

Fall 2007


Clark Memorandum: Fall 2007

J. Reuben Clark Law Society

BYU Law School Alumni Association

J. Reuben Clark Law School

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CLARK MEMORANDUM

J. Reuben Clark
Law School
Brigham Young
University
Fall » 2007

Packing Your Briefcase

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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.





YOUR BRIEFCASE

BY JUDGE DEANELL REECE TACHA

*The following speech was presented at
the J. Reuben Clark Law School convocation in
the Provo Tabernacle on April 27, 2007.*

PHOTOGRAPHY BY BRADLEY SLADE



THE
DECLARATION OF
INDEPENDENCE
—
THE CONSTITUTION OF
THE UNITED STATES
OF AMERICA

THANK YOU SO MUCH, Dean Worthen. It's a great privilege to be here at one of my favorite law schools in the country, the J. Reuben Clark Law School at Brigham Young University. It is a particular privilege to celebrate with you, the graduates of 2007, who follow in a long line of great lawyers who have either taught at this school, graduated from this school, or been instrumental in its founding. Dallin Oaks and Rex Lee have left a broad swath, indeed, across the legal profession and throughout this nation.

The human experience rewards each of us with a few days in our lives that stand out as days of reflection, days of celebration, and days of renewed commitment to the ideals that brought us to this place in our journey. Well, today is such a day. So I congratulate you and all those who have supported you thus far. Although you the graduates richly deserve every appellation, every praise, every congratulatory greeting, I remind you that in many ways it is not only your efforts that have brought you to this day. Instead, you are the beneficiaries of a great legacy. You learned this in Wills and Trusts: "A legacy is that which you inherit but do not earn and do not deserve." It is what was left to you from other generations: a nation where the promise of freedom is a daily reality unlike most of the rest of the world; a tradition of religious pluralism that has fostered the growth of this great university; and a long, long line of those who came before you and settled these beautiful western lands. On a day like this, we owe them a great debt of gratitude. Thus it is that today marks another important milestone in your lives, for this is the day that

you begin to leave a legacy for those who come after you. Remember what you have inherited, and add luster to that legacy after this day is long lost in history.

Now, to you, the Law School graduates of 2007: Today is the day that you begin to pack your briefcases. Many of you, I suspect, on this day have received a new briefcase as a gift. Perhaps it's one of those beautiful leather ones or more likely the more hip canvas variety that crowds the overhead bins of the airlines of our nation. A briefcase is the lawyer's most constant companion. You will be with that briefcase more than you will be with any person or other thing in your life. Now I considered whether calling it a briefcase marks my age and whether or not it might be the holder of the laptop. But don't think it is an outdated relic of the age of paper communication, for even the name is drawn from the professional calling of the lawyer, though everyone else has adopted its use.

I am the mother of four children, and when they were very young my briefcase was their favorite toy. I would dump it in the front hall, run off to get ready for dinner or take somebody to Scouts, and inevitably by the time I got back to ready my briefs or finish some little part of an opinion, the papers and briefs would be scattered, the scissors would have transformed some important document into a paper doll, and the pockets would be

stuffed with a cornucopia of treasures. In those days it might have been a Star Wars figure, a dirty little sock, a bug, and almost always a note tucked somewhere that contained a very lopsided heart inscribed, "I love you, Mom." On more than one occasion I would open my briefcase somewhere far from home and find a Cheerio or the remains of an Oreo sifting onto the bench. They were a bit of a nuisance, but those treasures became for me a symbol of the bits and pieces of our lawyer lives that inhabit our briefcases and speak volumes about who we are. They speak of professional commitment—of moving from desk to courthouse to corporate office, meeting with clients, and visiting the sites of great new developments, scenes of accidents, homes of foster children, and the host of places where lawyers and their briefcases go together to carry out their professional responsibilities.

Those briefcases speak of hard work and constantly learning about new issues and new areas of the law. You will have in that briefcase all the equipment of the lawyer, and it will constantly change with clients, court decisions, the will of the body politic, and especially the needs of society—for the law requires you to take a veritable moveable feast with you in those briefcases. The law that you enter is never static. The tools of your work and the substance of what you do will constantly change. So you, too, must be opening and closing and opening and closing that briefcase as rapidly as that change.

For you, the Law School graduates of 2007, I have a packing list for your briefcase, a list of those things I hope you'll include as you go about your lives as lawyers, a list of symbols that will come tumbling out of your briefcase along with the briefs, books, and paperclips.

SYMBOLS THAT WILL COME TUMBLING OUT ALONG WITH THE BRIEFS, BOOKS, AND PAPERCLIPS.

FIRST and foremost, keep a treasured memento of your loved ones affixed to the top of the upper compartment of that briefcase in a place where it will always be in plain view. It might not be a Star Wars figure, and it won't be the CD of all my husband's favorite music that I have kept my whole career and play from time to time and even in far corners dance to myself, but make sure it speaks instantly and always to you about the treasure of human commitments and friendships. Make sure that it evokes powerful reminders that we lawyers are also loving and passionate people who although deeply engaged professionally place the highest priority in every respect on our human ties and human commitments. So frequently I have seen lawyers lose their way and become so preoccupied with the case of the day or the bill of the hour that they don't hear the chatter of their children or the longing or even loneliness of spouses or aging parents. Keep something right there in your briefcase that will remind you of those human ties of incalculable worth.

SECOND, but related to the first, tuck into that front corner an old dishrag or a torn piece of a kitchen towel to remind you that the good lawyer is also the helping family member, roommate, friend, and community volunteer. Your responsibilities span a far wider range than those that come under the technical definition of lawyer. The law can be an all-consuming passion, but do not let it become so. You will be truer to yourself, more empathetic with those around you, and ultimately represent your clients with more understanding if you see each day, each and every day, as including both professional and personal responsibilities, purposefully keeping in equal poles the measure of yourself that you devote to each. So whether it is to pick up that dishrag and clean the kitchen, set the mousetraps in the garage, or ladle soup in a homeless meal site, be a caring, down-and-dirty working member of your household and community. It will pay rich rewards far beyond those that are represented by your billable hours.

THIRD, place conspicuously in that briefcase some symbol of your faith commitment. You at BYU have a long and rich legacy of those faith symbols. For some of you they will be the symbols you are accustomed to here. For others they will be a Star of David, a crescent, or a simple set of philosophical guideposts. But remind yourselves constantly that your behavior as a lawyer, as a citizen, and as a person must be guided by a set of ethical, moral, or religious principles that rise far above the letter of the law. For remember always that the law and its codes of conduct are the lowest common denominator of conduct. They are the minimum thresholds upon which we can all agree. But each of us individually is called as a lawyer from whatever religious and ethical groups we come from to pattern our behavior far above the minimal requirements of the various laws and codes that govern us. It is tragically evident in the world around us that when people attempt the minimal ethical standard of the letter of the law—to say nothing of the societal consequences—they often fail and then suffer the personal and legal consequences of inaccurate line drawing. A good lawyer is guided by a set of standards far above the letter of the law. So keep those symbols in front of you. I could not be here on this day and not mention that I am also national president of the American Inns of Court and that the American Inns of Court were founded right here in this state by my good colleague the late Judge A. Sherman Christensen along with Chief Justice Warren E. Burger. The American Inns of Court are committed to the higher ideals of professionalism, civility, ethics, and legal excellence. This is my commercial message: Everyone, join the Inns.

Powerful Reminders

Keep a treasured memento that will speak instantly of human ties.

Civilized Discourse

Put in a little magnetic board with respectful words.

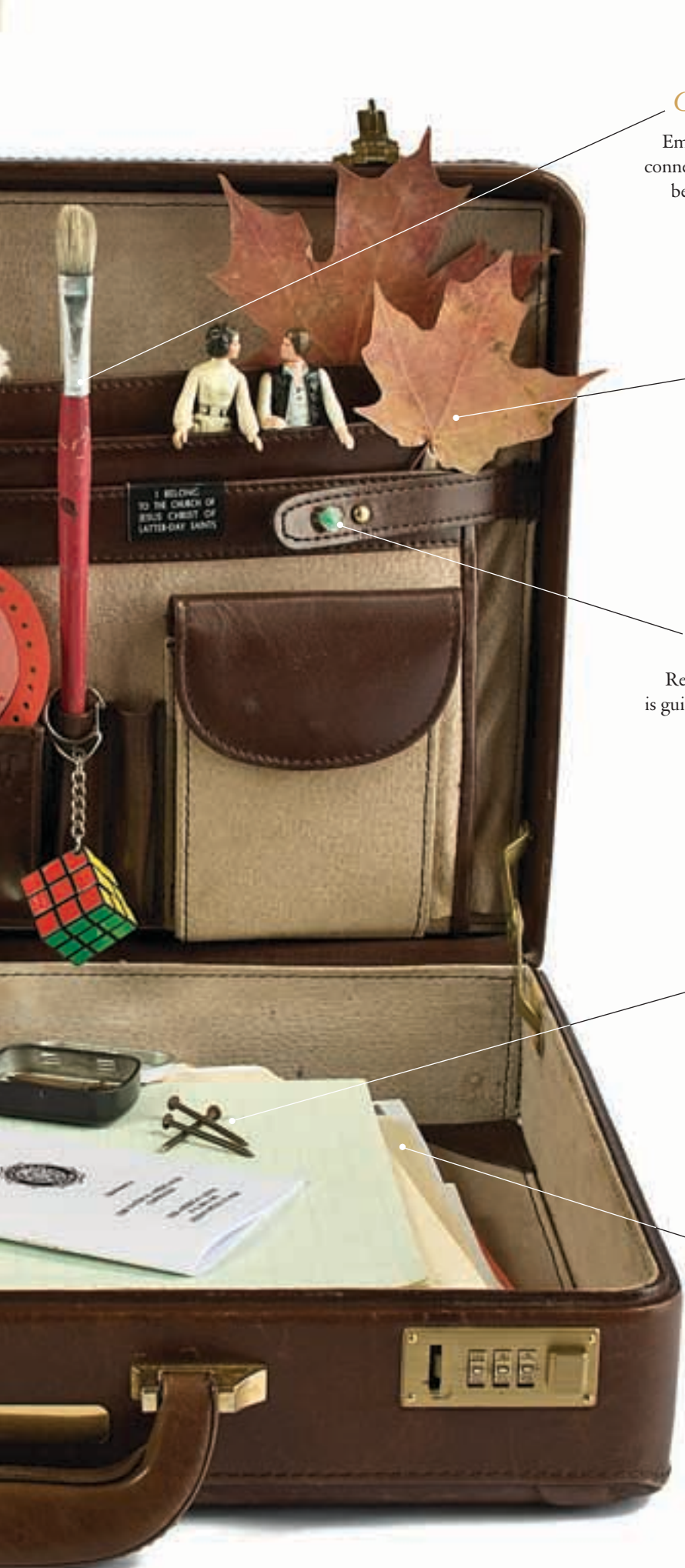
National Heritage

Never forget that this nation stands as a beacon of freedom.

Personal Responsibilities

Tuck into that front corner an old dish towel—devote yourself to more than the law.





Common Languages

Embrace the parts of you that connect you to every other human being. Never forget to play.

Gifts of the Earth

Add a leaf to remind you to notice the beauty and limitations of our natural resources.

Faith Symbols

Remember, a good lawyer is guided by standards far above the letter of the law.

