

Spring 2006


# Clark Memorandum: Spring 2006

J. Reuben Clark Law Society

BYU Law School Alumni Association

J. Reuben Clark Law School

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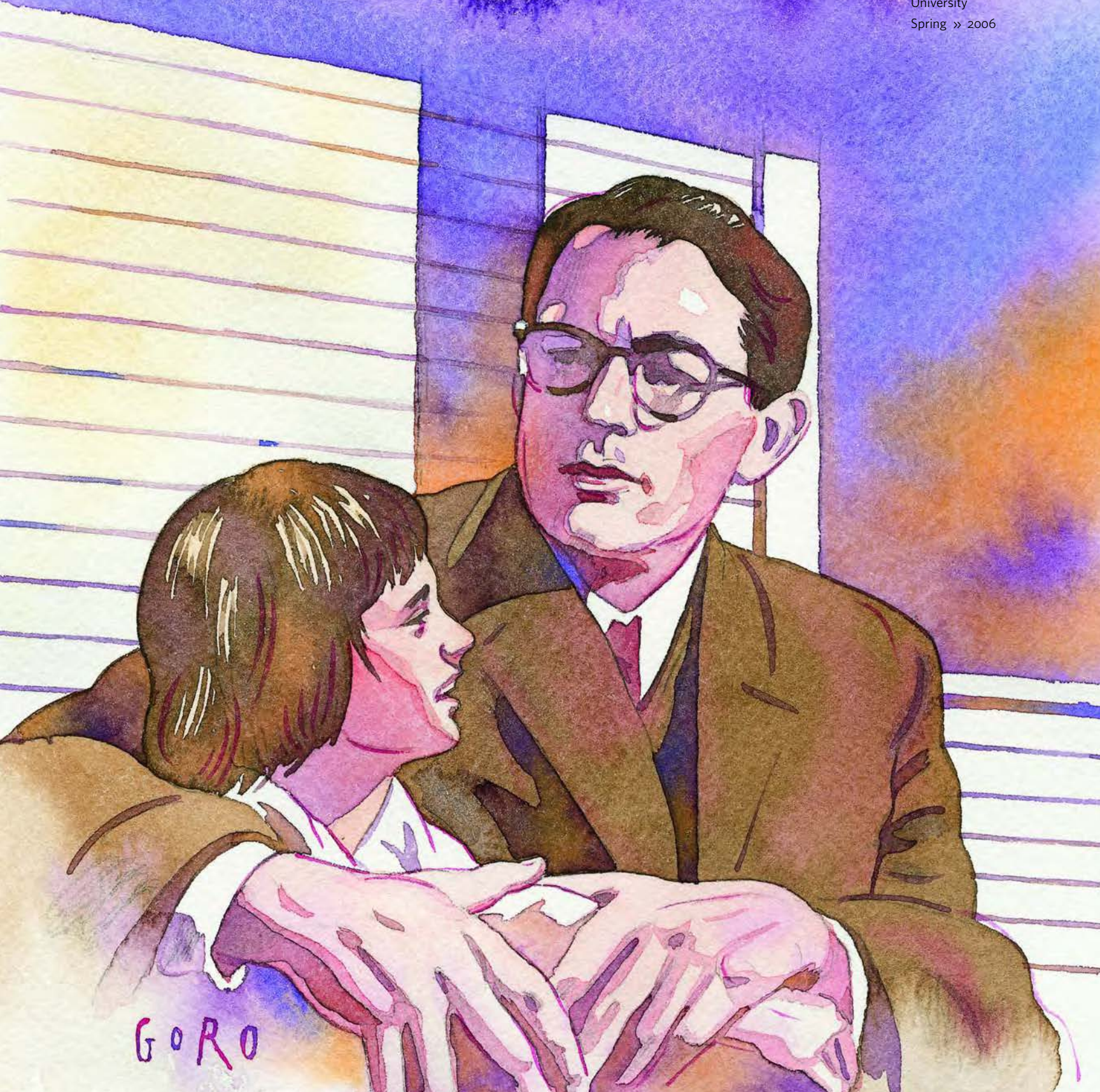


# In Search of Atticus Finch

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CLARK MEMORANDUM

J. Reuben Clark  
Law School  
Brigham Young  
University  
Spring » 2006





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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.



I N S E A R C H O F A T T I C U S F I N C H

BY ELDER LANCE B. WICKMAN

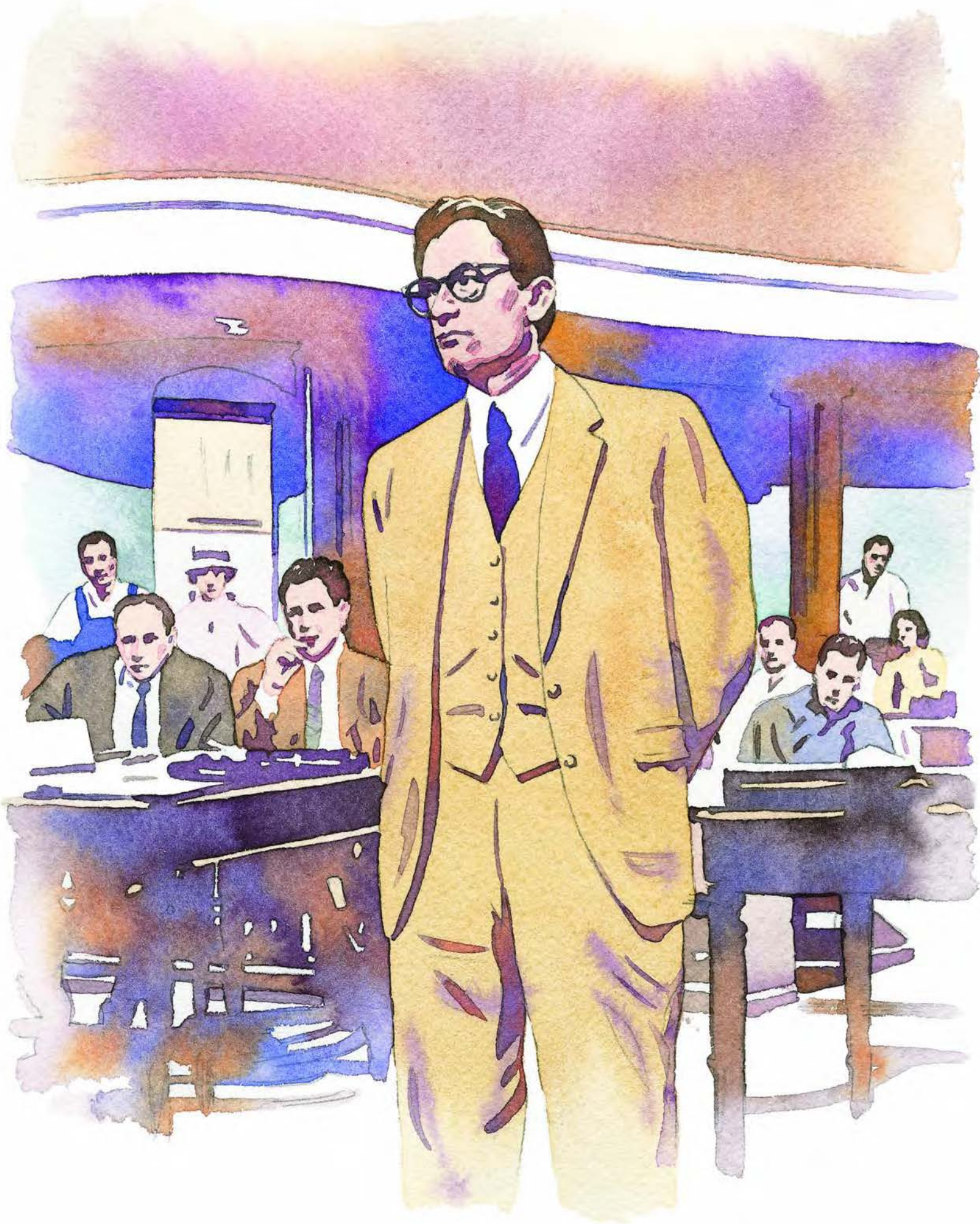


*The following speech was presented to the J. Reuben Clark Law Society  
at the LDS Church conference center on February 10, 2006.*

The journey that brought  
me to the profession of law was more odyssey than freeway.  
From the time that I was a young boy, my mother  
wanted me to be a lawyer, which was interesting because we  
had no other family members on any branch of  
the family tree who were lawyers.

ILLUSTRATION BY GORO SASAKI







Unlike some others present here, I had no father or uncle who took me to his law office as a child. I don't recall ever hefting a law book until my first day as a law student. There were no Socratic discussions at the dinner table of my youth. All I can recall is my mother's counsel: Go into law.

For one thing, having come of age in the Great Depression, she saw an occupational independence in the legal profession. "You can always hang out your shingle as a lawyer," she would say. But there was much more than that behind her admiration for the profession. She saw law, and those who follow its profession, as a force for good. In her mind there was a nobility associated with it. She saw it as a worthy calling and thought she saw in me the "right stuff" for such a calling.

But I was unpersuaded. As an undergraduate I flirted somewhat with the possibility of going to law school after graduation. But in that season of life, I was drawn more to the prospect of becoming a soldier. So, when a commission in the regular army was offered upon graduation, I accepted it. Thus began a turbulent five years. One tour of duty in Vietnam followed another. And somewhere in the midst of the turbulence the idea of becoming a lawyer reemerged in my mind. My mother's counsel of years before began to resonate. I decided that I wanted to become a lawyer when the war was over. But swept along as I was by the overpowering

currents of the Vietnam War, I felt like a man caught in a riptide. The goal seemed far off, unreachable. I felt like events were sweeping me farther and farther away. There were times when I wondered if I would ever return, if this newly realized dream would ever happen.

But, at last, it did happen. I still remember vividly purchasing my casebooks at the Stanford Bookstore before the first day of class. I was so grateful to be there. Really, it felt like Christmas! For many of my classmates, starting law school was just another year of school. But for me it was a time of gratitude, of answered prayers. I can honestly say that I enjoyed law school. Oh, sure, by my third year I was anxious to move on from school to actual law practice, but I thoroughly enjoyed the law school experience. I enjoyed my years of law practice with a fine law firm. For more than a decade now, I have felt privileged to serve as the general counsel of the Church.

But in all of my years of affiliation with the profession of law, I have had many occasions to ponder wherein lies the nobility that my mother thought she saw in it so many years ago. Wherein lies the deep—but often elusive—satisfaction that can and ought to come to those who are associated with the profession? With cascading reports of disenchantment, or "burn out," as it is now called, within the ranks of those who have come to the bar, it would seem that finding that nobility—and the accompanying satisfaction—is anything but a unique or simple quest.

So, I should like to say something this evening about that quest. I should like to say something tonight about finding *the profession* in the profession of law. To that end I have entitled my remarks "In Search of Atticus Finch."

After preparing these remarks, I learned quite by chance that my selection of title is not new! In fact, I have discovered that there is an excellent book of the same title on the subject of lawyer ethics by Mike Papantonio.<sup>1</sup> So much for originality! However, I can assure you that the ideas expressed in these remarks are all mine, and I alone am responsible for them.

Tom Robinson was guilty. That was the popular verdict in Maycomb County, Alabama, even before he went on trial. There wasn't really any question about it. Miss Mayella Ewell had been assaulted. Her father, Bob Ewell, claimed to have returned home just in time to see Tom disappearing out the door of their cabin with Mayella screaming. Perhaps more to the point, Tom Robinson was black. Mayella Ewell was white. And in Maycomb in 1932 that color scheme added up to guilt—an open-and-shut case. Some even wondered why it was necessary to have a trial at all. Just string Tom Robinson up from the water tower and be done with it.

Enter Atticus Finch. Having descended from the "founding fathers" of Maycomb County, Atticus' birthright made him one of the county's leading citizens. He had "read law" in Montgomery, obtained his law license, married, saw two children born—a boy and a girl—and, while they were yet small, lost his wife to a heart attack. Atticus Finch hung out his shingle in a tiny office at the Maycomb County courthouse. His first two clients, the Haverford boys, were hanged for murdering the local blacksmith in the presence of witnesses in a dispute over a horse. Atticus had urged them to accept the county's offer of a plea to second-degree murder and a prison sentence. But the Haverfords, who were never accused of having the sense Providence had bestowed upon a goose, refused—insisting instead on placing their fate in the "he-had-it-coming" defense. So, Atticus' only meaningful service in that case had turned out to be attendance at the hanging ceremony.

The whole experience had left him with a strong distaste for criminal law. Atticus preferred helping common people resolve the common problems of life, often taking payment of his fee in kind, such as a bag of hickory nuts or some such thing. He was not wealthy by any means, but he provided a roof and meals and other necessities for his family. He was satisfied.

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## WHEREIN

LIES THE DEEP

## SATISFACTION

THAT CAN AND OUGHT

TO COME TO THOSE WHO ARE

## ASSOCIATED

WITH THE PROFESSION

[OF LAW]?

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So, when the trial judge approached him and asked him to defend Tom Robinson as a public service, Atticus was not enthusiastic. But Atticus Finch was above all else a man of principle. He believed that law exists to serve the interests of the people, who created it in the first place. As an officer of the court, he believed that a lawyer's first duty is to assist in the administration of justice. He believed that in a real sense the rights of the Tom Robinsons of the world are the rights of everyman. If Tom could not be assured a vigorous defense, no one else could either. So, Atticus Finch—lawyer—took the case.

