with the Honorable James Z. Davis, Utah Court of Appeals, and is currently employed as associate general counsel with the Office of Legislative Research and General Counsel, Salt Lake City.

Lawyers as People

BY SHAWN P. BAILEY

IT WAS MY FIRST SEMESTER OF LAW SCHOOL. I HAD ESCAPED FROM MY CARREL AND WAS MAKING MY WAY THROUGH THE PARKING LOT TOWARD THE CREAMERY FOR LUNCH. || VISIONS OF ARCANE RULES WERE DANCING IN MY HEAD. THERE WAS THE PAROLE Evidence Rule from contracts. The Rule Against Perpetuities from property. And my personal favorite, the Erie Doctrine from civil procedure. My mind stopped at a particularly memorable acronym: "ECIFSAJ." Douglas Floyd, my civil procedure professor, came up with ECIFSAJ as a way of remembering an important aspect of the Erie Doctrine. ECIFSAJ, of course, stands for "Essential Characteristic of the Independent Federal System of Administration of Justice." I may someday forget a loved one's birthday, but ECIFSAJ is permanently etched on my brain.

I think the case method, in which students learn the law by reading about close cases, may have given me the wrong idea at first. I had imagined lawyers everywhere grappling with an endless stream of close cases, each decided by the tiniest of distinctions. I had imagined that every contract and every human interaction would somehow, someday explode into a lawsuit. In this imaginary world, the governing law was endlessly arguable—and the sidewalks were all uneven cracks just waiting to trip people. So there I was, walking to the Creamery for lunch, but floating on a sea of minutiae. And in my mind, I was beginning to master the minutiae. As I saw it, this is what it meant to become a truly good lawyer.

As I came closer to the Creamery, I noticed that a law professor was behind me, headed in the same direction. It was one of the Law School's superstars, an intellect to be reckoned with, a true master of minutiae, as I saw it. I would say hello. But would I dare engage him in a conversation about the law? I found it difficult at that time—I still find it difficult—to work ECIFSAJ into a conversation. Besides, did I have anything but the obvious to say about something important like ECIFSAJ?

I walked to the corner and waited for the light to change. I expected that the law professor would soon be by my side, waiting to use the same crosswalk that I was waiting for. I glanced behind me. The professor of whom I had been so conscious had slipped across the street, safe and discreet, far from the corner and the crosswalk. He was now well in front of me, entering the Creamery. Was ignorance of the law possible in these circumstances? Was he too engrossed by complex theoretical considerations to concern himself with traffic safety? It struck me that this brilliant legal mind had just flouted the most basic of laws: he was a jaywalker!

I smiled to myself and I began to rethink the premises upon which the last few minutes' thoughts had been based. Perhaps he was a master of minutiae in some sense, but this professor was also a person not so different from me. A guy taking a break, perhaps a little bit excited about getting something to eat. A guy who was a child once, and a first-year law student, too. What space had my lofty vision of legal attainment left for real people and their frequent departures from the crosswalks of life?

As life has gone on, I have recognized that many conflicts are not close—and that sidewalks are mostly safe surfaces, broken up by only the occasional hazardous crack. I have reflected on that almost insignificant chain of events that unfolded that day around lunchtime. The thought of a law professor jaywalking says something to me about humanity. It reminds me that we learn the minutiae to serve people—and that we must not see people only in terms of minutiae.

The Clark Memorandum welcomes the submission of short essays and anecdotes from its readers. Send your short article (750 words or less) for "Life in the Law" to wisej@lawgate.byu.edu.

Clark Memorandum

J. Reuben Clark Law Society

J. Reuben Clark Law School

Brigham Young University