Contribute to the Greater Good

Throw in there a dirty nail or two to rattle around and bother you a bit.

Common Law Heritage

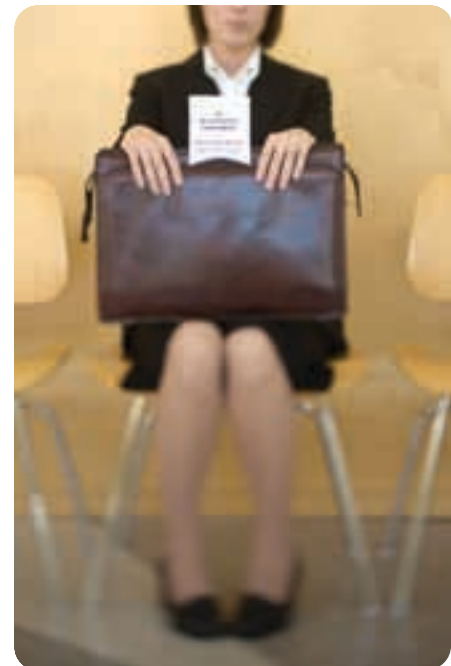
See the big picture when you look at that pile of law books and case papers.

PACK YOUR BRIEFCASES CAREFULLY. LET THEM BE SYMBOLS OF WHO YOU ARE AND WHAT

FOURTH, tuck into that briefcase a kite, a harmonica, a Frisbee, or a paintbrush. Never forget to play. Never forget the common language of music and the arts so beautifully demonstrated here today. It is in these shared expressions of our human interests and talents that we can bridge the gap between cultures, communities, and chasms of misunderstanding. When we humbly and joyfully embrace the parts of us that connect us to every other human being, we become world players on a level playing field. We discover new dimensions of our personalities and join hands with the rest of the human race in shared experience. Much too often lawyers are too busy, too distracted, and, yes, even too arrogant to sing the same songs, dance the same dances, or fly the same kites on that rich playground of life. If we do not play or paint with our neighbors, why would they trust us to settle their controversies or determine their liberties? Keep your kites and paintbrushes close.

FIFTH, throw in there a pair of handcuffs and a dirty nail or two, so they rattle around and bother you a bit every time you carry that briefcase. Why? To remind you of and propel you toward the important responsibility of every lawyer: to contribute your time and professional expertise to providing high-quality legal services for those among us who cannot pay. This responsibility is an important part of what gives us the right to call ourselves professionals. To the extent that we see our work only in terms of billable hours, we have no right to the badge of honor of a professional even though we have paid a handsome price for our law degree. Many distinguished lawyers and judges before us have made the difference in perpetuating the legacy of a free nation where there is equal justice under the law. Your generation perhaps more than any other generation carries on that essential legacy. Many among us and on every street and byway in America feel forgotten by the system. They feel powerless. They do not think the law and legal system either apply to them or belong to them. You, all of you, must be part of changing these perceptions. Whether you are the representative for criminal defendants, build houses for Habitat for Humanity, or teach schoolchildren about the legal system, you must be out there among the people spreading the message that the rule of law is essential to a free people, and it is equally available to all. So let the clanking of the handcuffs and those nails draw you to representation for the greater good.

SIXTH, put a little magnetic board somewhere in your briefcase, and get those little magnetic words to describe your opponents, the judges, other lawyers, and all those with whom you interact as you go about your work. Now, listen carefully as they say those words, and describe those essential players in the system. Do you speak in respectful and professional tones, or do you allow yourself to be seduced into the rhetoric of the day that is so derisive and so harsh? The language of the law is the language of civilized people. Learn to carry out conflict, to settle our differences under the law, in a civilized discourse and not in shouting at each other. To a great extent lawyers have brought upon themselves the culture of lawyer jokes and serious mistrust because they have allowed the ethos of media showcasing to replace respectful professional interaction.



YOU STAND FOR, TO REMIND YOU THAT ANOTHER GENERATION DEPENDS ON YOU.

SEVENTH, embellish your briefcase with a leaf, a pine bow, or just handfuls of dirt. These emblems of our natural world serve several purposes. They can be simple reminders of the joy of the natural world that requires you to look up from your desk and briefcase and absorb this gift of beauty. But they can also be conscience pricklers reminding us that lawyers have an important role to play in preserving and revitalizing the natural treasures of the earth. Here in the West we have a job to do. We do not have enough water. We have all kinds of issues with the quality of our air, natural resources, and endangered species. The list goes on and on. Most certainly these emblems of the natural world will keep you and your work grounded in a commitment that this earth and its bounty and beauty will last, God willing, long after we are gone, for we are but a single organism in the rich procession of a living, constantly changing, ever-adapting universe.

EIGHTH, inevitably your briefcase will be packed with law books, cases, and all of those equivalents; but remember your common law heritage. It is linked in no small way to the optimistic but historical perspective that we build upon the past to add to our collective understanding of the world and its human institutions and alter its course to meet the needs of changing times. Lawyers have the potential and the training to be essential agents of both stability and change if we will but force ourselves to look at the big picture. Are we illuminating or advancing the course of history? Or do we see our work only as a series of cases and clients? If so, we will have missed our brief opportunity to be stewards for another generation.

THE ONLY BOOK

I recommend you keep in your briefcase is a little pamphlet I keep. It contains the full text of the Constitution of the United States. Although you will live and work in a global society, never forget that this nation stands as a beacon of freedom for the rest of the world. Well over two centuries ago, a ragged bunch of revolutionaries practiced not a code of law but a short and stunningly idealistic set of principles that would stand the test of time and constant challenges to lead us to this time and place. It was in large measure the lawyers who guided the orderly change and progress for this nation. Their briefcases were packed with patriotic fervor, a sense of purpose, and a commitment to preserving those freedoms for future generations. Their briefcases contained no paralyzing cynicism. Today, join that long and distinguished line of the guardians of our national and professional heritage.

Pack your briefcases carefully. Let them be symbols of who you are and what you stand for. I hope very much that out of your briefcases will come tumbling a Cheerio, a diaper, or a crumbled Oreo to remind you that another generation depends on you for the right to someday realize the dream and the privilege that are yours today.

Judge Deanell Reece Tacha is the chief judge of the U.S. Court of Appeals for the Tenth Circuit.

*RELIGIOUSLY
AFFILIATED
LAW SCHOOLS*



PHOTOGRAPHY BY BRADLEY SLADE

I M E N S I O N



BY KEVIN J WORTHEN

My topic this morning is religiously affiliated law schools. It seems a fitting topic since we are convened on the campus of a very good religiously affiliated law school as members of a society that has its origin and continues to have its base in another. I think it safe to say this is a sympathetic audience—or at least I hope so. Indeed, one may wonder why I need 40 minutes to address something with which we are all so familiar and all in agreement. A story told about the notoriously taciturn Calvin Coolidge illustrates the point. When Coolidge returned home from Sunday services on one occasion, his wife, who was not able to attend, asked him whether he enjoyed the minister's sermon. "Yes," came the one-word reply. "And what was it about?" "Sin." "Well, what did he say?" she persisted. "He was against it."¹

Similarly, one might prefer that I simply say: "Religiously affiliated law schools? I am in favor of them." While there is likely not much new in what I will present today, I believe it is worth some elaboration, even if only in the form of a reminder, because the topic is of such importance not only to religious believers but also to those who believe in our legal system.

I want to address three separate, but related, questions about religiously affiliated law schools: First, why should the legal academy and the bar accept religiously affiliated law schools? Second, why would a church start a law school? Third, why should religious believers who attend or graduate from law schools that are not religiously affiliated care about them?

In posing each of these three questions the way I do, I understand that many would suggest that the questions ought to be framed in an even more contingent manner. Instead of asking why the academy and bar should accept religiously affiliated law schools, they would ask whether they should accept them. Similarly, rather than wondering why a church would establish a law school, they would wonder whether a church should do so.

Thus, I recognize that there are many skeptics out there, and their skepticism is not without some foundation. One way to illustrate the basis for this skepticism is to note at

the outset that I cannot tell you exactly how many religiously affiliated law schools there are in the country. Contrary to what you might think, my inability to do so is not just the result of my inadequate research or math skills. Even though there is now an association of religiously affiliated law schools (which was formed in 1994), there is no consensus among that group, nor among scholars whose math and research skills are unassailable, as to the exact number of religiously affiliated law schools in the United States today.² That fact is instructive in two important ways.

First, it highlights the fact that religiously affiliated law schools are not all alike. Some make religion a prominent feature of their law schools, such that visitors cannot miss their religious affiliation. At the outset of its report, the most recent ABA site inspection team to visit the law school at BYU stated: "First, and obviously, the Law School is an LDS law school. The fact that it is an LDS law school is an essential feature of the School's character, and the faculty, staff, and students consistently demonstrated a deep commitment to this character."³ They went on to say they were not sure they knew what it meant to be an LDS law school (a question that is much more difficult to answer than many might think), but it's clear that we were one. It's hard to be at BYU for any length of time without realizing that it is a religiously affiliated institution—and we hope it is not just because alcohol and caffeine are noticeably absent from campus events.

The religious nature of some religiously affiliated law schools is less obvious. Steve Barkan, former interim dean at the Marquette Law School, a Jesuit institution, once observed that "[w]ith the exception of occasional elective courses and extra-curricular activities, Jesuit law schools show relatively little objective evidence of their religious affiliation. For the most part, Jesuit law schools . . . are virtually indistinguishable from their secular counterparts."⁴ Barkan then observed that "[d]epending on one's perspective, these comments might be either compliments or criticisms,"⁵ an observation that applies with full force to schools, like BYU, that are more openly religious.

Second, and more important, the difficulty in identifying the exact number of religiously affiliated law schools reflects the

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This speech was presented at the J. Reuben Clark Law Society conference at Pepperdine University in Malibu, California, on February 16, 2007.

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historical fact that most of them (in tandem with the larger universities of which they are a part) have tended to become more secularized over time, so that those that at one point might have been classified as religiously affiliated no longer are. One quick illustration: In his 1937 inaugural address, Yale University President Charles Seymour urged “the maintenance and upbuilding of the Christian religion as a vital part of the university life,” calling upon “all members of the faculty . . . freely to recognize the tremendous validity and power of the teachings of Christ in our life-and-death struggle against the forces of selfish materialism.”⁶ While such a statement by its leader would arguably suffice to classify a law school as religiously affiliated, given the wide range of schools that could fit that description, it is beyond dispute that Yale no longer fits into that category.

Like Yale, many, if not most, major private universities that currently have law schools started out with some form of religious affiliation. Many, if not most, however, would not now fit in that category, and some that do seem headed out the door. That makes it difficult to determine at any given point who is in and who is out. More important, it provides some understanding of why some skepticism exists about religiously affiliated law schools.