By now, many of you will have recognized this recitation as a creature of fiction. In one sense Atticus Finch and Tom Robinson live only in the pages of Harper Lee's Pulitzer Prize-winning masterpiece, *To Kill a Mockingbird*, and in the classic motion picture by the same title, starring the late, great Gregory Peck as Atticus Finch. But in another, more important, sense Atticus Finch lives! He must live! Should the day ever come that he ceases to exist, the profession of law also would cease to exist, because Atticus Finch is the embodiment of what it means to be a professional in law.

How so? What is a "professional" anyway? In our 21st-century vernacular, the word is seen as synonymous with competence. In one dimension it means possessing a particularized set of skills beyond those commonly found in the general populace. Often it means advanced education, qualifying examinations, and certification. "Know how." "Board certified." "Admitted to the bar." "MD." "CPA." "NFL." "NBA." "The National Academy." These are all words, initials, and phrases commonly found in the context of any reference to a professional.

But in law, especially, there is another dimension. Being a professional is more, much more, than possessing a set of skills, a license, or the initials JD. Being a lawyer means more than being a skilled advocate, more than a legal technician, or more than an architect of business transactions. The lawyer has taken an oath—a solemn oath, administered by a judicial officer—to uphold the Constitution and the principles, rights, and privileges enshrined in the laws of his state and nation. He is, above all else, an *officer of the court*—a servant and preserver of the law. No less than the judge who sits

## Elder Lance B. Wickman: *Soldier, Attorney, and Priesthood Leader*

BY BILL ATKIN

In 1995 Elder Wickman, then a member of the Second Quorum of the Seventy, was called by President Gordon B. Hinckley to serve as general counsel for The Church of Jesus Christ of Latter-day Saints, the first time in the history of the Church that a General Authority was asked to serve as the Church's general counsel.

UC Berkeley, missionary in the British Isles, Vietnam, Stanford Law, Latham & Watkins, stake president, regional representative, chairman of the San Diego Temple committee illustrate his qualifications, but do not really describe this exceptional individual. In attempt to give you a glimpse of the character of Elder Wickman, I have chosen several moments in his life that reveal that character.

Lance Wickman is the young second lieutenant in the Army Rangers stationed in Hawaii in 1966 whose brigade was ordered to war in Vietnam, the rifle platoon leader who led his fellow soldiers through the rice paddies and jungles of Vietnam for 10 months before an enemy land mine sent him home with a Purple Heart.

During this tour he found out that then Elder Gordon B. Hinckley was going to hold a Church meeting in Saigon. His bat-

alion commander gave permission to him and the two other LDS soldiers in the battalion to have a 24-hour leave to go to Saigon for the meeting. They hitchhiked to Saigon on military flights, and together with about 200 other LDS soldiers and a handful of Vietnamese members, Elder Wickman left his helmet and his rifle outside the meeting room in the Caravelle Hotel, where he was privileged to hear an Apostle of the Lord dedicate Vietnam for the preaching of the gospel. Little did he know then how intimately he would be involved in working with the future prophet of the Church.

Lance Wickman is the young ranger who upon recovery returned to Vietnam for a second combat tour, this time as an advisor to the Vietnamese army in the central highlands of Vietnam.

Because of these experiences, Elder Wickman, together with Elder Robert C. Oaks, another Vietnam veteran, have been assigned by the First Presidency to provide counsel and comfort to LDS soldiers involved in the terrible wars in Iraq and Afghanistan. Who more appropriate to do this than one who has experienced firsthand the horrors of war, but yet like Mormon and Moroni before him,

has forged a strong commitment to the gospel of Jesus Christ?

Lance Wickman is the young father and husband who, with his eternal companion, Pat, at his side, suddenly and unexpectedly lost a five-year-old son to a deadly disease. Lance Wickman is the father and husband who, later, and together with Pat, welcomed a handicapped daughter into his family. Elder Lance B. Wickman is the General Authority who, with great empathy and depth of feeling, gave a general conference talk of hope and understanding to parents who have experienced similar heartbreaks. "I know from poignant experience that there is no night quite so dark as the loss of a child. Neither is there any day quite so long and exhausting as the relentlessness of caring for a child crippled in form or faculty."

Lance Wickman is a partner in Latham & Watkins who mentored young attorneys, who was invited by the local bar association to assist in the drafting of a "litigation code of conduct," and who efficiently and effectively managed his time to meet his heavy professional responsibilities while leaving time to fulfill his responsibilities as a father and as a stake president and a regional representative.

upon the bench, the lawyer who stands at bar has pledged his talents, his knowledge, his experience, and his very life to advance and defend the cause of “justice for all.” If he is also able to provide a living for his family, all the better. This is the ideal embodied in Atticus Finch.

One can only wonder what Atticus would think if, like Rip Van Winkle, he should awaken from a long nap and find himself not in the Maycomb County of 1932, but in the courtrooms, board rooms, and law office suites of the 21st century. “Billed hours,” “bottom lines,” “originations and proliferations,” “partner tracks,” and other law business buzz words and phrases doubtless would be mystifying to a man who was happy to take his modest fee in a sack of hickory nuts. More mystifying still would be the go-ahead-make-my-day lawsuit craze and the overzealous and take-no-prisoners litigation strategies that infect and threaten to overwhelm our courthouses. In an age when the phrase “officer of the court” has become quaint and lawyers are too often known more for their extravagant lifestyles than for their service to the people and the cause of justice, Atticus Finch would indeed stand bewildered.

Some years ago I served on the Stanford Law School board of visitors. We met annually at the law school for two or three days of meetings with faculty and students. One year the Friday evening event was a dinner of the board with the first-year law school class. The guest of honor was Justice Stephen Breyer of the United States Supreme Court. He was, of course, the featured speaker at the dinner. Justice Breyer gave a marvelous address (seemingly off-the-cuff, although I am quite sure it had been carefully prepared) on the subject of a lawyer’s professional obligation to serve the best interests of the people. His theme was that there must be much more to law practice than billing hours and collecting fees. There must be time to give back to the community in professional service. He asked the rhetorical

question as to why public esteem for lawyers is low (and why the public esteem for Congress is even lower!). He noted that, by contrast, public regard for the *army* is quite high.

Justice Breyer said, “I asked Derek Bok (who was the president of Harvard University) why this was the case. He didn’t know either but expressed the view that the army is seen as not being in it for itself.” What he meant was that those who serve in the armed forces are devoted in their service to their country. There is no evident greed or self-promotion as they perform their duties. This is a thought-provoking idea!

Certainly it is true that professional soldiers are not in it for themselves, and yet even they may not be highly regarded or even considered much in the public square until the war trumpet sounds. This phenomenon was captured lyrically in Rudyard Kipling’s immortal poem “Tommy,”<sup>2</sup> which was a tribute to the selfless service of the British soldier of the 19th century. Here are just two stanzas that capture the flavor of the sentiment:





*I went into a public-house to get a pint o' beer,  
The publican 'e up an' sez, "We serve no red-coats here."  
The girls be'ind the bar they laughed an' giggled fit to die,  
I outs into the street again an' to myself sez I:*

*O it's Tommy this, an' Tommy that, an' "Tommy, go away";  
But it's "Thank you, Mister Atkins," when the band begins to play,  
The band begins to play, my boys, the band begins to play,  
O it's "Thank you, Mister Atkins," when the band begins to play.*

*Yes, makin' mock o' uniforms that guard you while you sleep  
Is cheaper than them uniforms, an' they're starvation cheap;  
An' bustlin' drunken soldiers when they're goin' large a bit  
Is five times better business than paradin' in full kit.*

*Then it's Tommy this, an' Tommy that, an' "Tommy, 'ow's yer soul?"  
But it's "Thin red line of 'eroes" when the drums begin to roll,  
The drums begin to roll, my boys, the drums begin to roll,  
O it's "Thin red line of 'eroes" when the drums begin to roll.*

We in the United States have witnessed this same phenomenon in recent years, as young men and women in uniform—professionals as well as “citizen soldiers”—have found themselves in places like Iraq and Afghanistan. Often unappreciated in peacetime, their devotion to a higher duty than themselves in wartime has earned them the overwhelming appreciation of the nation.

But even the army struggles to maintain its tradition of selfless professionalism in this ego-centric society of the 21st century. In an insightful and thought-provoking essay entitled *Army Professionalism, the Military Ethic, and Officership in the 21st Century*, published in 2000, two professors at West Point express their views about what they contend is an ascendancy within the army of a so-called “force protection” ethic—an academic euphemism for an inclination on the part of soldiers to exalt the preservation of their own lives over the army’s traditional “mission first” ethic. A number of factors explaining this alleged phenomenon are addressed in the essay. But of some relevance to us in the legal profession is this observation about our contemporary “postmodern” society:

*What many call “post modernism” is best thought of as a complex collection of beliefs and theories that, in essence, reject the idea that there is any such thing as objective truth, ethical or otherwise. Without an objective standard, “truth” is then left to the individual or group to decide and thus becomes relative to their desires and beliefs. This has undermined the earlier consensus among Americans that any particular belief can actually be wrong.*

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## WHERE, INDEED, IS ATTICUS FINCH IN THE 21ST CENTURY?

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## ATTICUS LIVES!

WE JUST NEED TO

# COAX

HIM OUT OF THE SHADOWS.

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*Of course, not all Americans embrace such relativism, but often what arises in its place is an unreflective egoism, which is best characterized as the belief that what is morally good is “what is best for me.” Rather than the relative standard that postmodernism offers, egoism is an objective standard against which to measure conduct. Its basic premise is everyone should do those things, and only those things, that they perceive are good for them.*

Whatever pertinence that observation about postmodernism and egoism may have in the profession of arms, it seems to me that it is profoundly applicable in the legal profession. Lawyers, too, can empathize with the “Tommy” of Kipling’s poetry. We, too, endure the so-called “lawyer jokes” and snide comments—sometimes good-natured, sometimes not. But well might we ask how far the parallel to “Tommy” extends. In the public’s mind, after the humor is there ever an occasion for gratitude, even redemption, for those following the profession of law? Do we ever have our “thin red line of heroes”? If not, why not? Could there be, if we in the profession devoted ourselves more to actually *being* professional? President James E. Faust—himself a very distinguished lawyer during an earlier season of his life—once humorously remarked to me in a private moment: “Lance, you and I can’t laugh at the lawyer jokes, because we know that most of them are true!”

True or not, is not this humor based to some degree on those same postmodern and egoistic trends within the legal profession that may be infecting other social institutions, like the army? Is there not a justifiable public perception, as Justice Breyer noted, that lawyers are seen as “in it” for themselves? Is it not true that too many of our brothers and sisters in the law—and perhaps even we ourselves—measure our sworn duty as officers of the court against the “what-is-best-for-me” standard? *Where, indeed, is Atticus Finch in the 21st century?*

My own view is that *Atticus lives!* We—each of us—just need to coax him out of the shadows. As Justice Breyer put it to us in his remarks at Stanford, “Why not five days of billings and one for service?” I look into the faces of those assembled here in the conference center. I try to imagine those of you gathered at other locations, participating by satellite. I see some of the finest people ever to walk the earth. The *crème de la crème!* The best

of the best! Here is a gathering of men and women at law with spouses and friends who, as Latter-day Saints, are already committed to the principle of service after the manner of the Savior. In the priesthood quorums, auxiliaries, stakes, wards, and branches of the Church, those here assembled represent hundreds of thousands of hours of service in the kingdom of God. Do we not also have within us a few hours to give as officers of the court, as true *professionals* in the profession of law?

Opportunities abound. For one thing, there are genuine pro bono service opportunities just waiting to be filled. I have been gratified to learn that a growing number of chapters of the J. Reuben Clark Law Society are seeking out such opportunities. To you I say bravo! Additionally, many law firms have developed programs allowing their members and associates to devote professional time in public service. Bravo, again!

But I think there are other opportunities for true professional service that go beyond such organized efforts to render legal services to the poor and the indigent. I refer to what could be called, in the spirit of Atticus Finch, “sack-of-hickory-nuts” service—that is, providing some services for those who can pay something, but not the stratospheric fees that are becoming the norm rather than the exception in the law business. There is a large segment of our society, neither rich nor poor, which often goes unrepresented (or at least underrepresented) at bar. These are the proverbial “just plain folk,” who work hard, struggle on modest means to raise their children and provide for their own old age. These are they who simply do not have a waiting financial reserve when the unexpected encounter with the legal system occurs, but neither do they stand destitute at the doorway of the courthouse and thus eligible for free services. They also need the services of a professional—a lawyer. What about them?

In my experience, at least, the biggest challenge to the spirit of public service that in the Atticus Finch tradition is the very essence of the legal profession is the egoistic “what’s-in-it-for-me” attitude that often stalks the hallways and conference rooms of profit-mesmerized law offices and firms. Billing rates continue to rise to match the sense of financial entitlement held by too many lawyers—and their families! And—can I say this without using an overly broad tar



brush?—some law firm pro bono programs may be motivated as much by a desire to be “seen of men” as by a genuine desire to render “alms” in the form of legal services. Those who practice law solely for the money or the acclaim, in the words of the Master, “have their reward.”<sup>3</sup>

So, without in any way condemning any selfless professional service rendered to anyone in need, may I just point out that there are some real opportunities for sack-of-hickory-nuts service among the ranks of the great middle class of society. I speak to those of you in the great, institutional law firms, as well as those in smaller firms and sole proprietorships. A will expertly drawn for an elderly widow who has not much money, but who can bake the best apple pie on the planet! Accepting a hundred dollars as full payment from an anguished father and mother whose teenage son has gotten on the wrong side of the law in some adolescent miscreance. Receiving a modest line of credit as payment from a struggling tradesman or small merchant for helping him solve a commercial dispute. Such charity from a legal professional is in the highest tradition of what it means to be an officer of the court. It is service that would resonate with Atticus Finch.