Indeed, a somewhat conflated review of the history of legal education in western culture may cause one to wonder whether there is room for any optimism about the future of religion in the legal academy. Harold Berman has noted that from the time formal legal training at a university began in Bologna in the 11th century up until the middle of the 19th century, “legal education in the West . . . always had a very important religious dimension.”⁷ Religion played a central—if not the central—role in the process. By contrast, in 1985 when Rex Lee addressed the question of the role of religious law schools in American legal education, he correctly observed that “[t]here is a substantial segment of legal educators whose view on that subject can be stated in five words: there is no such role.”⁸

It is not, in my view, entirely coincidental that this trend toward secularization—which some applaud and others decry—has occurred largely in tandem with the development of the modern law school. Once

Christopher Columbus Langdell and his devotees advanced the “notion that the law is a pure and exact science, consisting of principles which are discoverable through analysis of the embedded logic of reported cases,”⁹ learning by faith began to fall into disfavor, so much so that a century later, Roger Cramton, then dean at the Cornell Law School, could conclude that what he called the “Ordinary Religion of the Law School Classroom” left little room for what we would call traditional religious beliefs.¹⁰ Cramton noted that in the modern law school classroom, the unspoken assumptions are that lawyers should be skeptical, value neutral instrumentalists who analyze issues with cold logic and little concern for the ends to which their craft will be put—that decision being made by the client.¹¹ These characteristics are at least in tension with much of the teachings of traditional faith-based religions, which preach faith, not skepticism, and believe in moral truths, not moral relativism.

Regardless of the exact causes of the trend toward secularization, there is little dispute as to its reality, and that reality poses a challenge for those who believe there is a role for religiously affiliated law schools. As Rex Lee noted in 1985, the “historical pattern of religious schools has been to achieve *either* professional excellence as secular institutions, *or* fidelity to their religious values as so-so law schools.”¹² Some remain convinced that this pattern is inevitable. Mark Tushnet has argued that a religiously affiliated university “‘will find it extremely difficult’ to maintain this affiliation if it also seeks to attain or preserve a national reputation.”¹³ For many, then, the choice is clear: a law school can be secular or second rate.

It is in this skeptical environment that I pose the three questions I wish to address. I do not purport to provide a full answer to any of the questions but rather hope to provoke further thought and discussion about these issues.

First, why, given the current context, should the legal academy and the bar accept religiously affiliated law schools? Over the last two decades, a growing body of literature has supplied various answers to this question. I highlight three of the more common ones.

First, religiously affiliated law schools can provide a large part of the antidote to a num-

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ber of the ills that have beset lawyers and the legal profession in the last half century. At an individual level, a growing body of literature reveals an increasing dissatisfaction with the practice of law. A 1990 survey by the ABA Young Lawyers Division revealed that 19 percent of attorneys were generally dissatisfied with their jobs, a 27 percent increase from a similar survey performed just six years earlier.¹⁴ A survey of lawyers in Wisconsin nine years later indicated that 91 percent found the practice of law increasingly stressful every year.¹⁵ Yet another study concluded that lawyers experience depression at a rate that is anywhere from two to six times greater than the general population.¹⁶ As one

scholar noted, these surveys demonstrate “a clear . . . decline in lawyers’ career satisfaction, physical health and mental health,”¹⁷ a trend that an ABA committee noted, “threatens the well-being of lawyers and firms in every part of the country.”¹⁸

At a macrolevel the concerns are magnified. As faith and other values have been excluded from the legal academy, the nature of the legal practice has itself changed in disturbing ways. Lack of civility is increasingly a concern of the bench and bar. Moreover, questions concerning the usefulness or destructiveness of lawyers who are trained to be value-neutral are arising with greater frequency. As Derrick Bell has observed:

*Lawyers need conscience as well as craft. To borrow an old but picturesque phrase, skilled lawyers without conscience are like loose guns on a sinking ship, their very presence is so disconcerting that they wreak damage whether or not they hit anything.*¹⁹

Religiously affiliated law schools are in a unique position to address these ills because the values that so many find missing in the practice of law and legal education are, to quote Rex Lee, “integral parts of the values that for millennia have constituted the foundation stones of Jewish, Christian, and other religious teachings.”²⁰ This is not to imply that those who are not religious cannot hold these values. Anyone with experience in the



world recognizes that is not the case. Some of the most caring, compassionate, and competent lawyers I know have no religious beliefs. But there is often an added dimension that accompanies and sometime magnifies the manifestation of these values if they are rooted in deep-seated religious conviction. Let me illustrate with an experience I shared with our first-year students at last year's orientation.

It concerns one of our graduates who told me of his efforts to apply gospel truths, as he understood them, to the practice of law. He is a litigator—a very good one. As you know, litigation is often contentious, sometimes overly so. On one occasion this

lawyer found himself in a deposition involving several attorneys, one of whom repeatedly verbally abused one of the other lawyers, engaging in personal attacks and tirades. Our graduate, somewhat stunned, did little to intervene on behalf of the victim, in part because the issues that sparked the outbursts had nothing to do with his client. That evening, however, he felt terrible because he had done nothing to prevent the attack from continuing. He resolved that he would never again allow that to happen to another attorney or witness when he was present, because he understood the deep truth that we are all sons and daughters of God with a divine nature and destiny. He has kept that resolve.

That story, by itself, could illustrate how an understanding of eternal truths can shape the practice of law in a positive way. But the story does not end there. On further reflection our graduate realized that the abusive attorney was also one of God's children with the same divine nature and potential as everyone else. He concluded that the laws of God required him to be concerned about this overly zealous and somewhat flawed lawyer as well. He knew the opposing attorney somewhat and realized that this behavior was not aberrational. After considerable reflection he concluded that the opposing attorney had some unmet needs that he, our graduate, could never fill. When he was about to let the matter pass, he suddenly realized that there was One—a perfect One—who, because of His infinite atoning sacrifice, could fill the unmet needs of this obviously unhappy attorney and make him whole. At that point our graduate resolved that at minimum he would pray for the well-being and happiness of that—and other—opposing counsel whose own unhappiness spilled out into the lives of others. Thus began his practice of praying for those with whom he worked, even those on the other side of an issue, and especially those whose actions were offensive to him and others. While it is not possible to measure the impact these heavenly importunings have had on the lives of his opposing counsel, this attorney reported that it has made his own professional life more fulfilling. I am also certain this lawyer has internalized the values of civility that so many judicial officials and bar leaders seek to instill in all lawyers.

Again, this is not to imply that those who are not religious will not share or exhibit the same values. But for those who are religious believers, those beliefs add another dimension. Moreover, that kind of story could not be told in that way at a state-sponsored law school; yet it, and similar stories, are the kind that can speak to the souls of many law students and lawyers in ways that will allow them to practice law more effectively and with more satisfaction. Thus, religiously affiliated law schools can provide a distinctively powerful form of teaching the values that the bar, the academy, and society encourage all lawyers to possess.

The second reason that the bar and academy should accept religiously affiliated law



EXPLAINING WHY HE ADVOCATED FOR THE CHURCH TO ESTABLISH A LAW SCHOOL, PRESIDENT MARION G. ROMNEY STATED, “TO BEGIN WITH, I HAVE LONG FELT THAT NO BRANCH OF LEARNING IS MORE IMPORTANT TO AN INDIVIDUAL OR TO SOCIETY THAN LAW.”

schools relates to another issue of importance to those two entities: the need for diversity in legal education. As the Supreme Court noted in *Grutter v. Bollinger*, “The skills needed in today’s increasingly global marketplace can only be developed through exposure to widely diverse people, cultures, ideas, and viewpoints.”²¹ Thus, in order to be effective, legal education must expose lawyers to diverse views. Some will undoubtedly find use of this argument in defense of religiously affiliated law schools surprising, if not objectionable, for one of the common criticisms of such law schools is that they are too narrow, insular, and parochial and therefore insufficiently diverse. While that is a real issue to which religiously affiliated law schools need constantly to be attuned, these same schools have contributed—and continue to contribute—to a diverse environment in ways that often go unrecognized.

As to the past, many Catholic law schools started in the late 19th and early 20th century precisely because the then-established law schools were unwilling to accept Catholic students or immigrants who “either could not afford, or were otherwise excluded from law schools” at the time.²² Thus, religiously affiliated law schools have opened up legal education and the influence that flows from that education to segments of society that otherwise might have been excluded.

One might counter that the need for such schools has now dissipated in the more enlightened era in which we live, one in which Catholics and members of other previously excluded groups are now found at all top law schools. However, one should not underestimate the impact that the establishment of Catholic schools had—and continues to have—on that enlightenment. The success of Catholic law schools provided an irrefutable rebuttal to the arguments of those who contended, either openly or covertly, that Catholics or immigrants could not flourish in legal education or the legal profession. Moreover, one can argue that the success of well-regarded Catholic schools like Notre Dame and Boston College continues to open doors to Catholics at other law schools because those schools provide a continuing reminder to the world that Catholicism and top-quality legal education are not incompatible, a theme to which I will return at the end of my remarks.

Even if this first contribution of religiously affiliated law schools to the diversity of legal education has run its course, there is another often-overlooked contribution that is perhaps more valuable today than ever. As scholars such as Michael McConnell and Jim Gordon have articulated so well, religiously affiliated universities and law schools contribute to diversity in legal education at a macrolevel in ways that other institutions simply cannot.²³ As Judge McConnell put it, religiously affiliated universities

*enrich our intellectual life by contributing to the diversity of thought and preserving important alternatives to post-Enlightenment secular orthodoxy. Their very distinctiveness makes them better able to resist the popular currents of majoritarian culture and thus to preserve the seeds of dissent and alternative understandings that may later be welcomed by the wider society.*²⁴

While diversity of thought and viewpoint is an important aspect of legal education, there is a certain irony in the tendency of the legal academy to insist that true diversity can be established only if every institution is diverse in exactly the same way. Religiously affiliated law schools contribute enormously to diversity when one considers diversity at an institutional and not just individual level. As the former dean of the Dayton Law School observed, “The world is a more interesting place . . . when people have beliefs, convictions, and a song to sing.”²⁵

Religiously affiliated law schools provide the environment in which those beliefs and convictions can be nourished in a legal context. Unless the legal academy and bar have reached the point at which they have concluded with certainty that they have all the answers and that religion has absolutely nothing to offer, they should gratefully accept the diverse voice that religiously affiliated law schools provide, as those voices may otherwise not be heard at all.

That leads to a third reason why the academy and bar should accept religiously affiliated law schools: such schools are essential to religious liberty overall. As Mike McConnell has observed, religiously affiliated universities

are an important means by which religious faiths can preserve and transmit their teachings from one generation to the next, particularly for nonmain-

*stream religions whose differences from the predominant academic culture are so substantial that they risk annihilation if they cannot retain a degree of separation. The right to develop and pass on religious teachings is at the very heart of the first amendment.*²⁶

While some might limit that argument to undergraduate education that involves students who are younger and therefore generally more impressionable, similar value transmission is essential in law schools. As the Supreme Court noted in *Grutter*, law schools have historically proven to be institutions that develop leaders,²⁷ and as Judge McConnell has observed, “Religious colleges and universities do more than transmit creeds; they also raise up leaders and members in the tradition and communion of the faith.”²⁸

There are other things that could and have been said in support of the proposition that the bar and academy should accept religiously affiliated law schools. I will save those for another day and instead turn to the somewhat-related, but very distinct, and much-less-often-asked question: Why would a church have a law school?

This question is less often considered for a variety of reasons. First, it is of relevance to fewer people. While all the academy and bar have some interest in whether religiously affiliated law schools are allowed to exist, only those who are members of a church that has or will establish a law school are directly concerned with this question. And that universe is even smaller than the universe of religiously affiliated law schools. Many religiously affiliated law schools were started and are controlled not by churches themselves but by members of the faith who seek to promote its values. Thus, many religiously affiliated law schools have no formal ecclesiastical ties with the church with which they are affiliated.²⁹

Most of the more limited scholarly writing on this subject has come as a result of the Catholic Church’s efforts in the 17 years since the issuance of *Ex Corde Ecclesiae* to more closely regulate Catholic universities, even those not formally initiated by the church itself (such as the Jesuit institutions). Leading among these scholars has been Thomas Shaffer, one of the most thoughtful and influential scholars of our time on the relationship between law and religion.

Professor Shaffer has identified a number of possible reasons why churches—and particularly the Catholic Church, of which he is a member—would have a law school. Dismissing the notion that they do so to make money, he concludes that “a church has a law school because the church wants to do something for God that it can only do by having a law school.”³⁰ He then identifies some of the things that might qualify in that regard. A church law school could, for example, “provide vertical mobility to members of the church.”³¹ It might “provide a spiritually cordial atmosphere for believers who study law,” so they remain close to the faith as they study.³² Or, Shaffer opines, a church law school may reflect a “theology that says the church should serve the community,” and law is one way for that to happen.³³ Finally, Shaffer says—and this is clearly the idea he likes best—the church may have a law school because the church serves a priestly and prophetic function and the law school may help it carry out that mission.³⁴ This is the most challenging role a law school may play because, just as prophets and priests must on occasion call believers not to follow the ways of the world, churches that have a law school to help them carry out priestly or prophetic functions must at times remain apart from the mainstream. Because it is required to live in the world, the church understands the usefulness of the law.³⁵ But because it cannot be fully part of the world, the church cannot take its moral guidance from the law.³⁶ Thus, the church is desirous to use the law to advance its interest but also is wary of the law, and it wants lawyers who understand that tension.³⁷ It may conclude, Shaffer says, that the best way to do that is to have its own law school.³⁸ This will allow the church to “focus more carefully and more forcefully on how it understands the practice of law, so that the practice of law will not only be moral but will also be priestly and prophetic.”³⁹

Not everyone involved in Catholic legal education agrees with Shaffer,⁴⁰ but the possible reasons he suggests provide considerable food for thought for anyone interested in any church law school, including the one in Provo, Utah—to which I now turn my remarks.

Many have speculated as to the reasons why The Church of Jesus Christ of Latter-

day Saints established a law school. The answers suggested by Shaffer are all plausible: the Church may have wanted to provide vertical mobility for its members, or it may have wanted to provide a spiritually cordial atmosphere in which believers could study the law. President Marion G. Romney’s observation that the Law School was established so that there would be “an institution in which [students] may ‘obtain a knowledge of . . . [the] laws of . . . man’ in the light of the ‘laws of God,’” strongly suggests something along the lines of the latter.⁴¹ The Church might also have intended that the Law School aid in the Church’s service to the community in ways that the J. Reuben Clark Law Society’s pro bono project seems to be doing.

In a 1975 address at the dedication of the Law School building, President Romney provided some other reasons why he used his considerable influence to help establish the Law School, including the Law School’s potential impact on the rest of university, the positive impact that the atmosphere of the university would have on the Law School, and—most relevant to this group—his desire to perpetuate “the memory and influence of President J. Reuben Clark, Jr.” something to which all of you continue to contribute.⁴²

For me, however, the most interesting reason posed by President Romney in that address is the one he listed first, one suggesting a role for the Law School in filling the priestly mission of the Church, not in the way that Shaffer had in mind but in a manner that provides a more direct connection with the purposes and doctrines of the Church than the other possible reasons.

In explaining why he advocated for the Church to establish a law school, President Romney stated, “To begin with, I have long felt that no branch of learning is more important to an individual or to society than law.”⁴³ President Romney was not one given to hyperbole, and I don’t believe he intended to engage in it on this occasion. With that in mind, reflect for a minute on what he said: “No branch of learning is more important to an individual or to society than law.” No other branch of learning? Not philosophy, not medicine, not engineering, not theology? Could he have really meant that?

I believe the answer is yes, and my belief is based on remarks President Romney made



two years earlier when speaking to the charter class on its first day of law school in a portion of his address that tends not to get much emphasis in our sound-bite world. At the outset of those remarks, President Romney stated in plain, declarative terms: “To appreciate the reason the Church is establishing a school of law here at Brigham Young University, one must have some understanding of The Church of Jesus Christ of Latter-day Saints, and know and realize something about its nature and its purpose.”⁴⁴ He then described events that occurred well before any board of trustees meetings in the early 1970s and truths that stretch well beyond the principles found in any casebook.

First—That we humans “are begotten sons and daughters unto God” (D&C 76:24).

Second—That mortality is but one phase, albeit an indispensable phase, of our total existence.

Third—That God created us that we “might have joy” (2 Nephi 2:25) and that it is His purpose and His work and His glory “to bring to pass the immortality and eternal life of man” (Moses 1:39), which is the highest form and type of joy and happiness.

Next—That God has provided in the Gospel of Jesus Christ the true and only way by which men can achieve that objective.⁴⁵

President Romney then listed other eternal truths and doctrines. In essence, he outlined the plan of salvation. After laying that groundwork, he then discussed some of what the Lord has said in modern revelation about law, quoting specifically from the 42nd and 34th verses of the 88th section of the Doctrine and Covenants: “[God] hath given a law unto all things, by which they move in their times and their seasons; [and] that which is governed by law is also preserved by law and perfected and sanctified by the same.” President Romney could have gone on to quote other portions of that section, including the fact that “[a]ll kingdoms have a law given . . . [a]nd unto every kingdom is given a law; and unto every law there are certain bounds also and conditions.”⁴⁶

The point seems clear: law extends well beyond this mortal sphere. It is an essential part of our Father in Heaven’s eternal plan of happiness for His children. Thus, when we study law we are truly acquiring an “education for eternity,” to borrow President

Kimball’s phrase.⁴⁷ I believe it was with that in mind that President Romney asserted his belief that “no other branch of learning is more important to an individual or to society than law,” for as he noted in a different context, “[T]here is no permanent progress made in any field or in any place except it be through obedience to the governing law.”⁴⁸

I believe that one cannot fully understand why this Church would establish a law school if one does not first understand how important, how essential, how central, law is to God’s eternal plan for us, His children.

When I was midway through law school, I attended a general conference session with my father. Shortly after the session, my father ran into an acquaintance of his and introduced me. My father informed his friend that I was in law school. With all earnestness the man responded, “I once thought about going to law school, but then I realized that there would be no need of lawyers in the celestial kingdom.” He did not smile; he was not joking. Somewhat taken aback, I asked him what he did for a living. He said he was a dentist. I am glad that I refrained from asking him whether he seriously thought that teeth would need repair after the resurrection, but I have regretted that I did not have a better answer than that, one that President Romney provided. Yes, there will be need for those who understand law in the celestial kingdom. Indeed, I believe that those who do not understand law will not be there.⁴⁹ As Joseph Smith observed:

If man has grown to wisdom and is capable of discerning the propriety of laws to govern nations, what less can be expected from the Ruler and Upholder of the universe? Can we suppose that He has a kingdom without laws? Or do we believe that it is composed of an innumerable company of beings who are entirely beyond all law? . . . Would not such ideas be a reproach to our Great Parent, and at variance with His glorious intelligence? Would it not be asserting that man had found out a secret beyond Deity? That he had learned that it was good to have laws, while God after existing from eternity and having power to create man, had not found out that it was proper to have laws for His government?⁵⁰

In making these observations I do not suggest that the Church created the Law School so that students could spend three

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years trying to extract eternal legal principles from the scriptures. The principal focus of the Law School has been and will continue to be to provide a first-rate legal education focused on secular laws. Students have been and will be required to learn the skills and concepts associated with those laws in the same way that they are learned in other top-tier law schools. As President James E. Faust informed our students several years ago:

Do not expect your professors . . . to concentrate [their] lessons out of the scriptures, although occasionally [they] may wish to do so. [Their] obligation is to teach you the secular rules of civil and criminal law and matters that relate to them. Your obligation is to learn the rules of law and related matters. The whisperings of the Holy Spirit will no doubt help you, but you must learn the rules of law, using Churchill's phrase, by "blood, sweat, and tears."⁵¹

**I BELIEVE THAT THE
SUCCESSSES ATTAINED BY
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I believe, however, we will not understand or achieve the full purposes of the Law School unless we recognize that the study of law is much more important and deep than most in the world realize. It is only when we study the laws of men in the light of the laws of God that we can begin that process. A school like BYU must be the kind of place where that can happen if it is to be the law school the Church wants it to be.

Now to the third and final question: Why should religious believers who do not attend religiously affiliated law schools care about the answers to the two prior questions?⁵² At a general level, one would expect that they might care to a greater extent than nonbelievers merely because they are concerned about the well-being of their fellow believers. But I believe the interest goes much deeper than this and that it turns on things that are of more direct and practical effect than the more abstract concern for the well-being of fellow brothers and sisters. I mention three in particular.

First, to the extent that religiously affiliated law schools are essential to the full enjoyment of religious liberty in the United States, believers, even those who are not lawyers or law students, have an interest in the success of those law schools. Indeed, for an organization like the J. Reuben Clark Society—which maintains that strength is brought to the law by a lawyer's personal reli-

gious convictions—not just the existence but the success of religiously affiliated law schools is of great importance.

Second, as noted above, I believe the existence of well-respected religiously affiliated law schools improves the environment and the demand for believing lawyers and law students at nonreligiously affiliated law firms and law schools. In that regard, I believe that the successes attained by the J. Reuben Clark Law School have helped open doors for all LDS law students and lawyers, even those who never attend a class at BYU. I was at a meeting of law deans last spring, when the dean of another law school approached me, introduced himself with a broad smile and announced, "We have six of your students at our law school and we love them." He obviously expected me to join in his joy, which I did, even though none of those students had ever attended the BYU Law School. As I have watched with pleasure the growing number of student chapters of the J. Reuben Clark Law Society, I believe we at the BYU Law School have an obligation to help those LDS law students who do not attend BYU by being as good a law school as we can be because I know that at least some of their deans, classmates, and potential employers see them as "our" students.

Similarly, we at the BYU Law School benefit from the good works of LDS students at other law schools. Your successes, especially to the extent you are affiliated with chapters of the J. Reuben Clark Law Society, clearly redound to our benefit. That is also true of LDS lawyers who are not our graduates. Indeed, the J. Reuben Clark Law Society was founded in large part because Bruce Hafen, then the dean of the J. Reuben Clark Law School, and Ralph Hardy, a prominent LDS attorney who was not a BYU Law School graduate, both realized the extent to which their successes and destinies were tied together.

Thus, we are somewhat fellow travelers in this endeavor of bringing together two things that command our time and passion: law and religion. That leads to the third reason why believers who do not attend religiously affiliated law schools should care about the questions such schools face, especially the second one: Why would a church start a law school? I believe that great benefit can come to any LDS lawyer, even those who

are not BYU law students or graduates, in considering deeply why the Church would start a law school. I have suggested several reasons. Some are more narrowly focused on the campus at BYU. But I believe the most important reasons extend well beyond that setting both geographically and temporally. As I indicated, it is clear to me from both President Romney's observations and the scriptures that law is of much broader importance than many members of the Church, including many lawyers, may initially suppose. And, while I have given the matter some thought, it is clear to me that I have not—and likely will not—fully comprehend its importance on my own.