But there is yet another, even more fundamental, dimension to lawyer professionalism. I have struggled to encapsulate it in a single phrase with only limited success. The best I can do without circumscribing too narrowly what I am referring to is simply this: *Standing for goodness. Doing the right thing.* Not because it is profitable, not because it looks good, not even because the bar association has included it in a code of conduct or set of ethical standards; but doing the right thing simply because it is *the right thing!* On my office desk is a framed quotation attributable to President Harry S. Truman. It states simply: “When in doubt, do what’s right.” That, I believe, is the spirit of Atticus Finch.

“Standing for goodness”—“doing the right thing”—is a personal philosophy that covers a multitude of virtues. It begins at the everyday level with just common courtesy and pleasantness. Recently, I read a number of codes of “professionalism” promulgated by various states. Universally, they include something like this: “Lawyers should exhibit courtesy, candor, and cooperation in dealing with the public and participating in the legal system.” Or, “Lawyers should avoid hostile, demeaning, or humiliating words in written and oral communications with adversaries.” I shook my head sadly—not at these declarations, which are commendable in sentiment, but at the notion that a “sandbox” or Sunday School lesson, like treating others decently, needs any mention at all in a professional code of those sworn to serve the public interest. For you and me—for men and women at law who weekly covenant to take upon ourselves the name of Jesus Christ, to keep



His commandments, and to always remember Him—such codes should be unnecessary. Standing for goodness is something that should just be part of who we are. Like Atticus Finch.

This matter of standing for goodness as reflected in one's civility towards others is not mere idealism. It is also practical and, in my experience at least, one of the very first evidences of a true professional. A number of years ago while practicing law in San Diego, I was invited to participate in a bar association committee that was drafting one of these codes of conduct. The association also decided that it wanted to establish an annual award for the lawyer whose skill and integrity best exemplified the maxim "His word is his bond." The first such award was given to a good friend of mine who I regarded as perhaps the finest civil trial lawyer in San Diego.

I attended the bar association dinner in his honor where the award was to be presented. Numerous fine tributes were paid to this able and good man by lawyers who were his partners and by those who had been his opponents. Finally, it was his turn for a response. He said this: "When I was a new lawyer, just starting out, I went to Judge Louis Welch [who had been one of the deans of the Superior Court bench] and asked for his advice. He answered with five words. "The decided are always gentle." What a lesson! *The decided are always gentle!* Gentility. Cordiality. Understatement. Honesty. These are all evidences of a gentleman or woman. They are the marks of integrity in one committed to standing for goodness. And, in my experience at least, they are invariably the marks of an opponent to be reckoned with! They are the very first signs of a true professional in law.

Sometimes, standing for goodness is not easy—as Atticus Finch knew. Sometimes it means standing up for justice—for doing the right thing—even when it is difficult.

The news in July 1942 was bleak on every hand. Only six months earlier, air and naval forces of the Empire of Japan had left the U.S. Pacific Fleet a smoking ruin at Pearl Harbor. A seemingly invincible Japanese juggernaut had advanced the boundaries of the Japanese empire throughout Asia and the islands of the Pacific and was literally knocking at Australia's door. In Europe the invincible Nazi war machine had advanced hundreds of

miles into the Russian heartland, seizing Stalingrad on the Volga River. Except for a brilliant naval victory at Midway in June, the United States had hardly gotten into the game. And in New York City, Anthony Cramer, a former German national, was charged with high treason for allegedly aiding a group of Nazi saboteurs. Public sentiment cried out for Cramer's prompt conviction.

Into that grim situation stepped Harold R. Medina, one of New York's best-known trial lawyers. A federal judge asked Medina to represent Cramer. As Medina later recalled, "He told me that Cramer was wholly without means to hire any lawyer, that it was important to demonstrate to the American people and to the world that, under our system of American justice, the poor man is just as much entitled to the advice of competent counsel as is a man with plenty of money. He explained that he wanted me to defend the accused as a patriotic duty."<sup>4</sup> Without hesitation, Medina accepted the unpaid assignment.

It was a delicate and courageous endeavor. Many in the public, even some friends, thought he was giving aid and comfort to the enemy. Others thought he was just in it for the money. But burning deeply in Harold Medina's heart was the principle embodied in the Sixth Amendment that assures every accused the able assistance of legal counsel. So devoted was Harold Medina to this, and all other, provisions of the Constitution that he refused to say or do anything to betray doubt in his client's cause, even refusing to acknowledge that he was a court-appointed attorney. Years later he said:

*I had made up my mind from the beginning that not one word should come from my lips to give the jury the impression that I was anything other than a lawyer retained by Cramer to defend him. He was entitled to the best defense we could give him. He was entitled to the full advantage of everything which went with the fact that I was standing by his side as his lawyer. Nor did I want the jury to think for even one moment that perhaps I thought Cramer was guilty but was defending him only because I had been assigned by the court to do it.<sup>5</sup>*

On May 15, 1947, President Truman nominated Harold R. Medina as a federal district judge. Four years later he presided at the marathon trial of 11 top-ranking American Communists accused of advocating the vio-

lent overthrow of that same Constitution. Eventually, he succeeded the eminent Judge Learned Hand as a judge of the Second U.S. Circuit Court of Appeals.

The cover of *Time* magazine for October 24, 1949, carried the picture of Judge Harold Medina. The caption read, "A certain calm and peace of mind." Truly, the decided are always gentle.

Atticus Finch's decision to defend Tom Robinson was anything but popular. Some accused him, in less elegant tones than these, of being a "lover" of the black race. There was even an attempt on the lives of his two children. But Atticus Finch was a true professional. His love of law was more than a mere flirtation, more than an occasional dalliance, certainly more than a marriage of convenience. His was a deep and profound devotion to the idea of justice and to the bedrock principle of charity and the worth of each soul underlying it. Tom Robinson was a man. As such, in his earnest protestations of innocence, he deserved to be taken seriously. As was the right of any man—rich or poor, white or black or brown, honored or despised—Tom Robinson was entitled to the full requirement of the law that the government's case against him be established beyond a reasonable doubt.

And there was plenty of doubt. Evidence at the trial revealed that Tom Robinson had a withered arm, making it highly unlikely, if not altogether impossible, that he could have committed the alleged crime. And Tom's own compelling testimony was that he had been lured into the Ewell cabin by a seductive Mayella on the pretense of performing a small chore for her—a seduction, like that of Joseph in Egypt, that he had firmly resisted.

Atticus' closing argument was even more compelling—marshaling the facts convincingly, showing that Mayella was likely under the abusive influence of Bob Ewell (who turned out to be the real aggressor), and ultimately dragging into the sunlight the racism that lurked in the shadows of Maycomb County. It was magnificent.

But in Maycomb in 1932, it was not enough. Tom Robinson was convicted. Unable to face the prospect of a lifetime in jail, Tom fled while being transported to jail and was shot dead in the attempt. What possible good was served by Atticus Finch's taking that case? In the end Tom Robinson was



dead anyway. Atticus' own relationship with some in the white community was strained. His children barely escaped the attempt on their lives. And Atticus certainly was not any richer; he had represented Tom Robinson for free—as a public service. For those who measure value according to the egoistic “what’s-in-it-for-me” standard, nothing good came from that ill-fated representation.

But there is another standard of valuation, a nobler, deeper, richer, infinitely more satisfying standard, a standard that only the true professional, the genuine officer of the court, can appreciate. It is profoundly portrayed in the film version of the story about Atticus Finch and Tom Robinson. During the trial the black community of Maycomb had been present—not on the main floor of the courtroom, but in the steaming balcony and outside at the windows.

Now, picture this: The verdict has been announced, the defendant led away. The judge, the lawyers for the county, and the white audience have all departed. Only Atticus Finch remains in the courtroom proper, slowly putting papers into his briefcase. But in the balcony the black audience remains, silent and still. Atticus' two children are with them. As Atticus Finch rises and slowly walks from the courtroom, the entire black population, as though on signal from an unseen hand, arises to its feet in quiet reverence and gratitude, gratitude to a great and good man—an ordinary man perhaps, but a great one. A professional. Says the black preacher to the two Finch children at his side, “Stand up, children. Your father is passing.”

#### NOTES

- ① Mike Papantonio, *In Search of Atticus Finch: A Motivational Book for Lawyers* (Pensacola, Florida: Seville Publishing, 1996).
- ② Rudyard Kipling, “Tommy,” *Ballads and Barrack Room Ballads* (1892, 1893), stanzas 1, 2, 5, 6.
- ③ Matthew 6:2.
- ④ William M. Kunstler, *The Case for Courage* (New York: William Morrow & Co., 1962).
- ⑤ *Id.*

#### ART CREDITS

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“STAND UP,  
CHILDREN.  
YOUR FATHER IS  
PASSING.”

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*It has always been a cardinal teaching with the Latter-day Saints that a religion which has not the power to save the people temporally and make them prosperous and happy here cannot be depended upon to save them spiritually, and exalt them in the life to come.<sup>1</sup>*

J O S E P H F . S M I T H

# Reflections

on the



*Delos Larson, a patent lawyer at Holland & Hart, consults with Norma and Omar Aye on a family matter.*

P H O T O G R A P H Y B Y



... BY CRAIG D. GALLI ...

**SINCE 1998 I HAVE HAD THE GOOD FORTUNE** of participating in the Salt Lake Inner-City Project, first as a Welfare Services missionary with my family and later as a coordinator of pro bono legal services. Last year the Inner-City Project pro bono program expanded and became incorporated into the J. Reuben Clark Law Society pro bono initiative. This article recounts the genesis of these programs and my own experience with them.

# Lord's Legal Storehouse





## Experience as Welfare Services Missionaries

In 1998 I learned that Elder Alexander B. Morrison, then president of the Utah North Area, had embarked on an innovative pilot program to bring temporal assistance to members of the Church and others living in less affluent areas. Elder Morrison started the Salt Lake Inner-City Project after observing that residents of the Salt Lake Valley suffered from the same social problems that plague most large metropolitan areas.

Retired and older working couples living in more affluent areas of the Salt Lake Valley are called to attend inner-city wards and to accept assignments that will assist the needy. These Church-service missionaries do not generally receive ward callings nor displace the existing ward leadership. Rather, they receive assignments from the bishop to assist individuals and families on a range of issues, including unemployment, mental and physical health, inadequate housing, personal hygiene, addictions, and various forms of abuse. In some Salt Lake wards, bishops have as many as 70 families on welfare rolls, which can quickly overwhelm ward resources.

Hoping to participate in the Inner-City Project with my wife and four daughters (ages 3, 10, 13, and 15), I contacted its director, Jeffrey C. Swinton, then president of the Salt Lake Central Stake, to volunteer my family. At our first training meeting, Elder Swinton (now an Area Authority Seventy) described the purpose of the project: “By applying the welfare principles of consecration and cooperation within and beyond our own neighborhoods, we can enhance the spiritual and temporal lives of the people of Salt Lake City, Utah.”<sup>2</sup>

Compared to the vastness of the temporal and spiritual needs we observed, our service was small, but it changed our hearts and perspective. Our four daughters observed a side of society that gave them a greater appreciation for their own blessings. They no longer took for granted a full refrigerator, shoes with good soles, and warm coats. Both our teenage daughters separately thanked me for being

able to hold a steady job and for keeping the pantry full. After witnessing a family living in a rundown trailer on a gravel lot, they thanked my wife for growing a garden.

We all became less judgmental of others and their challenges, recognizing that many of our brothers and sisters know only broken homes where abuse, poverty, and mental-health problems had plagued their families for many generations. To overcome even the simplest of obstacles required enormous courage by them and faith and nonjudgmental help from those who would love, shepherd, and respect them. We were touched by the examples of the strong members living and tirelessly serving in the inner city. Their homes prominently displayed pictures of the Savior, temples, and prophets, something generally not seen in our own neighborhood. More important, our children developed a greater love for others and willingness to extend themselves in the service of others.

Since we completed our service mission almost six years ago, we have had many friends with young children and teenagers serve in the Inner-City Project. Without exception the experience has been equally remarkable for them, and all reluctantly returned to their home wards at the end of their missions. My wife and I could not imagine a better way to strengthen the faith and testimonies of our children and to teach them compassion and gratitude. Our oldest daughter, who recently returned from a full-time mission to Sicily, remarked that her desire and courage to serve a mission came in large part from her experience as a service missionary in the Inner-City Project.

## 2 Pro Bono Legal Services in the Inner-City Project

One of the salient lessons brought home from our mission was a new understanding of the inspired principle of the Lord’s storehouse. Church-service missionaries received training to tap into significant resources both in the Church and in the community to help people in need achieve self-reliance. Many

professionals—dentists, doctors, accountants, carpenters, plumbers, auto mechanics, and lawyers—generously contribute their time and talents to assist indigent persons for free or at a reduced cost. Those who render such service literally allowed their talents to “be cast into the Lord’s storehouse, to become the common property of the whole church—every man seeking the interest of his neighbor, and doing all things with an eye single to the glory of God.”<sup>3</sup> As Church-service missionaries identify the specific needs of those with whom they serve, they receive approval from the bishop to access the Lord’s storehouse in order “to administer to those who have not, from time to time, that every man who has need may be amply supplied and receive according to his wants.”<sup>4</sup> As Elder Morrison explained:

*Caring for the poor and needy “in the Lord’s way” can come about only if we make others’ conditions our own and labor, endure and suffer together. Givers then will be united with receivers, and the efforts of the givers will be magnified because they are united to each other. What a glorious principle is unity. It is a hallmark of the Zion people of God.<sup>5</sup>*

After concluding our service mission, I was asked to work with Kent Linebaugh (Jones, Waldo, Holbrook & McDonough) as a legal coordinator of the “Lord’s legal storehouse” in the Inner-City Project. Previous to that time a prominent immigration attorney, Oscar W. McConkie III (Kirton & McConkie) had performed this function for several years. Service missionaries contacted me, as a legal coordinator, to determine the





precise type of legal problem and to identify an attorney from our list of volunteer attorneys who could handle the matter. The legal matters referred in this way sometimes involved extensive litigation, but more often than not, a couple of phone calls, letters transmitted, or meetings were all that was required to solve many legal problems. The legal specialties most commonly needed by attorneys volunteering in the Inner-City Project include: divorce and child; immigration; landlord/tenant; bankruptcy; employment, disability, and workers' compensation; domestic violence; tax and estate planning; and criminal.

The Lord's legal storehouse in the Inner-City Project was not established to replace the wonderful work performed by the Legal Aid Society and other organizations. Those organizations have skilled and dedicated attorneys on staff to represent the indigent. Unfortunately, in the Salt Lake Valley, it can sometimes take many months for an individual to access these legal services. Moreover, these organizations and the Utah Bar Association do not have a robust program to recruit attorneys in private practice to take pro bono referrals.

# 3

## JRCLS Pro Bono Program

In early 2005 Leo Jardine, a retired tax attorney, was called by Elder Russell M. Ballard to organize a group of volunteer Spanish-speaking attorneys to assist in the newly created Hispanic Initiative, which now has Welfare Services missionaries serving in over 20 Spanish-speaking wards and branches. In addition to immigration law issues, the Latino community has more than their share of legal needs. Regrettably, many have been victimized by employers who don't pay them for their work and by unscrupulous landlords who deprive them of their tenant rights.

Berne Broadbent (Kirton & McConkie and chair of the service committee of the JRCLS Salt Lake Chapter) agreed to recruit volunteers from the JRCLS to assist in the Hispanic Initiative. Shortly thereafter, the JRCLS Salt Lake Chapter agreed to oversee the combined pool of volunteer attorneys assisting in the Inner-City Project and the Hispanic Initiative. The Salt Lake Chapter also sponsored a well-attended meeting and panel discussion with representatives from Salt Lake's Catholic Community Services and Jewish Family Services to share ideas and explore opportunities for collaboration. Eventually JRCLS volunteer attorneys will offer pro bono assistance through a referral process from ecclesiastical leaders of other faiths in the Salt Lake Valley, although this has already happened on a limited basis.

To date, the JRCLS Salt Lake Chapter has recruited almost 50 volunteer attorneys to offer pro bono legal services through Church-service missionaries. Four experienced attorneys—Kent Linebaugh, Richard Neslen, Tony Bentley, and Steve Boyden—have volunteered as legal coordinators to handle the intake of referrals from service missionaries. Examples of recent legal matters referred through the JRCLS Salt Lake Chapter pro bono initiative include the following:

Negotiated a divorce for a pregnant woman with a small child who was abandoned by her husband shortly before the Christmas holidays.

Procured a protective order for an elderly woman who had been physically and emotionally abused by her drug addict son after he was released from prison.

Recovered compensation withheld from a skilled Hispanic auto mechanic who worked six weeks but was then fired without cause.

In early 2005 William F. Atkin (associate general counsel for the Church and former Inner-City Project Church-service missionary) proposed expanding the Lord's legal storehouse to other JRCLS chapters around the country. The question arose as to how other chapters could implement the pro bono initiative without the involvement of Church-service missionaries. It soon became evident that the existing Church organization and programs already provided the needed infrastructure through ward and stake priesthood channels.

Specifically, bishops rely on the ward welfare committee to "[c]oordinate efforts to help specific ward members meet their spiritual and temporal needs, including long-term needs."<sup>6</sup> Similarly, the stake welfare committee assists the bishop by identifying available "welfare resources within the stake" as well as outside the stake.<sup>7</sup> "The Lord's storehouse, therefore, exists in each ward. The bishop is the agent of the storehouse. Guided by inspiration from the Lord, he distributes the Saint's offerings to the poor and needy."<sup>8</sup> As President Thomas S. Monson reminded us in 1986, "The Lord's storehouse includes the

**LEFT:** Sister Sherlyn Lewis helps Anai Ajack, age 10, learn to read. **BELOW:** Sister Lewis uses a Church program to teach English to Nyandang Dok and Ajok Akoi. **RIGHT:** Brother Kay M. Lewis reviews seven-year-old Mario Ajack's math assignment from school.



time, talents, skills, compassion, consecrated material, and financial means of faithful Church members. These resources are available to the bishop in assisting those in need.”<sup>9</sup>

Thus, members of any chapter of the JRCLS outside the Wasatch Front who desire to participate in the Lord’s legal storehouse need only offer their services to bishops and stake presidents. These leaders and members of their ward and stake welfare committees can then refer legal matters of indigent members to them. In September 2005 the Church’s Office of General Counsel issued guidelines entitled *Pro Bono Legal Services Program*, a full copy of which is available on the JRCLS Web site.<sup>10</sup> The guidelines set forth the following three objectives of the JRCLS pro bono program:

1. To bless the lives of members of the LDS Church and others by providing legal assistance to those who could not otherwise afford it;
2. To assist LDS Church leaders by providing an organized program of legal assistance to those members who priesthood leaders determine are in need of legal assistance and who do not otherwise have the financial resources to obtain such assistance; and
3. To provide opportunities of service to attorneys who are members of the JRCLS, which service will bring them great personal and professional satisfaction.

To implement the JRCLS pro bono program in a particular community, the guidelines recommend that the chapter leadership undertake the following:

- 1. JRCLS local chapter.** If a JRCLS local chapter wants to initiate the pro bono program, the local chapter should organize a pro bono committee that will be responsible for the implementation of the program.
- 2. Participating LDS stakes.** The local pro bono committee should contact the stake presidents in their area to determine whether their stakes would be interested in participating. . . . The pro bono committee will train the appropriate LDS leaders in that stake (*e.g.*, stake presidency, high council, and bishops). This training will include a review of

the Priesthood Leader Guidelines for pro bono legal services.<sup>11</sup>

**3. Pro bono coordinator(s).** The local pro bono committee will identify and train one or more volunteer attorneys as pro bono coordinators. The pro bono coordinators will be responsible for the intake of referrals from the participating priesthood leaders. The principal responsibilities of the coordinators include: (1) screen the referred matters to determine the legal specialty required to assist the member; (2) determine if the nature of the legal matter involved fits within the scope of those matters properly handled by the pro bono program; (3) refer the matter and prospective client to a volunteer attorney; and (4) track all referred matters.

**4. Resource attorneys.** The local pro bono committee will identify and train volunteer attorneys to serve as resource attorneys to the volunteer attorneys in the pro bono program. The resource attorneys should be attorneys with a basic expertise in the legal matters that will be routinely covered by the pro bono program.

**5. Volunteer attorneys.** The local pro bono committee will identify and train members of the local Law Society chapter who agree to serve as volunteer attorneys.

In addition, the guidelines explain that the community service committee of the Law Society’s International Board will serve as a resource for any JRCLS local chapter that has decided to implement a pro bono program. Sterling Brennan (Workman Nydeggar) currently serves as chair of that committee. The community service committee will identify and make available to local chapters members who have agreed to serve as resource attorneys at a national level for legal matters governed by federal law (*e.g.*, immigration, employment, etc.).

Once a JRCLS chapter has undertaken the above, the process for receiving referrals from local ecclesiastical authorities should normally follow these five steps:

**1. The priesthood leader.** The priesthood leader, usually a bishop, determines the need for legal services based on priesthood welfare principles and refers the qualified member to



the pro bono coordinator(s). He may also assign a member of the ward welfare committee to contract the pro bono coordinator.

**2. Pro bono coordinator.** The pro bono coordinator reviews the matter to determine whether it is a legal matter properly covered by the pro bono program and then refers the matter to a volunteer attorney.

**3. Volunteer attorney.** The volunteer attorney is engaged by the qualified member in writing to establish the attorney-client relationship, interviews the client, obtains, as necessary, the assistance of a resource attorney, and resolves the legal matter in a competent, timely manner. The written undertaking should contain an express disclaimer that neither the LDS Church nor the JRCLS is liable for any errors or omissions of



Sister Carol Thomas helps  
Kathy North with her budget and  
to balance her checkbook.



Finally, the guidelines describe several important concepts that should be understood and followed by JRCLS chapter leaders, JRCLS attorney volunteers, and local ecclesiastical leaders.

*Priesthood leader approval.* A bishop generally approves all referrals of legal services to the pro bono program.

*Engagement.* The needy individual engages the attorney for legal services and is the “client.” The Church and priesthood leader do *not* engage the attorney.

*Confidences.* The priesthood leader exercises great caution to ensure that he does not disclose confidences covered under the priest-penitent privilege to the pro bono coordinator or to the volunteer attorney.

*Attorney-client privilege.* The priesthood leader communicates sufficient facts to the volunteer attorney so that the attorney under-

immediate and extended family should also be explored. Any use of fast offering funds by a priesthood leader for legal fees and expenses should be done in a manner consistent with the general Church welfare principles, especially in adversarial proceedings involving members on both sides of the litigation.

## 4

### Joining the Lord’s Legal Storehouse

Lawyers frequently find themselves already busy in Church and civic affairs, not to mention the pursuit of family and personal interests. Carving out time for pro bono activities can be difficult. The American Bar Association Model Rules of Professional Conduct recommends that each lawyer devotes 50 hours per year rendering pro bono assistance to the poor and needy.<sup>12</sup> Sadly, a recent study of AmLaw 200 firms, the largest 200 law firms in the country, revealed that only 36 percent of the attorneys in those firms donated 20 hours or more of pro bono work.<sup>13</sup>

#### Why Pro Bono?

Why should an attorney or law firm devote substantial time to pro bono work? In a speech given on March 25, 1993, at the BYU Law School, practicing attorney David G. Campbell, from the Phoenix firm Osborn Maledon, eloquently explained why pro bono work is needed and should be performed:

*What little pro bono work I have done has been enormously rewarding—more so than any other aspect of my litigation practice. . . . It is not a coincidence that dissatisfaction with the profession is reaching its peak at a time when lawyers must, by ethical requirement, be forced to spend even one hour per week helping those in need. . . . In today’s world of legal complexities, even a simple landlord-tenant problem can become an insurmountable barrier to one untrained in the law. Honest people of modest means often find themselves at tremendous disadvantage in their personal, family, and business dealings when they lack legal counsel. Those of us who have a monopoly on legal services must provide the assistance if it is to be provided at all.<sup>14</sup>*

*We need . . . to reach down  
and extend a helping hand  
without notice, without thanks,  
without expectation of  
anything in return.*

**PRESIDENT GORDON B. HINCKLEY**

the attorney and that neither of them provides any malpractice insurance coverage for the volunteer attorney.

**4. Pro bono coordinator follow-up.** The pro bono coordinator will periodically monitor the status of all referred matters.

**5. Volunteer attorney.** The volunteer attorney will periodically report to the pro bono coordinator the status of all referred matters and will give a final report to the pro bono coordinator upon completion of a referred matter.

stands the nature of the case. The priesthood leader should not sit in discussions between the attorney and the needy individual in which the attorney dispenses legal advice.

*Payment of attorneys’ fees.* Most attorneys in the Lord’s legal storehouse are willing to provide legal services at no cost. However, the priesthood leader may wish to explore the needy individual’s ability to pay some reasonable portion of the legal services, even if the amount is small and payment is spread over time. Financial resources from the person’s

For Latter-day Saint attorneys, an additional spiritual motivation exists to provide pro bono legal assistance to the poor and needy. In a JRCLS devotional on February 28, 2004, President Boyd K. Packer linked undertaking pro bono work with keeping one of our most fundamental covenants:

*Be willing to give of your time and of your means and [of] your expertise to the building up of the Church and the kingdom of God and the establishment of Zion, which we are under covenant to do—not just to the Church as an institution, but to members and ordinary people who need your professional protection.<sup>15</sup>*

Some of us may worry that if we devote time and energy to pro bono work, our own practices will suffer. However, the Lord has counseled:

*Verily I say, men should be anxiously engaged in a good cause, and do many things of their own free will, and bring to pass much righteousness;*

*For the power is in them, wherein they are agents unto themselves. And inasmuch as men do good they shall in nowise lose their reward.<sup>16</sup>*

How does the loss of a few billable hours compare to the blessings promised for helping the needy? King Benjamin taught:

*For the sake of retaining a remission of your sins from day to day, that ye may walk guiltless before God—I would that ye should impart of your substance to the poor, every man according to that which he hath.<sup>17</sup>*

### **Joining the Lord's Legal Storehouse as Lawyers and Law Firms**

Attorneys living in the Salt Lake area have abundant opportunities through the JRCLS pro bono project (in addition to programs sponsored through the Utah State Bar) to provide pro bono legal services. While the Salt Lake Inner-City Project and Hispanic Initiative provide JRCLS members living along the Wasatch Front with unique pro bono opportunities, the JRCLS *Pro Bono Legal Services Program* guidelines described above provide a mechanism for virtually any LDS attorney to obtain pro bono referrals through priesthood channels.