I, therefore, invite you to join with me in that exciting ongoing endeavor. For the law is indeed a noble profession, and there truly is “strength brought to the law by a lawyer’s personal religious convictions.”

Kevin J Wortben is a law professor and the dean of the J. Reuben Clark Law School at Brigham Young University.

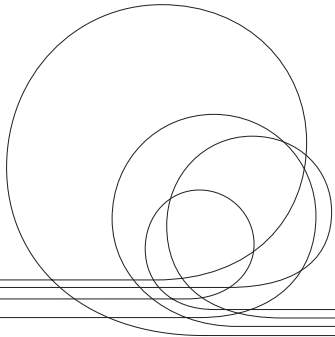
NOTES

- ① PAUL F. BOLLER, JR., *PRESIDENTIAL ANECDOTES* 241–42 (rev. ed. 1996).
- ② Within a two-year period, three articles came up with three different numbers. Steven M. Barkan, *The First Conference of Religiously Affiliated Law Schools: An Overview*, 78 MARQ. L. REV. 247, 247 (1995) (35 religiously affiliated law schools); David L. Gregory, *Where to Pray? A Survey Regarding Prayer Rooms in A.B.A. Accredited, Religiously Affiliated Law Schools*, 1993 BYU L. REV. 1287, 1307 (52); Thomas L. Shaffer, *Erastian and Sectarian Arguments in Religiously Affiliated American Law Schools*, 45 STAN. L. REV. 1859, 1864 n.18 (1993) (48). For a more recent effort at enumeration (including several schools not in existence when the earlier numbers were calculated), see Monte N. Stewart & H. Dennis Tolley, *Investigating Possible Bias: The American Legal Academy’s View of Religiously Affiliated Law Schools*, 54 J. LEGAL EDUC. 136, 142 (2004) (44).
- ③ American Bar Association, *Inspection Report on the J. Reuben Clark Law School*, 5 (2005).
- ④ Steven M. Barkan, *Jesuit Legal Education: Focusing the Vision*, 74 MARQ. L. REV. 99, 102–03 (1990).
- ⑤ *Id.* at 103.
- ⑥ GEORGE M. MARSDEN, *THE SOUL OF THE AMERICAN UNIVERSITY: FROM PROTESTANT ESTABLISHMENT TO ESTABLISHED NONBELIEF II* (1994).

- ⑦ Harold J. Berman, *The Secularization of American Legal Education in the Nineteenth and Twentieth Centuries*, 27 J. LEGAL EDUC. 382, 382 (1975).
- ⑧ Rex E. Lee, *The Role of the Religious Law School*, 30 VILL. L. REV. 1175, 1175 (1985).
- ⑨ Graham B. Strong, *The Lawyer’s Left Hand: Nonanalytical Thought in the Practice of Law*, 69 U. COLO. L. REV. 759, 759–60 (1998).
- ⑩ Roger C. Cramton, *The Ordinary Religion of the Law School Classroom*, 29 J. LEGAL EDUC. 247 (1978). Cramton notes, for example, that law students tend to be (and are trained to be) “tough minded” rather than “tender minded” and that the former group tends to be “irreligious.” *Id.* at 261.
- ⑪ More specifically, Cramton notes that an outside observer of a modern law school classroom would conclude that underlying the legal education system are: (1) “a skeptical attitude towards generalizations, principles, and received wisdom,” (2) “an instrumental approach to law and lawyering,” (3) “a ‘tough-minded’ and analytical attitude towards lawyer tasks and professional roles,” and (4) “a faith that man, by the application of his reason and the use of democratic processes, can make the world better.” *Id.* at 248–52.
- ⑫ Lee, *supra* note 8, at 1175–76 (1985).
- ⑬ Robert John Araujo, “*The Harvest Is Plentiful, but the Laborers Are Few*”: *Hiring Practices and Religiously Affiliated Universities*, 30 U. RICH. L. REV. 713, 718 (1996) (quoting Mark Tushnet, *Catholic Legal Education at a National Law School: Reflections on the Georgetown Experience*, in *GEORGETOWN AT TWO HUNDRED: FACULTY REFLECTIONS ON THE UNIVERSITY’S FUTURE* 322 (McFadden, ed., 1990)).
- ⑭ AMIRAM ELWORK, *STRESS MANAGEMENT FOR LAWYERS* 14 (3d ed. 2007).
- ⑮ *Id.* at 15.
- ⑯ Susan Daicoff, *Lawyer, Know Thyself: A Review of Empirical Research on Attorney Attributes Bearing on Professionalism*, 46 AM. U. L. REV. 1337, 1347 (1997).
- ⑰ ELWORK, *supra* note 15, at 13.
- ⑱ *Id.*
- ⑲ Derrick A. Bell, Jr., *Humanity in Legal Education*, 59 OR. L. REV. 243, 244 (1980).
- ⑳ Rex E. Lee, *Today’s Religious Law School: Challenges and Opportunities*, 78 MARQ. L. REV. 255, 259 (1995).
- ㉑ 539 U.S. 306, 330 (2003).
- ㉒ Barkan, *supra* note 4, at 104.
- ㉓ See, e.g., James D. Gordon III, *Individual and Institutional Academic Freedom at Religious Colleges and Universities*, 30 J.C. & U.L. 1 (2003).
- ㉔ Michael W. McConnell, *Academic Freedom in Religious Colleges and Universities*, 53 LAW & CONTEMP. PROBS. 303, 312 (1990).
- ㉕ Lee, *supra* note 8, at 1180 (quoting Dean Davis of the University of Dayton School of Law).

- ㉖ McConnell, *supra* note 24, at 316.
- ㉗ *Grutter*, 539 U.S. at 332.
- ㉘ McConnell, *supra* note 24, at 316 n.38.
- ㉙ See, e.g., Pepperdine University, *History of the University*, <http://www.pepperdine.edu/welcome/about/history.htm> (last visited June 22, 2007) (noting that “Pepperdine University is affiliated with the Churches of Christ, of which George Pepperdine was a lifelong member. It is nonsectarian and independent of ecclesiastical controls”).
- ㉚ Thomas L. Shaffer, *Why Does the Church Have Law Schools?*, 78 MARQ. L. REV. 401, 402 (1995).
- ㉛ *Id.*
- ㉜ *Id.*
- ㉝ *Id.*
- ㉞ *Id.* at 402–03.
- ㉟ *Id.* at 404.
- ㊱ *Id.* at 405.
- ㊲ *Id.* at 404–06.
- ㊳ *Id.* at 406.
- ㊴ *Id.*
- ㊵ See, e.g., Mark A. Sargent, *An Alternative to the Sectarian Vision: The Role of the Dean in an Inclusive Catholic Law School*, 33 U. TOL. L. REV. 171 (2001).
- ㊶ Marion G. Romney, *Becoming J. Reuben Clark’s Law School*, in *ADDRESSES AT THE CEREMONY OPENING THE J. REUBEN CLARK LAW SCHOOL, AUGUST 27, 1973* 17, 20 (1973).
- ㊷ Marion G. Romney, *Why the J. Reuben Clark Law School?*, in *DEDICATION: TO JUSTICE, TO EXCELLENCE, TO RESPONSIBILITY: PROCEEDINGS AT THE CONVOCATION AND DEDICATION OF THE J. REUBEN CLARK COLLEGE OF LAW, BRIGHAM YOUNG UNIVERSITY, PROVO, UTAH, SEPTEMBER 5, 1975* 43, 43–44 (1975).
- ㊸ *Id.* at 43.
- ㊹ Romney, *supra* note 37, at 17.
- ㊺ *Id.*
- ㊻ *Doctrine and Covenants* 88:34, 36.
- ㊼ Spencer W. Kimball, *Climbing the Hills Just Ahead: Three Addresses in Educating Zion* 43 (John H. Welch, Don E. Norton, eds. 1996).
- ㊽ Marion G. Romney, *The Rule of Law*, *ENSIGN*, Feb. 1973, at 2, 2.
- ㊾ See, *Doctrine and Covenants* 88:22.
- ㊿ *TEACHINGS OF THE PROPHET JOSEPH SMITH* 55 (Joseph Fielding Smith, comp., 1976).
- ① James E. Faust, *The Study and Practice of the Laws of Men in the Light of the Laws of God*, in *Life in the Law: Answering God’s Interrogatories* 37 (Galen L. Fletcher, Jane H. Wise eds.) 2002.
- ② With respect to the first question, the real inquiry here is why this group should care more than a nonbelieving lawyer or law student since all lawyers and law students presumably have some interest in the first question.

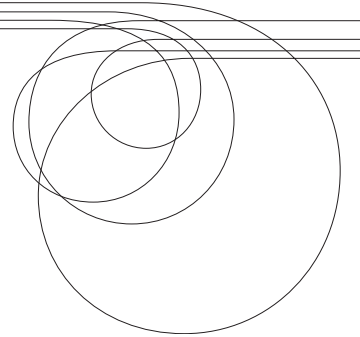




our essential work

peacemaking

in the last days



||| BY CHIEKO N. OKAZAKI' |||

My dear brothers and sisters, **aloha!** I think most of you know that

my older son, Ken, is an attorney in Salt Lake City.

A couple of years ago when my grandson, Kenzo, was four or five, I picked him up to take him to the museum or the library and asked, “How’s your mom? How’s your dad?” Kenzo said, “Oh, they’re fine. Daddy was walking back and forth in the living room last night talking to himself.”

“What was he doing that for?” I asked.

“Oh,” said Kenzo matter-of-factly, “he was doing his litigation.”

Well, when I was invited to give this address, I thought it would be a great opportunity to get Ken’s thoughts on peacemaking, since he’s quite well regarded (and this isn’t just his mom speaking) as a negotiator and mediator as well as a litigator. I know that it’s important to him to do superb representations of his clients but that he exhausts every possible avenue short of litigation to find a fair solution that both parties can live with.

So I asked him about peacemaking. He just laughed out loud. Then he gave me a lengthy lecture, the bottom line of which was that talking about peacemaking and the law in the same sentence was a fantasy. He pointed out that the courts are set up as adversarial arenas. Lawyers and clients want to win. Judges and juries don’t notice or reward efforts at peacemaking. His job as an attorney is to win for his client, which has nothing to do with peacemaking. He tries to work with the other side out of court; but when the other side wants to fight, then he gets busy and constructs the best case he can to win for his client.

After reading me this lecture, he sighed and said, “Maybe you can talk about trust, Mom, or civility, but I don’t think you can talk about peacemaking.” There was a long pause, and this tough, accomplished, highly regarded litigator son of mine said, “I wish we could make peace.”

Well, you and I and Ken all know that peacemaking is pretty much of a fantasy right now in our international and national lives, as well as in our courtrooms. One of the signs of the last days is:

And there went another horse that was red: and power was given to him that sat thereon to take peace from the earth, and that they should

kill one another: and there was given unto him a great sword.²

Anyone who doesn’t believe that this sword has been unsheathed hasn’t seen the news recently.

So, is the idea of peacemaking a fantasy? I say no, and I want to talk about three ideas about peacemaking in these last days. And I want to speak to you specifically because you’re involved with law. You have, in my opinion, a crucial and perhaps even essential role as peacemakers. The first point I want to make is that we can and, indeed, must achieve peace of conscience. Second, we can and, indeed, must achieve peace in our own homes. And third, an essential element of peacemaking is the ability to love others.

ACHIEVING PEACE OF CONSCIENCE

Let’s begin with peace in the most important place: peace of conscience. Brothers and sisters, the two factors that you have in common here today are that you’re all attorneys (or your spouse is) and you’re all graduates of Brigham Young University. You may have had moments of being irritated at the Honor Code when you were there, but you had the great blessing of being at a school where the word *honor* was taken seriously. Words like *honesty* and *integrity* count for something. Those qualities are part of who you are, and their ideal is something you reach for and will keep reaching for, in both your personal and your professional lives.

When you pass the bar and are sworn in, you take a serious oath to pursue, defend, and preserve justice. This oath—we might call it a covenant—puts you in a special category in our society. It’s one that promises desirable rewards but it also makes heavy demands on you. Part of who you are is your code of professional ethics. You’re responsible to your peers and to the standards of your profession for the quality of your behavior. Each of you participates in pro bono work, making your expertise available to those who can’t afford to buy it, and works in your community. These are heavy responsibilities that you owe the community and your profession because of the esteem in which law is held.

It should go without saying that maintaining your personal and professional honor requires that you do your absolute best—the

The following speech was presented at the J. Reuben Clark Law Society conference at Pepperdine University in Malibu, California, on February 16, 2007.

best job of research, the most persuasive writing, the more resourceful defenses, and the most carefully conducted prosecutions. The theory underlying the adversarial system of law that prevails in the United States is that the truth—and therefore justice—is most likely to emerge from the open clash of strongly opposed ideas.

I truly believe in this system of justice. Although it does not work perfectly—and sometimes does not work at all—I don't see how the alternatives can produce a better chance of justice, especially since all of them involve either random chance or placing inordinate trust in the ability of either one person or a very small group to intuit the truth. As a minority woman and as a member of a religion against which the United States of America sent an army in the 19th century, I strongly prefer our adversarial system.

So part of having peace of conscience involves doing your absolute level professional best. To me that means doing absolutely honest research, honest writing, and honest arguments. This doesn't always mean that you'll win, but it does mean that you'll have peace of conscience about your efforts.

Having peace of conscience means that you cannot ever justify shady behavior by the results. The worthiness of the end does not justify using unworthy means to achieve it.

Even though the media rejoice to feature bad-tempered and grandstanding attorneys, you cannot become one of their number. I understand that the California State Bar has launched a "civility initiative and may consider adopting a civility code with hopes of convincing judges to sanction rude behavior."³ Gus Chin, president of the Utah State Bar, in a special issue of the *Utah Bar Journal* devoted to professionalism and civility, points out the fact that the Utah Supreme Court in 2003 adopted standards of professionalism and civility, and states: "Despite being treated unkindly, one can prevail by maintaining a high degree of personal professional dignity and control. Furthermore, the constitutional guarantee of freedom of speech does not amount to an open license to engage in invective, rudeness, and uncooperative conduct."⁴

Justice Christine M. Durham, now serving her second term as chief justice of the Utah Supreme Court, has pointed out: "The consequences of incivility are grave—it increases litigation costs, fails to promote

clients' legitimate interests, and diminishes the public's respect for the legal profession and its ability to benefit society."⁵

Justice Richard D. Fybel, associate justice of the California Court of Appeals in Santa Ana, specifically challenged the argument that "clients really like tough-guy and tough-gal lawyers. You know, the junkyard dog that attacks, salivates, and then attacks some more? Why shouldn't I be the toughest, nastiest representative out there? Who cares about expertise and ethics anyway?" Justice Fybel, drawing on his long years of experience as an attorney and as a judge counters: "Quite simply, [mean lawyers] don't usually win." People—sometimes their own clients—don't want to work with them and "simply, don't rely on their judgment and representations." That's the issue of trustworthiness.

He also points out that attorneys have to persuade someone: the other side, a court, an agency, or their own client. "People are not persuaded by obnoxious or unethical tactics. Intimidation is overrated as a litigation tool. It does not work in the widest range of my experience—from business cases to criminal pleas and trials. . . . [Obnoxiousness] may make for good TV from time to time, but in real life, over time, persuasion by use of reason and appeal to self-interest works best."⁶

Since I'm a teacher, I'll say it in second-grade terms. Nobody likes tantrums, and they're especially unappealing when it's adults who are having them.

Brothers and sisters, anger is a useful and helpful emotion. It tells us that something is wrong, and it mobilizes our energy to do something about it. Part of maturity, however, is learning the difference between feeling anger and acting on it. A sign of maturity is being able to recognize the difference between injustice and merely not getting our own way. Most of the behaviors President Chin and Justice Durham are talking about are the manifestations of mean-spiritedness, name-calling, rudeness, the desire to hurt verbally—in short, the inability to control one's temper.

You're all well aware of that famous passage in Ephesians that talks about putting on the "whole armour of God." Particularly relevant to our discussion is the verse in which the Apostle Paul urges his readers to have "your feet shod with the preparation of the gospel of peace."⁷ I think it's extremely

important that the Lord not only repeated a version of this "whole armour" passage in a revelation to Joseph Smith but then expanded it this way: "And [have] your feet shod with the preparation of the gospel of peace, *which I have sent mine angels to commit unto you.*"⁸ It's the last phrase that's new in this modern scripture: "the gospel of peace which I have sent mine angels to commit unto you."

I think that if something is important enough that God sends angels to give it to us, then we need to pay attention. Anger may be a good spark plug, but it's a bad motor. If you find yourself taking parts of your profession too personally and especially if you find yourself relishing and even counting on feelings of anger and using anger as the justification for behaving badly, then I'm calling you to repentance, right here and now. I greatly enjoyed a book that compiled one-sentence lessons from ordinary people about life lessons. This one came from a seventy-one-year-old, who said: "I've learned that no situation is so bad that losing your temper won't make it worse."⁹

Brothers and sisters, you are all people of conscience. You know how quickly dishonesty, pride, and anger can cloud your conscience. As the book of Proverbs reminds us: "He that is slow to anger is better than the mighty; and he that ruleth his spirit than he that taketh a city."¹⁰

PEACE IN OUR OWN HOMES

Now let's talk about the second place of achieving peace: peace in our own homes. I remembered reading a book called *The 10 Greatest Gifts I Give My Children*. The author, Stephen Vannoy, asked his son, Jeremy, who was not quite three, if he wanted a piece of cheese with his lunch. "No," said Jeremy, "I want peace and quiet."¹¹ Well, I think that parents, especially the parents of young children, have moments when that's what they want, too.

So let me ask you: Do you want the person you are in the courtroom or in the office to be the person who is raising your children? In other words, if you aspire to be a killer litigator or the brainiac researcher, is that litigator or researcher also your goal as a parent? Almost certainly not.

I accept and acknowledge that some of the skills you need to do your job with integrity and excellence may be counterproductive in your all-important relationships as a spouse and a parent. But I ask you to think intelligently and insightfully about the list of qualities that makes you a good attorney and see how and to what extent they may also make you a good parent.

Let's get back to my question: What job skills do you have that can also help you be a good parent? Obviously, we can see respect for others, respect for the sometimes abstract principle of fairness, placing a high priority on the value of rules, the ability to listen carefully, and the ability to creatively work at finding acceptable compromises. I also want to make the obvious point that being a good parent develops very valuable skills that can enhance your professional performance.

I'm suggesting this approach because I think we sometimes try to meet this particular challenge by being two people. We have one personality for the office and another one for home. But I've found that people who think it's okay to yell at the secretary at the office also think it's okay to yell at their daughter. Everything we've just said about peace of conscience applies here as well. If you can be a whole person and be your essential self in both the professional and personal settings, that will go far toward giving your children the kind of parent you want them to have and your spouse the kind of partner he or she deserves.

I realize that I'm describing something of an ideal here and that reality has other demands that you have to accommodate as well. So after having given you this excellent advice about integrating the parts of your roles as much as possible, I'm also going to ask you to do the exact opposite and find ways to keep your roles separate.

Let me explain. Does your work involve stress and tension? Absolutely. What do you do about it? Some people thrive on the juggling, the split-second decision making, the adrenalin rush of packing 90 minutes worth of activity into a 60-minute hour, even the contests in the courtroom—the thrust and parry of the mental combat and expert maneuvering. But most of us don't thrive on that kind of around-the-clock stress, and I'm

pretty sure that high-speed, high-tension lifestyle is not a healthy mode for children. So I'm suggesting advice you've all heard since your first year at law school about leaving your problems at the office.

LOVE AND PEACEMAKING

We've talked about peace of conscience and achieving peace in our own homes. My third point is that essential to peacemaking in these last days is the ability to love. I want to be very specific on this point; and even though I've already disclaimed any insider knowledge of your professional responsibilities and duties, I want to talk specifically about love in your professional setting. I'm talking about your relationships with your clients and, to a lesser extent, your staffs, your colleagues, opposing counsel, the judges, and courtroom staffs.

Brothers and sisters, you must respect the office held by expert witnesses, the judges, the bailiffs, other officers of the court, and opposing counsel. You don't have to respect the person who holds that office unless that person earns your respect by his or her behavior. You don't have to trust that person, even though you must trust the system. You don't have to like that person or choose to spend time voluntarily with him or her, but it is absolutely incumbent upon you as a Christian and Latter-day Saint to love that person.

I know exactly how impossible that sounds—even how undesirable it sounds, but I mean exactly what I say. Jesus told His disciples, "A new commandment I give unto you, That ye love one another; as I have loved you."¹² This isn't a suggestion or a handy hint. It's a commandment.

It cuts through all of the relationships that require reciprocation. Respect requires reciprocation. Trust requires reciprocation. Courtesy doesn't require reciprocation but it can only flourish when there is. Liking and friendship definitely require reciprocation.

Jesus isn't talking about any of those things. He's talking about love—the kind of love that He had for us. And what kind of love was that? It was love that went to Gethsemane and to the cross. It was love that suffered from betrayal, abandonment, and torture but without withdrawing itself. It was love that persisted to the very uttermost.



IF SOMETHING IS IMPORTANT ENOUGH THAT

God sends angels

TO GIVE IT TO US, THEN WE NEED TO PAY ATTENTION.

When humankind did its worst to Jesus, He did His uttermost for us. That's why we worship and adore Him.

Can we do the same thing? Not on our own. Not from our own resources. Not by our own kindly thought and self-discipline and willpower. Not without Him. When Jesus says, "I am the way," He means that literally. He not only imposes this impossible commandment on us of loving one another as He loves us, He not only insists that we take that commandment seriously, but He also

foresees that we will fail and that our own pitifully small wells of charity can last no longer than an ice cube on the sidewalk at the 24th of July parade—that is, unless He helps us.

He is the vine. We are the branches. As long as we are firmly connected to Him, then His own power, energy, passion, and compassion flow through to us from Him. We can't do it without Him and, God be thanked, we don't have to even try without Him. He is the living water, springing up everlastingly, if we will partake in obedience and faith.

Now, think about what faces you when you return to your offices and your courtrooms Tuesday morning. Some of you will be protecting widows and orphans from greedy landlords. You can probably love them without too much trouble.

Some of you will be dealing with much more difficult situations: with clients whom you may have every reason to believe are guilty of murder, the sexual abuse of children, traffic in mind-destroying drugs, and corruption in the institutions that we rely on to protect democracy. These are exactly the people I'm saying you must love. You don't have to like them—in fact, you probably can't. You don't have to respect them—in fact, there would probably be something wrong with your value system if you did. You don't have to trust them—in fact, you'd be a fool to. But you *do* have to love them. Jesus died for that murderer, that child molester, that insurance defrauder, that drug lord.