Regrettably, not all law firms view pro bono service with the same degree of enthusiasm. In Utah few law firms have formal pro



**LEFT:** Elder and Sister Thomas have dinner with the Juarez family, who were sealed in the temple. **BELOW:** Sister Brenda Juarez and daughters Caroline, age 11, and Noelia, age 9, play a game with the missionaries. **RIGHT:** Brother Ricardo Juarez, who serves as elders quorum president, enjoys dinner with his family and the missionaries.



bono programs that encourage partners and associates to perform pro bono work. Some firms may actually discourage providing pro bono work, favoring instead making contributions (sometimes very generously) to the popular “And Justice for All Campaign,” an organization supported by the Utah Supreme Court to raise and distribute funds to organizations such as the Legal Aid Society of Salt Lake, Utah Legal Services, and the Disability Law Center. While financially supporting such organizations is vital, it provides little personal satisfaction compared to directly providing pro bono legal services.

Most large regional and national law firms have highly developed pro bono programs. Individual attorneys desiring to undertake a pro bono matter not directly referred to the firm from the local bar association may often present the matter to a pro bono committee or pro bono partner for approval. Many law firms, such as Beveridge & Diamond in Washington, D.C., routinely obtain referrals from religious and other charitable organizations and, thus, may be receptive to accepting referrals from a local bishop through the local JRCLS chapter pro bono coordinator.

Other firms may not be so eager to accept a pro bono referral that originated from an

LDS bishop and came through the JRCLS. For example, one attorney at a major New York firm indicated that excessive scrutiny and bureaucratic red tape likely would discourage attorneys at his firm from accepting a referral directly from the JRCLS or any type of religious organization. However, he thought it possible for the local JRCLS chapter to partner with the local Legal Aid Society to refer matters to his firm. Such coordination itself would have significant benefits, such as enhancing the JRCLS's positive image to the local bar and community and bringing greater credibility to the JRCLS pro bono program. Most law firms that already have a commitment to pro bono work likely will respond positively to religion-affiliated organizations designed to provide legal services to the indigent. Indeed, the ABA specifically endorses providing legal services to or through religious organizations.<sup>18</sup>

Where circumstances do not allow an attorney to participate in the JRCLS pro bono program, a multitude of pro bono opportuni-





ties exists. The ABA has posted on its Web site a helpful directory of pro bono programs in each state.<sup>19</sup> The ABA Standing Committee on Pro Bono and Public Service also offers national and international pro bono opportunities.<sup>20</sup> For example, the ABA has recruited tax attorneys across the country to help individuals and businesses access new tax provisions designed to assist those affected by Hurricane Katrina. Many law schools also have pro bono clinics in which experienced attorneys can mentor law students interested in taking pro bono matters.

#### **Any Lawyer, Regardless of Specialty, Can Join the Legal Storehouse**

A common concern among some lawyers is that they do not have the skills or experience to handle most common pro bono matters. For example, how many antitrust and patent lawyers would feel comfortable or qualified to handle a divorce or an immigration matter? In my own case I have no expertise handling divorces, landlord-tenant matters, appealing the denial of a workers' compensation claim, or countless other legal issues often confronting the needy. Nor have I observed any indigent person needing repre-

sentation in an environmental enforcement action or with environmental due diligence to purchase contaminated property.

This potential obstacle can be overcome in a variety of ways. First, many bar associations and legal-aid organizations have lawyers experienced in the specialties most needed to serve the poor who can provide mentoring, supervision, and legal forms for attorneys willing to learn skills needed for pro bono service. Second, large law firms often have experienced attorneys who can provide in-house mentoring and supervision. Third, each JRCLS chapter can assemble a list of specialists who can provide mentoring to less-experienced attorneys. Recently, a young patent lawyer at Holland & Hart, Delos Larson, handled a complex divorce involving foreign nationals. He was mentored by Bennett Peterson and Rebecca Long, both experienced family law practitioners.

At the time of our retirement, we likely will reflect back with satisfaction on the big court victories or landmark transactions and the accolades that accompanied our successes. But at the end of our lives, perhaps the most cherished memories from our professional careers may well be those instances in which we accomplished what President Gordon B. Hinckley instructed: "We need as individuals . . . to reach down and extend a helping hand without notice, without thanks, without expectation of anything in return, to give of that which the Lord has so generously blessed us."<sup>21</sup>

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#### **NOTES**

- ① Quoted in Leonard J. Arrington, *Great Basin Kingdom: An Economic History of the Latter-day Saints 1830–1900* (Salt Lake City: University of Utah, 1966) 425 n. 16 (quoting Joseph F. Smith, "The Truth About Mormonism," *Out West*, vol. XXIII [1905] 242).
- ② Jeffrey C. Swinton, "The Salt Lake Inner-City Project" (unpublished paper).
- ③ D&C 82:18–19.
- ④ D&C 42:33.
- ⑤ Alexander B. Morrison, *Visions of Zion* (Salt Lake City: Deseret Book, 1993) 114.

- ⑥ *Gospel Teaching and Leadership, Book 2 of the Church Handbook of Instructions* at 318 (1998).
- ⑦ *Id.* at 316.
- ⑧ *Spiritual and Temporal Welfare, Book 2 of the Church Handbook of Instructions* at 256 (1998).
- ⑨ Thomas S. Monson, "Guiding Principles of Personal and Family Welfare," *Ensign* (September 1986), 5.
- ⑩ <http://www.jrcls.org/>
- ⑪ The Priesthood Leader Guidelines are attached to the *Pro Bono Legal Services Program* guidelines.
- ⑫ American Bar Association Rules of Professional Conduct, Rule 6.1: "Every lawyer has a professional responsibility to provide legal services to those unable to pay. A lawyer should aspire to render at least (50) hours of pro bono publico legal services per year. In fulfilling this responsibility, the lawyer should: (a) provide a substantial majority of the (50) hours of legal services without fee or expectation of fee to: (1) persons of limited means or (2) charitable, religious, civic, community, governmental and educational organizations in matters that are designed primarily to address the needs of persons of limited means; and (b) provide any additional services through: (1) delivery of legal services at no fee or substantially reduced fee to individuals, groups or organizations seeking to secure or protect civil rights, civil liberties or public rights, or charitable, religious, civic, community, governmental and educational organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization's economic resources or would be otherwise inappropriate; (2) delivery of legal services at a substantially reduced fee to persons of limited means; or (3) participation in activities for improving the law, the legal system or the legal profession. In addition, a lawyer should voluntarily contribute financial support to organizations that provide legal services to persons of limited means."
- ⑬ Aric Press, "Brother, Can You Spare 20 Hours?" *American Lawyer* (September 2005).
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- ⑮ Boyd K. Packer, "On the Shoulders of Giants," *Clark Memorandum* (fall 2004), 11, emphasis added.
- ⑯ D&C 58:27–28.
- ⑰ Mosiah 4:26.
- ⑱ *Supra* note 12.
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- ⑳ <http://www.abanet.org/legalservices/probono/home.html> (national ABA pro bono opportunities) <http://www.abanet.org/legalservices/probono/international.html> (international opportunities).
- ㉑ Gordon B. Hinckley, *Teachings of Gordon B. Hinckley* (Salt Lake City: Deseret Book, 1997) 459.







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It is a  
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occasion.*

# THEY KNEW THE MORMON PEOPLE

The people who own the *Financial Times* of London Prentice Hall, and a number of other major publications, were searching to see if they could find someone in the world of business who hadn't been sued, indicted, or otherwise criminalized in some way. Almost a year ago they got in touch with me and asked me if I would write a book on ethics. The thought had never occurred to me to do such a thing. I told them I would be honored to, but it would be a very simple book. It would be right from my heart. It would be the foundation and underpinning of what I believe to be essential in honesty and fairness with respect to commerce and international trade.

Well, I sent them the first three chapters all written out in longhand and never expected to hear from them again. They phoned back and said this is just what they wanted; it was simple, and it was basic. They said, "Do another seven chapters, and we'll put out the book in 20 languages and sell it throughout the world."

I only mention this because I list in that book a very few of the heroes that I have had in my life, and I am honored to be sitting next to one of them: President Faust. He is a man of great compassion and a man whom I dearly love and revere. So I acknowledge you. Thank you very much for being with us.

One of my longtime and treasured and trusted friends of many years is President Cecil Samuelson. How fortunate you are to have President Samuelson as your president, your leader at Brigham Young University. We have served together at the University of Utah in many capacities. I love you, revere

you, and respect you and Sharon and your family very much.

I want you to know that to be the father of the governor requires a bit of humility. The other day a phone call came in for me, and I returned it and said, "This is Jon Huntsman returning the call," and the wonderful lady on the other end said, "Just one moment, Governor. The party will be right with you." I said, "No, no, no, I'm not the governor. I'm the governor's father." There was a long pause, and she laughed and came back and said, "You wouldn't mind if we called you back in a few days, would you?"

May I speak at the outset of my great affection for President Howard W. Hunter. It's difficult for me to talk about President Hunter. I remember the evening that Rex Lee called me. I was in California with Karen and our children, and Rex said, "We are going to build a library. Would you be kind enough to donate a million dollars, because it will be named after Howard W. Hunter?" I said, "Rex, whatever the size of it, don't tell me, but let me pay half of it. Perhaps the alumni or the others would care for the other half." Whenever President Hunter's name is attached to part of something, I am very honored to be part of it.

We lived for almost 25 years just a few blocks from President Hunter, and for almost 10 years I had the privilege to be his stake president. I remember when Elder Marvin Ashton called me to be stake president, I thought that I had better go over and receive some counsel from President Hunter, because in southern California, where Karen and I had lived for a number of years, President

Hunter was regarded as having been the most outstanding stake president to serve in those parts.

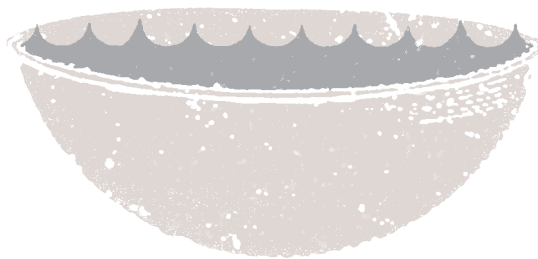
I went over and saw President Hunter the night I was called and said, "President, could you train me how to be an effective, sensitive, and compassionate stake president?" The president paused for some time, and I wondered if he had heard the question correctly. Finally he said, "Visit the less active and the ill." I wrote that down in my notebook and waited. There was a long pause, and I said, "President, would you care to continue your training session?" He said, "No, that's all you need to do to carry out your assignment and your duties." I have utilized that advice since then, remembering his compassion, his sweetness, remembering those who may be ill, remembering those who may have been left behind somewhere in life's way. So it is a great honor to have been a part of the construction of the Howard W. Hunter Law Library.

I must just tell you one other story about President Hunter, because he had such a dramatic impact on my life and was such a dear and cherished friend, particularly during the time after his wife Claire's passing until he remarried. I would try to go over to the president's home every night, because he was fairly lonely at times. But one night I decided to stop by after he had remarried. I knocked on the door, and Sister Hunter answered the door and said, "Can you come in? He's very ill once again." Remember that President Hunter had illnesses come and go almost constantly over a 20-year cycle.

THIS ADDRESS  
WAS GIVEN  
SEPTEMBER 1,  
2005, AT THE  
FOUNDERS DAY  
DINNER.



**WOULD**



**BE PREPARED**



I went in and visited briefly with him. He was lying on his back, and I kissed him on the forehead and said, "President Hunter, it's such an honor to be with you, dear friend, but you look ill." He said, "I am, Jon. My body is terribly painful, and I feel like I need a blessing. Would you be kind enough to offer one?" I said, "Oh, no, President, I don't know if I am worthy to do that." He said, "Of course you are." I said, "Can you tell me what the ailment is? Can you tell me what's caused this illness?" He said, "Today I had an ill thought about another man, and it's made me sick all day." I said, "President, you had a negative thought, an ill thought about another person, and that very thought made your physical body to become sick?" He said, "Yes. I cannot continue my work if I have any thoughts that are negative toward any man or woman."

It was one of the great blessings of my life to lay my hands on his head and give him a priesthood blessing. I thought then of the great admonition in the fifth chapter of Matthew: "Blessed are the pure in heart, for they shall see God." I hope as you enter the Howard W. Hunter Law Library on the

beautiful BYU campus that you'll remember him for the graciousness, kindness, and compassion that he extended to all of the people in his life.

I want to say a word about Rex E. Lee, your first dean. Karen and I started out with a very "premiere" type of job. I was an egg salesman in Los Angeles, and a man by the name of Roland Rich Wooley, who was one of the founding fathers of your law school, put me under his wing. One day in my mid-20s, he called me to his home and said, "Jon, I am going to have you meet somebody that I would like very much for you to meet, because I have a feeling that someday the two of you will become very good friends. I went over to his home in great anticipation—he lived next door to Bob Hope in North Hollywood, California. There I met Rex Lee, who was a young lawyer from Phoenix. Rex looked at me, and I looked at him. He looked at this egg salesman, and I looked at this lawyer from Phoenix, and Roland said, "Now, I wanted to bring you two together. You are two sons of destiny." Well, I didn't even know what that meant. Rex obviously would have;

he was much brighter and more knowledgeable. But, strangely enough, that started a friendship and a brotherhood between the two of us that lasted until his passing in Provo. We spent some wonderful times together, and it was a great honor to assist in endowing the Rex E. Lee Chair in the Law School.

Today has been a day of great compassion for America. I've been saddened a lot today, as I know each of you have, as we've watched the lives of people of New Orleans and Mississippi and parts of Alabama and the Panhandle of Florida shattered from the devastation of Hurricane Katrina. We have a number of clients down in that area—people who are part of the petrochemical industry—and all of their plants are closed right now. That doesn't concern me nearly as much as the lives of the people.

I was deeply touched when Jon Jr. called last night, because the lieutenant governor of Louisiana had reached out to him, along with several governors: the governor of Texas, right next door; the governor of Oklahoma, right next door; the governor of one of the other southern states that was right next door; and then, strangely enough, to the governor of the state of Utah.

I asked the president of the American Red Cross, "Why in the world would they skip over some of the nearer states and come to Utah to ask for help?" He said it was because they knew the Mormon people would be prepared and they knew Utah's answer would be yes. Utah is a state where they knew people would be prepared, people would be willing to give, people would have compassion, and people would have great

sensitivity toward others. I thank each of you, and thank the other people of our state.

We've been blessed by the Lord to have a moral compass. I recall my days in the Nixon White House. H. R. Haldeman was my boss, and some of you may remember the type of organization that he attempted to run at the White House. He said, "We run an organization with zero defects." Well, it's impossible when you're dealing with human beings to have a zero-defect system. Because of the fact that we are human beings, we are fallible, and we also stumble and fall and have to pick ourselves up again and move on and not worry about what causes the fall, but learn from it and learn how to keep on going. In Haldeman's White House it was a little bit different, and for me it was quite an experience.

I remember on one occasion he asked me if I would go in and do something in a meeting with some of the White House senior advisors. I had no business being there, believe me. I look back to that day and wonder how they survived, and then I realize they didn't survive. But in any event, I was asked to do something that day, and I went from Haldeman's office to my office, picked up the telephone, and called one of my former associates in California to find out some information on a person, and right in the middle of the conversation, my moral compass kicked in. It was the strangest feeling in the world. My moral compass said, "You should not be making this telephone call; you have no business interfering in the life of somebody else to get information for Mr. Haldeman. This has nothing to do with why you came and joined this staff, and the information you are seeking has nothing to do with running the government."

I said to the person on the other end of the phone, "Will you forget I called you? I've made a horrible mistake by asking you to do something that I've just realized is absolutely wrong, and I don't want you to do it. I want you to forget I called you, and I'm going to go back in to the gentleman who asked me to make this call and tell him I just can't do it." I went back to Bob Haldeman, and I said, "Sorry, Bob, I cannot proceed in making this phone call. I can't do what you asked me to do. If you'd feel more comfortable with me leaving the White House staff, I can understand that, but I can't make this phone call."

I was always grateful that I didn't do it. There were only two of us who served as assis-

tants to the president during those difficult years who were never called before the Watergate grand jury or who were never involved in any way with the wrongdoings of that White House. I always felt it was because I listened to that moral compass. Maybe it's the Holy Ghost, maybe it's a special spirit that dwells within each of us; but we all have it. We all know when we're doing something wrong, something we shouldn't be doing. It wasn't by chance that great companies like Enron toppled and fell and thousands of people were out of work and lost their pensions and their retirement through the stock market.

I would like to conclude my thoughts tonight with a story. Karen and I have had many invitations to speak at university graduation exercises. One of them happened to be at Weber State University. I was on the platform with the president of the university, and a lot of time had been taken with speeches and introducing different deans and outstanding graduates. I looked at my watch and saw an hour and a half had passed, and I was rapidly crossing out parts of my graduation talk and throwing pages away. Finally I got down to one page, because the ceremony kept going on and on and on.

When I stood up I thought, I've got to do something unusual, because this ceremony's gone on long enough. So I said, "Will the graduates please arise?" They all stood. I said, "Now will you please repeat after me: 'No exercise is better for the human heart than reaching down and lifting another up.'" They repeated the words. I said, "Will you please repeat that one more time?" They repeated it again, and I said, "Thank you very much. I would like to give this university a million dollars worth of scholarships, and I'll be on my way." My speech took 45 seconds.

The next morning Bob Schaeffer on CBS Sunday morning news said, "I was a graduation speaker at the University of Utah yesterday, and I gave the second-best graduation speech in the state. Let me quote what I thought was the best speech." He then gave my 45-second speech. Well, after that I was deluged with speaking invitations by colleges and universities. I don't know if it was for the scholarship fund or for the briefness of my message, but it serves to point out that there is no exercise in life better for the human heart than reaching down and lifting another up.

Thank you, and God bless you.



Joseph I. Bentley



Lew W. Cramer

### **J. Reuben Clark Law Society Changes Leadership**

Joseph I. Bentley was named international chair of the J. Reuben Clark Law Society at the annual leadership meeting at Aspen Grove on September 29-30, 2005. Bentley, recently retired partner with Latham & Watkins, had previously served on the international board and as chair-elect under outgoing chair Lew W. Cramer, Washington-based lawyer and venture capitalist. Former chairs Ralph Hardy, Gary Anderson, Bud Jones, Ralph Mabey, Marsh Tanner, and Bill Atkin joined Cramer in welcoming Bentley and his chair-elect, Brent J. Belnap, vice president and senior counsel, Citibank, N.A.

Under Cramer's leadership the Law Society added over one thousand members and 10 new chapters, including four chapters in Australia; two new chapters in Canada; one in Hamilton, New Zealand; and chapters in Moscow, Sao Paolo, Lima, and



Mexico City. Also of note has been the addition of student chapters affiliated with the Society during Cramer's tenure. There are now over 40 student chapters at law schools nationwide and in some foreign locations.

In a project worked on by both Cramer and Bentley, a groundbreaking conference for over 250 members of the J. Reuben Clark Law Society was held at Hotel Monaco in Washington, D.C., on February 17, 2006. The conference was held in conjunction with the Annual Rex Lee Award Luncheon, sponsored by the Mid-Atlantic Chapter of the Society.

### Law School Alumni Association Welcomes New President

On January 1, 2006, Mark S. Webber, '86, passed the BYU Law School Alumni Association presidential torch to Wendy C. Archibald, '93. Webber and his board put their association under a microscope to refine a vision statement: "Fostering a community of leaders dedicated to a life of service." Archibald will implement this vision by providing experiences to help alumni "connect with others, give back, and serve together." She will spend her year communicating to alumni and law students the "Camelot" stories of the Law School's formation.

Under Webber, alumni donations increased to a record high and purchased the Harvard International Human Rights Microfiche Collection, a 30,000-volume set that became the Law Library's 500,000th "volume." Archibald's goal to increase alumni participation from 25 percent to 30 percent is critical, because alumni-giving figures importantly into law school rankings.



Mark S. Webber



Wendy C. Archibald

Prior to her current work as a corporate trainer and guardian ad litem, Wendy Archibald was in private practice and a staff attorney for Congressman Bill Orton. Mark Webber, a former partner at Parsons Behle & Latimer, is now president/state manager for the Utah Division of First American Title, overseeing 35 direct operation escrow offices and the Utah title division.

### Law Society Chapter News: Peru by Ricardo Solis, David Torres, and Adam Ford

Peru's modern legal culture stretches back over a millennium to the arrival of the Spanish conquistadors. In 1551 an order of Dominican friars founded the Greater National University of San Marcos in Lima. This Peruvian university boasts the oldest law school in the Western Hemisphere. Today members of the J. Reuben Clark Law Society are continuing to advance the noble legal heritage of Peru.

Ricardo Solis is the current chair of the Peru Chapter of the Law Society. Ricardo and his wife, Giselle Horna, have both completed master of law degrees at the J. Reuben Clark Law School. After completing his studies at BYU, Ricardo worked for a brief time in Salt Lake City, where he met William F. Atkin, a former international chair of the Law Society. Bill encouraged Ricardo to organize Peruvian Latter-day Saint attorneys into a chapter of the Law Society and offered to assist them during an upcoming trip to the region.

In June 2004 Bill Atkin traveled to Lima, and a Peruvian chapter of the J. Reuben Clark Law Society was organized with five founding members. The small chapter immediately commenced a membership drive, communicating with stake presidents throughout Peru, inviting all Latter-day Saint attorneys to join in fellowship with the Society. Today there are approximately 40 members of the Law Society in Lima and an additional 10 or so between Huancayo, Cusco, and the rest of Peru.

Only 18 months old the Peru Chapter of the Law Society is particularly inspiring in its example of professional service. Lead by Gloria Castillo, Society members in Cusco regularly travel at personal expense to remote and distant regions of southern Peru to offer pro bono legal services to those without access to attorneys. In Lima, members of the Society have been asked by municipal authorities to provide free biweekly walk-in legal clinics. In the municipality of Jesus Maria (in central Lima), Jorge Pazos and Miguel Romero likewise meet with citizens needing but unable to pay for legal services.

Besides giving municipal pro bono service, Law Society attorneys staff weekly meetings

in a number of Latter-day Saint church buildings in Peru to provide free legal services to members of the Church who cannot afford access to quality attorneys. Marisol Solano counsels with members weekly at her local church building in Lima on issues ranging from family law to business formation.

In addition, the Area Presidency of The Church of Jesus Christ of Latter-day Saints recently requested that the Peru Chapter of the Law Society assist in analyzing a resolution presented to a Peruvian interdenominational religious convention that could affect governmental restrictions on religious liberty. David Torres, a specialist in religious freedom issues, leads the Society in this effort.

Members of the Law Society in Peru have taken their motto from the great Spanish poet Antonio Machado, who wrote, "Walker, there is no road. The road is made as you walk." As pioneers in the Law Society in South America, they are blazing a trail they hope many will follow.







# BYU International Center for Law and Religion Studies

The tireless efforts of BYU Law Professor W. Cole Durham in behalf of religious freedom paved the way for the founding of the BYU International Center for Law and Religion Studies in 2000. Located at the J. Reuben Clark Law School, the Center continues under the direction of Professor Durham and is a focal point for promoting religious liberty and studying the relations between governments and religious organizations.

The goals of the Center, Durham says, are to nurture “relationships with government officials and scholars who are shaping long-term church-state policy, [to help] strengthen com-

mitments to the universally accepted right to freedom of religion or belief enunciated by the American Constitution and other constitutional instruments around the world, and to organize a group of experts who are assisting with religious freedom law reform on a global basis.”

The largest international conference dedicated to religious liberty issues, the BYU International Law and Religion Symposium is the most extensive project undertaken by the Center. The conference offers a forum for the discussion of religious rights and a broader array of issues at the intersection of law and religion.



## JORDAN

*The Symposium topics meet the needs of the world during this period.*

## SERBIA AND MONTENEGRO

*Thank you for the chance to participate in such an interesting and important seminar. The organization, hospitality, and kindness of all of you who organized and realized this event was something that impressed me very much. I'll never forget it.*



## INDONESIA

*This is the only international symposium I have ever attended that has given me knowledge and experience with people from all nations.*



# From the Student Side: 2005 BYU International Law and Religion Symposium

BY WENDY WOODFIELD, SECOND-YEAR LAW STUDENT



The conference presenter from Mozambique completed the final words of his prepared statement in fluent Portuguese nearly 30 minutes before it was time to complete the session. That realization caused him to shift uneasily as he returned his gaze from the clock on the wall to meet the intelligent, expectant eyes of the audience seated in one of the large classrooms of the BYU Law School. “Questions?”



he asked hopefully in his beautiful Portuguese accent. The relief on his face was apparent when several hands emerged above the heads of the other listeners. The presenter called on a young BYU student, and his relief quickly turned to surprise as the young man addressed him in fluent Portuguese and asked a rather insightful question about the presentation. Other students and international religious scholars soon joined the lively discussion, and the remainder of the time evaporated. The presenter left the room stunned by the number of people in his audience that spoke Portuguese (a special

delight for him, since he spoke no English) and how many people were as interested as he was in the legal and religious issues that he had presented.

This level of interest and insight was anything but rare at this year’s International Law and Religion Symposium at the BYU Law School in Provo, Utah. Professor Elizabeth Sewell, one of the organizers of the annual conference, noted that the “tremendous opportunity for those involved in the study of law and religion internationally to interact with practitioners, judges, and government officers from around the world” helped to ensure this insightful discussion.