Your duty as an attorney is to prosecute or to defend, to the very best of your ability, the worst of the worst that human beings can become, those who have made simple errors, and those in between who are adrift in the judicial system without a moral compass of their own. Your duty to society is to see that justice is done, and for litigators that means doing your very best to win for your client. It also means, if that is your duty, to do your best to remove from society those who, by breaking the law, are unworthy of its freedoms. You will not have the first kind of peace—peace of conscience—unless you do your best.

But you also have a Christian duty: the duty to love that individual for whom Christ died, that individual who is your spiritual brother or sister.

This means that, along with doing your research, preparing your briefs, filing your motions, and arguing your case, you must, as Mormon puts it, "pray unto the Father with all the energy of heart, that ye may be filled with this love, which he hath bestowed upon all who are true followers of his Son, Jesus Christ."¹³ God's message of love is not reserved for those who are looking for it or even for those who want it.



IF YOU CAN BE A
whole person
 AND BE YOUR ESSENTIAL
 SELF IN **both**
 THE PROFESSIONAL AND
 PERSONAL SETTINGS,
 THAT WILL **go far**
 TOWARD GIVING YOUR . . .
 SPOUSE THE KIND
 OF PARTNER HE OR SHE
deserves.

If God has a message of love for one of your clients, maybe you're the only messenger who can deliver it. I'm not saying you need to pass out copies of the Book of Mormon or make pious speeches or somehow weave your testimony into your closing argument. I *am* saying that if you can provide a clear channel for the Holy Ghost, one that is not cluttered with your own ego or anger or pride, then you can rely on the Holy Ghost to deliver that message. I think it was St. Francis of Assisi who said, "At all times, preach the gospel. If necessary, use words."

Brothers and sisters, you have joined a profession of warriors, and you serve under the banner of hope: hope that the rule of law will be stronger than individual selfishness, hope that justice may roll forth, and hope that truth is mighty and will prevail. You have prepared yourself with your education, with your skills, by observing respected mentors in your field, by gaining knowledge, and by seeking wisdom. You will have to walk through some very dark places and see into still darker places. Please remember that you have the power to bring light into those dark places. You must not let the darkness overwhelm you.

At times the darkness must seem strong. Be strong to combat it. Strengthen yourselves through prayer. Work for peace of conscience through absolute integrity and honesty. Establish peace in your own homes by building trust and respect and by loving self-sacrificing. Remember who you want to raise your children. And love. Seek the abundant, never-failing source of love in our Savior. Make kindness and love your pathway and the light by which you walk. Teilhard de Chardin, a French Catholic theologian, said: "Some day, after we have mastered the winds, the waves, the tides and gravity we shall harness the energies of love. Then, for the second time in the history of the world, [we] will have discovered fire."¹⁴ I feel to bless us all in the words of the Apostle Paul to the Roman Saints:

Who shall separate us from the love of Christ? shall tribulation, or distress, or persecution, or famine, or nakedness, or peril, or sword? . . .

Nay, in all these things we are more than conquerors through him that loved us.

For I am persuaded, that neither death, nor life, nor angels, nor principalities, nor powers, nor things present, nor things to come,

Nor height, nor depth, nor any other creature, shall be able to separate us from the love of God, which is in Christ Jesus our Lord.¹⁵

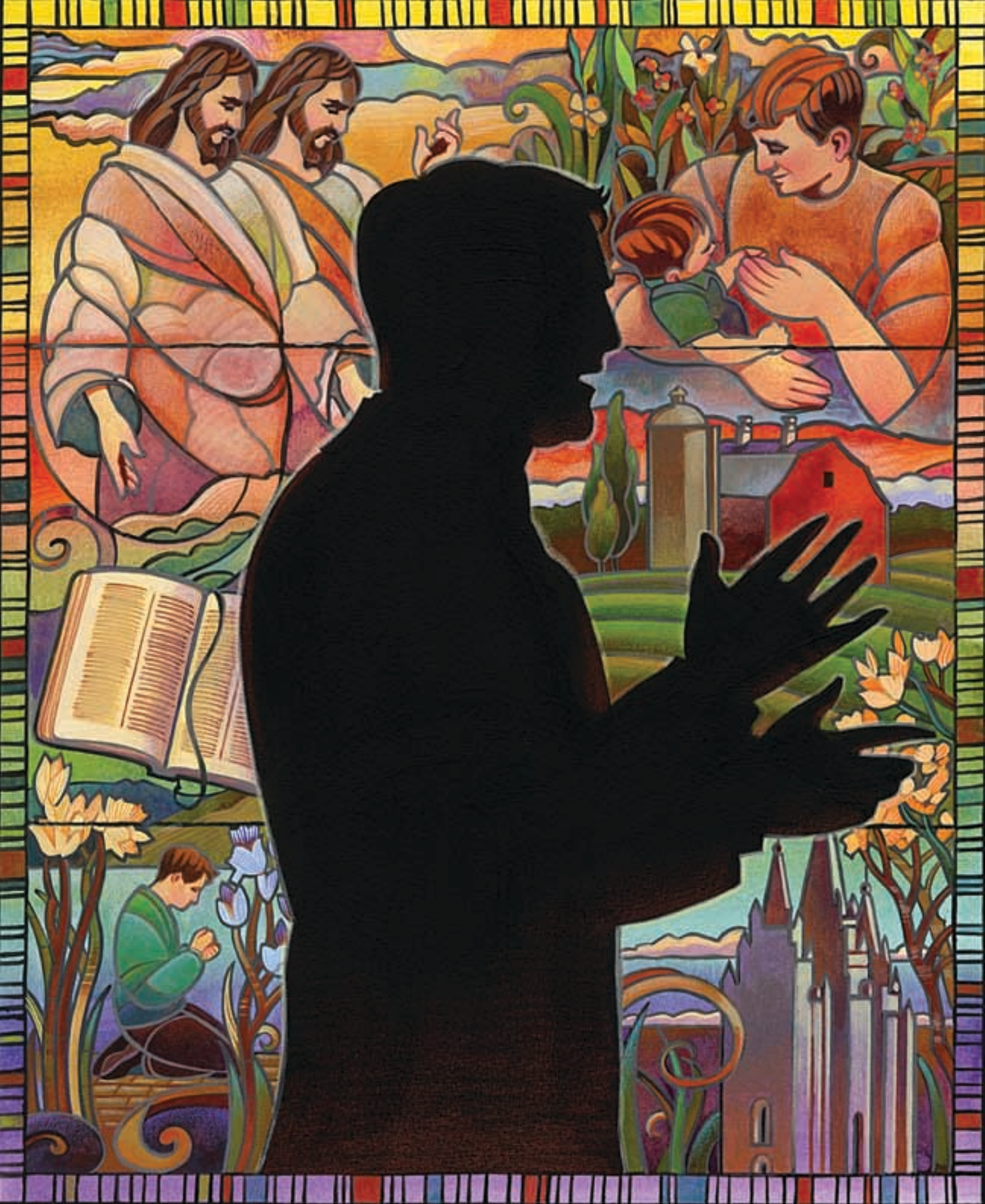
I testify to you of that love; I know that we are surrounded by that love. May we be filled with that love and therefore be about the Master's work of peacemaking in these last days. If we do, we have the sacred promise that "the peace of God, which passeth all understanding, shall keep your hearts and minds through Christ Jesus."¹⁶ I ask His blessing upon us in the holy name of the Lord Jesus Christ, amen.

NOTES

- ① Copyright 2007 by Chieko N. Okazaki. Please do not make copies of all or portions of this address without permission. Address requests for permission to Chieko N. Okazaki.
- ② Revelation 6:4.
- ③ Gus Chin, "Civility, the Hallmark of Our Profession," President's Message, *Utah Bar Journal* 19, no. 7 (November–December 2006): 6.
- ④ Ibid.
- ⑤ Christine M. Durham, "Promoting the Standards of Professionalism and Civility," *Utah Bar Journal* 19, no. 7 (November–December 2006): 8.
- ⑥ Justice Richard D. Fybel, "Honest Lawyers Make Good Lawyers: Thoughts on Ethics and Civility in the Legal Profession," *Utah Bar Journal* 19, no. 7 (November–December 2006): 12–13.
- ⑦ Ephesians 6:15.
- ⑧ D&C 27:16; emphasis added.
- ⑨ H. Jackson Brown Jr., comp. *Live and Learn and Pass It On*, vol. 2 (Nashville, TN: Rutledge Hill Press, 1955), 22.
- ⑩ Proverbs 16:32.
- ⑪ Steven W. Vannoy, *The 10 Greatest Gifts I Give My Children* (New York, NY: Fireside, 1994), 195.
- ⑫ John 13:34.
- ⑬ Moroni 7:48.
- ⑭ As quoted in Editors of Conari Press, *Random Acts of Kindness* (Berkeley, California: Conari Press, 1993), 53.
- ⑮ Romans 8:35, 37–39.
- ⑯ Philippians 4:7.

ART CREDITS

Paintings by Brian Kershnik. *Woman with Infant Flying*, page 22; *When to Stop*, page 27; *Lovers Running*, page 28.





In the early days of the Church, members not only expected to have a personal testimony of its truthfulness, they also expected that miracles would accompany their belief. “Early converts came to expect dramatic miraculous occurrences.”¹ Women regularly spoke in tongues, received visions and dreams, and healed the sick.² In contrast to the 20th-century practicality that infuses the Church today, Claudia L. Bushman describes a “spiritual enthusiasm” not evident in the way we practice today. The causes of such a change are multiple. Partly to blame was the skepticism

|| by tessa meyer santiago

illustrations by dilleen marsh

||

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of the world regarding such spiritual experiences. Also to blame was the fact that the Saints came to feel that the manifestations were “a fire that could burn as well as bless.”³ For example, when some would experience the gift of tongues, they found themselves unable to control their emotional outbursts. One hostile observer described the young participants of an early 1830s meeting as “[rolling] upon the floor . . . [and] taken with a fit of jabbering that which they neither understood themselves nor any body else, and this they call speaking foreign languages by divine inspiration.”⁴ Official reactions to such emotional outbursts were also severe. Parley P. Pratt found the actions deplorable. At his request Joseph Smith counseled with the Lord and received the revelation we know now as Section 50, stating, “That which doth not edify is not of God, and is darkness.”⁵ Members who had spiritual manifestations during meetings were censured. “Restrained behavior” was officially encouraged and spiritual manifestations went underground.⁶

I’ve noticed a similar trend in our congregations to package the spiritual declarations shared as testimony. The trend defines our witnessing as declarative statements: I know, I know, I know. Stories and narratives are actively discouraged. I am troubled by this. It encourages a uniformity of form but a lack of substance. Such an approach robs us of another way of knowing and removes the requirement of active listening and deciphering. From a legal perspective, without narrative our testimony is incomplete; consequently, our worship communities lack dimension and wholeness.

When first approached to comment on the topic of conversion narratives, I responded with the idea that perhaps narrative is not the best form in which to embody the story of our conversions, taking into account that conversions are ever-present, that we change from day to day, and that my knowledge and certainty about principles and programs morphs as I experience the gospel and the Church from different vantage points. My desire was, then, to strip away the dross and to reduce what I do know to the few nuggets that I have currently in my arsenal. A haiku, I suggested, was perhaps the best form.