This year delegates even went beyond exchanging ideas in conference sessions to forging friendships with those conducting the conference and with other delegates. For example, a delegate from the Republic of Georgia was surprised to find a compatriot among the students. They quickly arranged to enjoy a meal together. Those who did not share a homeland or even a common language were also able to enjoy one another’s friendship. One student volunteered to drive a Brazilian delegate to the airport and discovered that, though she and the delegate spoke a total of four languages, they possessed no common language. After repeated attempts to communicate and repeated misunderstandings, the volunteer offered to sing a childhood song that had great



meaning for her personally. When she concluded the brief song, the delegate was solemn and silent. He thanked the volunteer and felt determined to share a song that had influenced his own life so deeply. Though he began the song from his homeland softly, he finished strongly and with confidence. As they reached the airport, the delegate presented the driver with a small gift to express his appreciation, then turned to enter the airport and return to his home. The student remarked, “He helped me to understand that, regardless of the language we speak or the beliefs we may share or not share, we all have a contribution to make. No gulf between us is too wide that it cannot be bridged.”

The delegates bridged those gulfs during the course of the conference and welded a broad network of decision makers and scholars in the field of law and religion. They created opportunities for scholars from contrasting countries and faiths to collaborate on projects and provide one another with advice on drafting laws and regulations. As a delegate from Trinidad and Tobago stated, “The conference has far-reaching effects for the direction of faith-based systems throughout the world.”

A delegate from Jordan concurred and added, “Be assured that we will remember the time we spent with you in Utah. It will remain in our memory all the time to come.”

## INDIA

*It was a lifetime experience for me, very educational and informative. Some of the events I will never forget all my life.*

## NAMIBIA

*Highly positive impressions. The organizers were friendly and caring, the students absolutely committed to lending a helping hand as a sister or a brother.*

## RUSSIA

*I want to thank Cole Durham and the organizers of this conference. You have done a great job in the expansion of peace and the expansion of religion.*

In the long run if you truly want to maximize the legal education you are beginning this day, you must do more than learn how “to do law”; you must “become” a lawyer. Just as there is a vast gap between knowing how to acquire legal information and knowing how to do law, there is a big difference between doing law and being a lawyer in the fullest sense. The latter requires a kind of character and stability that many who learn how to do law never develop. That kind of character allows lawyers in the full sense to affect people not just by their words but also by their very character.

During the spring of 2005, because of his expertise on constitutional law and the intersection of law and religion, one of our professors, Cole Durham, was invited to consult with the committee drafting the Iraqi constitution. The original plan was for Professor Durham and other consultants to meet with members of the committee in Amman, Jordan. This was a somewhat risky proposition, but one that did not cause much consternation. As time passed and events unfolded, however, it became clear that the consultation needed to take place in Baghdad and that the group would need to be smaller. The request to Professor Durham was renewed.

University approval is required for travel to countries on the State Department’s travel advisory list, and, not surprisingly, Iraq is at the top of that list. Thus, Professor Durham approached me to request

approval to go. After consulting with university officials, who in turn consulted with security experts, I informed Professor Durham that we could not approve. There was simply too much risk. He was too valuable to the school and, more important, to his family. He seemed a little relieved at my response.

A few weeks later Professor Durham was back in my office. The request for his help had been renewed he told me. The group was smaller still, but the need was even greater. The issue of religious freedom was a critical one. If it wasn’t properly resolved, the Iraqi constitution would likely

fail. And if the Iraqi constitution didn’t work, all the suffering on all sides would be for naught.

Professor Durham said he had been thinking a lot about what he had been *doing* all these years, telling people the importance of liberty in general and religious freedom in particular; teaching people what a profound impact properly framed and executed laws had on the day-to-day lives of individuals and societies. He said he had also been thinking a lot about the millions of people in Iraq, who at the peril of their lives had voted in the election in January, literally marking

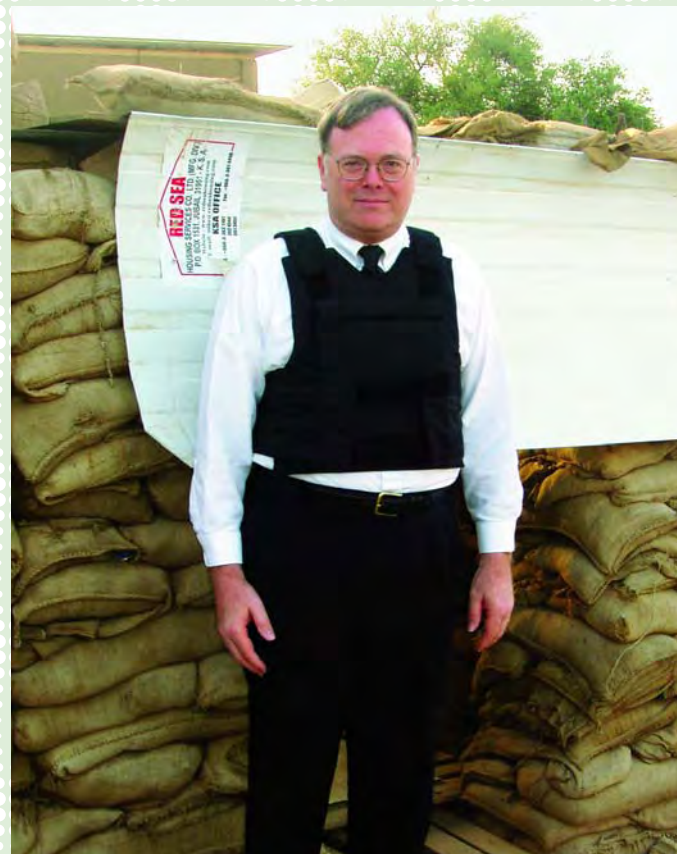
themselves as potential targets as they dipped their fingers in ink in order to validate their ballots. “I know it is extremely dangerous,” Professor Durham said, “and I don’t know if I can make a difference. But after considering everything I have been doing for these years and after visiting with my wife and family, I really feel deeply that I have to try.”

There was something in his voice, something in his countenance, something deep in his soul that communicated what his words had not been able to communicate before, and it caused me to reconsider the decision.

I renewed my request for permission for him to go. Permission was granted, and Professor Durham, body armor and helmet in tow, was off to Iraq.

Thankfully, Professor Durham returned safely, as you can see. I do not know at this point how much difference his willingness to risk his life made. We may never know. What I do know is that he is a lawyer in the fullest sense, one whose mind, heart, soul, and character have developed to the point at which his impact on the law is not limited to the vast knowledge he possesses; it includes the kind of person he is.

Cole Durham, wearing a bulletproof vest, stands in front of sandbags surrounding the compound.



## Being a Lawyer in the Fullest Sense

*This article is an excerpt from Dean Kevin J Wortben’s remarks to entering law students on August 17, 2005.*



## Robert C. O'Brien Nominated by President Bush to UN General Assembly

Robert C. O'Brien was nominated in November 2005 by President George W. Bush as one of three United States public delegates to the 60th Session of the United Nations General Assembly. The General Assembly meets in regular session during the months of September through December in New York.

"We are honored to have Robert's service and expertise," said U.S. Ambassador John R. Bolton, head of the American delegation. "His professionalism and advice have been invaluable to me." Past U.S. public delegates to the UN General Assembly include author William F. Buckley, Senator Daniel Patrick Moynihan, actor Paul Newman, and singer Pearl Bailey.

O'Brien is the managing partner of the Los Angeles law firm of O'Brien Zarian LLP, which specializes in complex business litigation and international arbitration matters. He is the former chair of the Los Angeles Chapter of the J. Reuben Clark Law Society in Los Angeles.

From 1996 to 1998, O'Brien served as a legal officer for the Geneva-based Compensation Commission created by the UN Security Council, where he handled government claims against Iraq arising out of the first Gulf War. He has also authored articles on international law in a number of leading law journals. O'Brien received his BA degree from UCLA and his JD degree from the Boalt Hall School of Law at UC Berkeley.

O'Brien returned to his law practice in Los Angeles after the conclusion of the General Assembly session in January 2006.



## A Woman's Place Honors Australia's Women Lawyers

Sue Purdon, a partner at Hopgood Ganim, in Brisbane, Queensland, Australia, has coedited *A Woman's Place: 100 Years of Queensland Women Lawyers*. The book, accompanied by an exhibition at the Supreme Court of Queensland Library, commemorates the century since the enactment of the Legal Practitioners Act of 1905, which allows women to practice law in Queensland. Supreme Court librarian Aladin Rahemtula coedited the book.

A leading family law practitioner in Australia, Purdon was appointed to the Family Law Council of Australia in September 2004. The Council, a statutory authority established under the Family Law Act of 1975, advises and makes recommendations to the attorney general on family law matters.

Of their recent publication, editors Purdon and Rahemtula write: "The centerpiece and original concept behind this book is the rich collection of biographical profiles, which are an acknowledgement and celebration of [52] women who have helped shape the law in Queensland over the past century, making a multifaceted and richly textured contribution to our legal heritage." Purdon,



who is herself profiled in the book, says, "The book comprises historical accounts of women's involvement in the legal profession over the past one hundred years and even before that, with a look at the role of women in indigenous law before European contact."

One such woman is Agnes McWhinney, who became the first woman to practice law in Queensland in 1915. A bench of five judges examined her, led by Chief Justice Sir Pope Alexander Cooper, not known as a champion of women's advancement. A colleague described him as becoming "distinctly choleric" at the prospect of a female lawyer. Agnes passed her grilling and went to practice in Townsville.

"*A Woman's Place* is a living history that sets out to remedy the omissions of the past by ensuring that women's voices are heard," notes La Trobe University law professor Margaret Thornton. "A distinctive element is the recognition of the role played by indigenous women."



**Christopher Chaney Named to Bureau of Indian Affairs**

The director of the U.S. Bureau of Indian Affairs, W. Patrick Ragsdale, has appointed Christopher B. Chaney, '92, as deputy bureau director of the Bureau of Indian Affairs Office of Law Enforcement Services, effective August 7, 2005.

Chaney, an enrolled member of the Seneca-Cayuga Tribe of Oklahoma, had previously served as associate solicitor for the Division of Indian Affairs in the U.S. Department of the Interior. He graduated with a bachelor of arts degree from the University of Oklahoma in 1984, before receiving his law degree at BYU. From 1992 to 1997 he had a private law practice in Farmington, New Mexico, during which time he worked primarily in the field of Indian law and served as the prosecuting attorney for the Jicarilla Apache Tribe and the Southern Ute Tribe and as an administrative law judge for the Navajo Housing Authority.

In 1997 he accepted a position with the U.S. Department of Justice as an assistant U.S. attorney in Salt Lake City. As a federal prosecutor he pursued violent crimes that occurred on the Navajo Nation reservation, the Ute Tribe's Uintah and Ouray reservation and other areas of Indian country within the state of Utah. In 2000 Chaney accepted a work detail

to the Executive Office for U.S. Attorneys as counsel to the director's office, where he worked in Indian country legal issues on a national scale.

"I appreciate being given the opportunity to lead the Office of Law Enforcement Services," Chaney said. "I look forward to working with BIA and tribal law enforcement personnel and supporting their efforts to ensure public safety throughout Indian country."



**Kory Staheli New Director of Law Library**

Kory Staheli, '87, is the new director of the Howard W. Hunter Law Library at BYU. After a nationwide search, he was chosen from a group of five finalists to replace former library director Constance Lundberg, who has continued teaching part-time at the Law School.

"Kory Staheli has a clear vision of the role the library plays in furthering the mission of the Law School and the university," said Dean Kevin J Worthen. "He also has the experience and the skills needed to provide leadership in carrying out that role."

"In all my interactions with him, he has demonstrated a commitment to furthering the law library profession, to serving his fellow human beings, and, most important, to representing the faith that he professes in a manner that brings credit to him and to the institution that he loves,"

said Herb Cihak, director of the University of Arkansas' Young Law Library and a mentor and supporter of Staheli.

Staheli graduated from BYU's Law School, and after three years of private practice, returned to the Law School as a reference librarian. He obtained his master's degree in library and information science and was promoted to head of Reference Services and then to associate director of Public Services. He left BYU to become associate director of the law library at the new law school at the University of Las Vegas. He returned to BYU last year.

**Gedicks and Thomas Named to Distinguished Law Chairs**

Nominated by fellow law faculty, Frederick Mark Gedicks is recipient of the Guy Anderson Chair and David A. Thomas is recipient of the Rex E. Lee Chair at the J. Reuben Clark Law School.

The chairs are named after two distinguished lawyers: Guy Anderson, a prominent attorney from Arizona; and Rex E. Lee, former dean of the Law School and former president of Brigham Young University.



Fred Gedicks teaches constitutional law and telecommunications at the Law School. He received his bachelor's degree in economics from BYU and his law degree from the University of Southern California, where he

was an editor on the *Law Review*. Following graduation Gedicks clerked on the U.S. Court of Appeals for the Ninth Circuit and then practiced corporate and securities law in Arizona. He joined the Law School faculty in 1990.

Gedicks has published and lectured widely on constitutional interpretation, postmodernism, and law and religion. He is the author of *The Rhetoric of Church and State*, among other books and articles. He serves as faculty advisor to the Law School chapter of the American Constitution Society for Law and Policy.



David A. Thomas joined the law faculty in 1974 after service as a federal judicial clerk and work in private law practice in Salt Lake City. He received his juris doctorate degree from Duke University, where he served on the editorial board of the *Duke Law Journal*. He later earned a master's degree in library science from BYU. He served as Law School library director from 1974 to 1990.

Thomas teaches property law, real estate finance, civil procedure, and legal history. He is the editor in chief and principal author of *Thompson on Real Property, Thomas Edition*, one of the primary treatises in the field of real property. He is recognized as a leading scholar in property law, and his books and articles are cited frequently in federal and state courts.



# Class Notes

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## CLASS OF 1976

**W. Douglas Campbell** authored a chapter on privacy in the burgeoning radio-frequency ID (RFID) environment. "RFID and the U.S. Regulatory Landscape" can be found in the book *RFID, Applications, Security, and Privacy*, published by Addison-Wesley in July 2005.

## CLASS OF 1977

**Rick D. Nydegger** is the J. Reuben Clark Law School's honored alum for 2005. He spoke on "The Changing Landscape of Intellectual Property" at the Law School on October 14, 2005.

## CLASS OF 1979

**Annette Jarvis**, a shareholder and chair of the bankruptcy section at the Salt Lake City firm of Ray Quinney & Nebeker (RQN) was honored with the Utah State Bar's Dorathy Merrill Brothers Award for the Advancement of Women in the Legal Profession in Utah. Annette and her husband, Dr. Joseph Q. Jarvis, live in Salt Lake City and have five children.

**George Ryskamp** received an award from the Utah Genealogical Association while presenting lectures at the FGS/UGA Conference in Salt Lake City in September 2005. An associate professor of history at BYU, he is the director of the Center for Family History and Genealogy and also a board member of the International Commission of Accredited Genealogists. The award carries the designation of UGA Fellow and is his second nationwide fellowship. His first fellowship was from the American Academy of Genealogy in 2003.

## CLASS OF 1981

**Glade A. Myler** spoke to BYU law students November 2005 about his work with Homeland Security in Nevada.

Employed with the Nevada Department of Justice as a senior deputy attorney general, Myler represents the Division of Emergency Management, the Nevada Homeland Security Commission, the State Emergency Response Commission, the Nevada Earthquake Safety Council, the Nevada Hazard Mitigation Planning Committee, and the Nevada Communications Steering Committee. He also does some workers' compensation for the Department of Motor Vehicles and the Department of Public Safety. Glade's practice is mainly in administrative, personnel, and contract law as well as workers' compensation law. He just completed putting together a bioterrorism legal preparedness table-top exercise for the legal community in Nevada.

## CLASS OF 1983

**Joseph Ahuna** and his family are featured in the October 2005 issue of *Scouting* magazine. His son is on the front cover of the magazine.

## CLASS OF 1984

**Bryan B. Todd** joined the law firm of Parson Behle & Latimer. He will concentrate his practice on real estate transactions, development, and financing. He graduated magna cum laude from the University of Utah with a bachelor of arts degree in psychology in 1980. After receiving his JD from the J. Reuben Clark Law School, he practiced in Phoenix and Washington, D.C., before returning to Utah in 1992. He is a member of the District of Columbia, Virginia, Arizona, and Utah State Bar Associations.

## CLASS OF 1986

**Larry S. Jenkins** was selected by U.S. Senator Orrin G. Hatch to be one of 180 Congressional *Angels in Adoption*™ for the year 2005. The event was hosted by the Congressional Coalition on Adoption Institute (CCA) at a national ceremony held in Washington, D.C., on September 13, 2005. Larry represents private adoption agencies and has finalized thousands of adoptions for families from Utah and many other states. He has also successfully defended several birth parent challenges and is experienced with placements involving the Indian Child Welfare Act. He is cochair of the Utah Adoption Council's legislative committee and a member of the American Academy of Adoption Attorneys.

## CLASS OF 1987

**Rick Rose**, a shareholder at the Salt Lake City firm of Ray Quinney & Nebeker (RQN), has been appointed president of the Utah Defense Lawyers Association. He has been the chair of RQN's litigation section since 2000 and a member of the firm's executive committee since 2003. Rick and his wife, Joy, have six children and reside in West Bountiful, Utah.

## CLASS OF 1992

**Jack Brannelly** was quoted in a *Daily Universe* article on August 3, 2005, when eBay reached its 10th anniversary. He is featured as a BYU law graduate who gave up law to become an eBay middleman. He began his career as a lawyer and switched to eCommerce when he discovered he could make more money—in less time—than he ever could practicing law. In the first quarter of 2004, Jack was awarded the Platinum PowerSeller distinction from eBay for reaching \$30,000 per month in sales.

**Susan Peterson** is the founder of The Women's Group, which was selected as a 2005 Pathfinder to be honored at this year's American Express/Athena Women in Business Conference.

## CLASS OF 1994

**Su J. Chon** was named Pro Bono Lawyer of the Year at the 2005 Fall Forum Awards of the Utah State Bar. Su works with the Salt Lake City law firm of Taylor Adams Lowe & Hutchinson.

**Bryant Siddoway** has been named general counsel for Esso Exploration Angola (Block 15) Limited (EEAL), an affiliate of ExxonMobil, located in Luanda, Angola. ExxonMobil holds an equity interest in offshore projects in Angola with a recoverable resource potential of more than 11.5

billion oil-equivalent barrels. EEAL stewards an investment of more than \$10 billion in deep-water offshore producing facilities.

## CLASS OF 1996

**Charles F. Harlow**, previously of Reed Smith LLP, recently opened his own law firm in Alameda, California. His practice focuses on assisting individuals and businesses with litigation, corporate and transactional matters, and estate planning and probate. He can be reached at [www.harlowlawoffice.com](http://www.harlowlawoffice.com). Chuck is married to Lisa Pare and enjoys spending time with his daughters, Abbie (11) and Caroline (7).

## CLASS OF 1997

**Jay T. Jorgensen** has been elected to a partnership in the Washington, D.C., office of Sidley Austin Brown & Wood LLP. He is one of 28 partners in the firm, which now has 600 attorneys in offices in the United States, Europe, and Asia. "Jay Jorgensen is an outstanding lawyer who embodies our collegial culture and client service orientation," said Thomas A. Cole, chair of the firm's executive committee. He represents individuals and corporations in all phases of complex civil and criminal litigation. He has counseled pharmaceutical and food production companies in criminal and *qui tam* cases at all stages, from undercover and internal investigations to grand jury proceedings and trial.

Jay, who had been an associate, received his BA from BYU in 1994 and graduated from the Law School *summa cum laude*. He joined Sidley in 2000, following clerkships with Chief Justice William H. Rehnquist of the U.S. Supreme Court and, earlier, with the Honorable Samuel A. Alito Jr., of the U.S. Court of Appeals for the Third Circuit.

## CLASS OF 1998

**William C. Duncan** received a Distinguished Service Award at BYU's Homecoming in October 2005. For the past year he has consulted with those working to pass state marriage amendments around the country. Additionally, William has written or cowritten more than 30 major law review articles in legal periodicals. He has been executive director of the Marriage and Family Law Research Grant at the J. Reuben Clark Law School and is director of the Marriage Law Foundation of Provo.

## CLASS OF 2000

**Richard Barnes**, a Utah attorney, has accomplished something no other Utahn has done before. On August 6, 2005, he swam the English Channel. The swim from England to France was completed in 16 hours and 43 minutes. In order to be officially recognized by the Channel Swimming Association, swimmers are not allowed to wear a wet suit or anything that will aid in buoyancy or thermal protection. The only exception is that swimmers are allowed to apply "channel grease" (a mixture of Vaseline and lanolin) before the swim. Richard has been practicing law for five years and works as an insurance defense attorney for Paul H. Matthews & Associates PC in Salt Lake City.

**John B. Fowles** has joined Snell and Wilmer's Salt Lake City office. He will concentrate his practice

in commercial litigation. He graduated *cum laude* from the J. Reuben Clark Law School, where he was lead articles editor of the *Law Review* and vice president of the Federalist Society. He also studied at the University of Oxford.

## CLASS OF 2001

**Angela Atkin** has joined the law firm of Van Cott, Bagley, Cornwall & McCarthy. For the past three years, she has assisted clients with corporate, nonprofit, estate, probate, and trust work with the law firm of Jones Waldo Holbrook & McDonough. She will continue her practice as a member of Van Cott's tax, estate, and benefit planning group. Angela received her associate of arts degree from Dixie State College, *summa cum laude/valedictorian*, in 1995. She received a bachelor's of arts degree, *magna cum laude*, in accounting from the University of Utah, after which she worked as a certified public accountant with Grant Thornton for two years. She obtained her juris doctorate from BYU, *cum laude*, in 2001.

## CLASS OF 2002

**James A. Callister** was recently named a Southern California Rising Star by the publication *Super Lawyers*. James is an associate in O'Melveny & Myers' Newport Beach office and a member of the firm's project development and real estate practice group. He was named a Rising Star in real estate transactions.

**Thayne A. Larson** was recently named a Southern California Rising Star by the publication *Super Lawyers*. Thayne is an associate in Payne & Fears' Las Vegas office, recently moving from their Orange County office. He was named a Rising Star in insurance coverage.

**Lance Lehnhof** focuses on general corporate and securities matters with the Stoel Rives' corporate group. Prior to joining the firm, he was an associate with Sullivan & Cromwell LLP in Washington, D.C.

## CLASS OF 2003

**Darrin K. Johns** is serving in the United States Air Force in Iraq in Baghdad, reviewing, preparing, and presenting cases before the central criminal court of Iraq. He appears in court in full body armor and wearing sidearms.

**Rob Yates** practices in the Stoel Rives' corporate group, where he focuses on securities offerings and general corporate matters. Prior to joining the law firm, he worked as an associate with Sullivan & Cromwell LLP in Washington, D.C.

## CLASS OF 2005

**Seth P. Hobby** has joined Parsons Behle & Latimer. He is a member of the litigation department, where he concentrates his practice on commercial litigation, real estate litigation, bankruptcy, and personal injury. He graduated *magna cum laude* from the Law School, where he was an editor of the *Law Review* and *International Law and Management Review*. In 2002 he graduated with an LL.B. degree, with honors, from Brunel University in West London. Seth was admitted to the Utah State Bar in 2005.

## Dialogue Between a Prosecutor and a Defense Attorney\*

**PAUL M. WARNER:** So why am I a prosecutor? First of all, I love the facts. I don't love the law. Does that make any sense to you? Well, if you're a criminal lawyer, I hope it makes some sense to you. The law is a necessary evil for those of us who are in criminal law. We have to deal with it, but we are fact driven. We love the facts. I am a professional voyeur by nature and disposition. I am fascinated with the lives of the victims and the witnesses and the defendants involved in our criminal practice. I live vicariously through them. Truth truly is stranger than fiction. A new story comes into my office every day, and they are fascinating stories, and I love each one of them. I can't imagine doing something that is less interesting.

I know, and I never forget, that the power to prosecute is the power to destroy. Abraham Lincoln once said, nearly all men can stand adversity, but if you want to test a man's character, give him power.

**RONALD J. YENGICH:** Sometimes somebody has to stand up to the government, even if they have no power. Because Paul is right—I don't have power. The only power that I have is as a lawyer to stand up to government agents and the people that are running the government, and sometimes say to them very simply or very complicatedly in a case, "Don't you have any shame?" That is what I do. That is why I am a defense attorney. That is where it starts.

**WARNER:** I'm a prosecutor because I love the Constitution of the United States. Some at this institution, including myself, believe the Constitution of the United States is divinely inspired.

As a prosecutor, the bottom line is about doing the right thing. Now, doing the right thing is easy, but determining the right thing to do is what is really hard.

**YENGICH:** I believe the most righteous work that is done is to stand up for people who nobody else will.

You see, I have a statement in my office: "To prosecute is human, to defend is divine."

I believe in my heart of hearts that I will be accused before the great white throne and Christ will be my advocate, and he will certainly be defending a guilty client. I know that about myself. I am a defense attorney because I know all of the errors I have committed in my life and the luck that I have to be standing in front of you honorable people after a life that has been full of mistakes and errors that could have put me in trouble.

**WARNER:** When my grandchildren ask me, what did you do with your career, I want to tell them that I was on the front lines as a federal prosecutor. That I dealt with terrorism, that I dealt with drugs, that I dealt with gun violence, that I dealt with fraud and a multitude of other ills that hurt our society every day. I'm proud that I'll be able to say that I was the U.S. attorney during 9-11, when there were many issues that we were dealing with, and that those things were important to me just as they were important to the rest of the country.

Strangely and perhaps ironically, my good friend Ron and I have chosen opposite sides of the criminal justice system for precisely the same reason. We like to help people. I like that most of all.

**YENGICH:** I'll leave you with this. I believe it is the oath really of what a defense attorney ought to be. Walt Whitman said this. This is what you shall do: Love the earth and the sun and the animals. Despise riches. Give alms to everyone that asks. Stand up for the stupid and the crazy. Devote your income and labor to others. Hate tyrants. Have patience and indulgence toward the people. Take off your hat to nothing known or unknown or to any man or any number of men. Go freely with powerful uneducated persons and the young and mothers of families. Reexamine all that you have been told at school or in church or in any book, and dismiss whatever insults your soul.

*\* Excerpts from a one-hour discussion between Paul M. Warner, United States Attorney, District of Utah, and prominent defense attorney Ronald J. Yengich during the Orrin G. Hatch Distinguished Trial Lawyer Conference, November 18–19, 2005.*

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](mailto:wisej@lawgate.byu.edu).



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