I wasn’t thinking very clearly. I repent of my earlier notions, embroiled as I was in the aftermath of decisions made without me. I

just didn’t want my story to be their story. I’ve thought better and deeper since then, not quite so instinctively, and come to the decision that narrative is the only way to bear witness of conversion—written or oral. For our own sakes, and for the sake of our faith community, testimonies must contain narrative. It is the telling of the stories that allows any competent witness to testify, that allows us to identify with a community, that forces us to accept stories other than our own and to give them—both the stories and the witnesses—real space and time in our midst.

1 narrative allows every competent witness and every relevant story to be told

The American legal system, contrary to popular opinion, is based upon a set of rules—rules for filing civil suits, rules for prosecuting criminals, and rules for introducing evidence at trial. The Federal Rules of Evidence guide the introduction of all evidence into a judicial proceeding. These rules are, surprisingly, inclusive. We would do well to consider these rules in our official and unofficial censure of both the form and the person of our spiritual witnesses. (As we discuss these rules, think of the woman in your congregation who, without fail, shuffles to the pulpit and proceeds to bear what the Parley P. in us would consider “excessive, offensive” testimony, replete with the meeting of the Savior in the parking lot of Circle K.)

In court and in the Church, our “first responsibility is to tell the story, to say very simply what happened, so that knowledge of these events can do its work.”⁷ In a court of law, testimony is judged according to two main characteristics: (1) the witness must be competent, and (2) the evidence must be relevant. Rule 601 states that “every person is competent to be a witness.” Case law interprets that rule to mean that a witness is competent to testify if he is capable of communicating relevant material and understands he has an obligation to do so.⁸ This definition allows the blind, the deaf, the speakers of foreign languages (with interpreters), children, and the mentally disabled and mentally ill to testify. Any person may take the stand, as long as he has personal knowledge of a relevant fact.⁹ A witness is not prevented from testifying if he has a less-than-savory past or present, or even if he is known to have lied

before.¹⁰ A witness may still take the stand and testify even though what she says is obviously self-serving.¹¹

There are so many other things that could be discussed here to cast doubt on the witness: the inherent instability of the remembered experiences, clothed as it is in language that is based on memory; the editorial slant of the speaker, driven by the desire to create a consistent, autobiographical figure, one who acts consistently with the experience and with the meaning of the experience;¹² and the reason that the witness is given in the first place, imbued as it might be with flavor from all the other selves that we inhabit—“the vain aspirer . . . , the intellectual . . . , the would-be dominant male.”¹³ As problematic as these issues are, they go, as the opinions say, to the weight of the matter, i.e., to how much credibility the jury will give to the actual testimony. Whether testimony is allowed at all, whether it is admissible, is entirely another question.

What is relevant testimony? *Relevancy* is defined as having “any tendency to make the existence of any fact that is of consequence to the determination of an action more probable or less probable than it would without the evidence.”¹⁴ These rules and practice favor the admission of evidence rather than its exclusion if it has any probative value at all.¹⁵ If what a person knows (has experienced through their senses or their perceptions) goes to the proving or disproving of a material fact, their testimony is relevant. They are allowed to testify in a court of law.

What is “legally” relevant to us in our religious arena? Any personal knowledge gained through the senses or through perception that helps the juror/congregation/reader determine whether a fact is more likely than not—thus any testimony gained through personal experience that, for example, God lives, that he cares, that he has an opinion about a particular organization; that Jesus lived and lives; that repentance is vital, necessary, and effective; that prayer is a proven method of communication; that prophets speak; and that women matter (that’s my particular, personal question). Because I cannot say for your “action” what the necessary questions are is precisely why we need an inclusive, broad definition of religious relevancy that allows any



witness capable of communicating their knowledge gained through personal experience to testify. Their story may fill in the gaps in our own—self-serving, mixed motives, prior bad acts notwithstanding.

We are shortsighted in our censoring personal and collective assumptions that God or His Church does not need all witnesses or needs only certain kinds of testimony. I have noted the official censoring or shaping of our public tales. There are other ways we censor: personally, we censor ourselves, determining—as judge, jury, and witness rolled into one—that our narrative falls short of the standard or differs too much in shape and form. A collective censoring occurs when through our reaction or absolute nonresponse to others’ narratives, we broadcast a judicial determination that their testimony is irrelevant and that they are incompetent. In reality, that we can witness with any truthfulness at all bears testimony to our inherent competency in the eyes of the Divine. That He interacts

with us, in even the slightest way, creates an underlying relevance to the story we tell.

2 narrative allows the audience to test the witness and provides a way for the audience to decide whether the witness is telling a truth

While the Spirit can testify of truth, we are cemented in the rationalistic tradition.¹⁶ While we can feel in our hearts, it helps to know in both our minds and in our hearts.¹⁷ The current tendency in worship meetings is to caution the attendants to keep their testimonies brief, to declare and sit down. We are admonished to reduce our statements to bare declarations of knowing.¹⁸ Practically, this provides more time for people to witness. However, how will my children know to whom they must look, and recognize Him when He comes, if we do not tell what He has done?¹⁹

The great, pure testimonies of our faith contain narrative portions that anchor the spiritual declaration to this physical sphere.

Joseph Smith's witness, considered "pure testimony,"²⁰ provides the personal experience to support the spiritual declaration.

And now, after the many testimonies which have been given of him, this is the testimony, last of all, which we give of him: That he lives!

*For we saw him, even on the right hand of God; and we heard the voice bearing record that he is the Only Begotten of the Father.*²¹

Imagine this testimony without narrative, without the physical context. "And now, after the many testimonies which have been given of him, this is the testimony, last of all, which we give of him: That he lives!" How does Joseph know that He lives? Because he saw, and he heard, and he watched, and he listened. The physical details—the narrative—cement and give weight to the knowledge.

John's testimony of the Savior also satisfies the listener's need to ground the spiritual declaration in the physical:

*And I, John, bear record, and lo, the heavens were opened, and the Holy Ghost descended upon him in the form of a dove, and sat upon him, and there came a voice out of heaven saying, This is my beloved Son.*²²

John testifies that he knows of the Savior's mission. How does he know? He saw His glory, manifested in a dove, and he heard the voice of the Father.

While a testimony may be a statement, the bearing of it is a communal act done before an audience grounded in both a rationalistic and a spiritual tradition. Like a juror listening to a witness on the stand in a court of law, narrative satisfies the congregant's need to know how a truth is knowable as well as what truth is knowable.

3 narrative creates and maintains a community identity

The requirements of testimony define us as a community of believers, of seekers. Telling our story to each other allows us to "coauthor a story" for our faith communities. Together, we form a communal story that "has coherence and fidelity for the life [we] would lead."²³ This story is both oral and written.²⁴ All share a similar form. In Puritan times the common story was the conversion

narrative. A conversion narrative is originally "the oral confession of sins by ordinary men and women, usually delivered before a church congregation, a confession heard and recorded by a minister and which, if the candidate were judged worthy, resulted in 'conversion' and church membership."²⁵ Mormon spiritual narratives share these same characteristics: an unawareness, a descent into darkness, a light, a recognition of the light, and a commitment to be a better person. While

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not required for official membership in the Church, I contend that the telling of our conversions (I use this term loosely to denote the spiritual interactions with the Divine that cause us to contemplate, assess, and recommit) fully inducts into the faith community. We self-identify in a powerful, binding ritual of narrative-based testimony. "There is a certain power in sharing certain personal experiences and discoveries, either as the [audience] or the [teller]."²⁶ Telling creates belonging.

We belong to a community of believers and seekers. That is how we define ourselves. We tell about what we know. Everybody knows at least one relevant divine fact. Thus everybody has a story to tell. That story does

not depend on rank, education, connection, or wealth. Thus testimony is, potentially, the great equalizer. The only requirement is that the declarant has a personal experience with the Divine. Since "all are equal in the sight of God," and He promises that "he stands at the door" awaiting our response, this requirement is easily satisfied. Walter Fisher describes narrative as possessing an "intrinsic egalitarian bias."²⁷ Politically, at some deep level, "Americans have always understood: equality among citizens is essential to the community of meaning that defines the American nation."²⁸ Fittingly, we construct our spiritual communities on these same egalitarian principles.

Related to this idea that our actions define us as a body of believers is the legal principle that we cannot testify about what we do not know.²⁹ The core requirement for any competent testimony is that the declarant has personal knowledge of the event. While it satisfies the cynic in us to speak passionately, even movingly, about what we do not know or what we have doubts about, that is not testimony and would be excluded in a court of law. The law considers those statements irrelevant to the determination at hand. Spiritually, the requirement to speak from knowledge may restrict many of our theological ruminations. I don't stand often in my congregation. Whether I should get up to talk about what I do not know as a preface to what I do know is a question I often ask myself. I never have, held back by a reticence that is unreasoned but persistent. I understand more clearly now the reason for the reticence. My personal doubts, my cynicism, i.e., what I do not know, is not testimony. In this setting it is irrelevant. My time in that setting would be better spent determining exactly what I do know—to which part of the Divine story may I authentically and truthfully testify. Our narratives might become briefer, shorter, and more circumspect, but perhaps they'll be *more* essentially, i.e., relevant, and in keeping with our definition of a community of believers.

4 narrative expands our view, allowing us to experience ambiguity, different aspects of the same god

We are confronted with what is, what should be, with the power of God's grace, and the human predicament in the face of it.

The challenge is, what do we do with the aftermath? In our haste we should not cast out the form altogether.

Do people lie under oath? Yes. Do we testify of things we know nothing about? Certainly. The oath taken before testifying in court is supposed “to awaken the conscience” and aid the witness in testifying truthfully.³⁰ Similarly, the context in which we testify (a prayer, an ordinance, or the knowledge that posterity is reading) should awaken in us a desire to speak truthfully or at the very least consistently. But when the form morphs into something we cannot recognize, it goes to the weight of the evidence. When the witness turns out to be weak and sinful or the changed being changes back,³¹ does that destroy his conversion narrative? No.

I like Wendell Berry’s thoughts on form in poetry and marriage, and I believe they have application to this question of testimony and its form and shortcomings: In a devoted, communal, religious life, just as

in marriage . . . , the given word implies the acceptance of a form that is never entirely of one’s own making.

[The first aspect to these forms] is the way of making or acting or doing, which is to some extent technical. That is to say that definitions—settings of limits—are involved. When understood seriously enough, a form is a way of accepting and of living within the limits of the creaturely life. . . .

The second aspect of these forms is an opening, a generosity, toward possibility. The forms acknowledge that good is possible; they hope for it, await it, and prepare its welcome—though they dare not require it. These two aspects are inseparable. To forsake the way is to forsake the possibility. To give up the form is to abandon the hope. . . .

Arbitrary in the choosing, these forms, once chosen and kept, are not arbitrary, but become inseparable from our definition as human beings.³²

While the structure of the meeting in which we bear witness may be arbitrary, chosen without our input, we, by virtue of our words and actions, have chosen the form. This practice becomes “inseparable” from our definition as Mormons. Just as Quakers inhabit their silence, Mormons live with and within testimony. The form and forum denote we are a group of believers. We believe that God will speak to us and intersect with our lives. We speak of these knowable things.

The substance might surprise us: witnesses deconvert; the narrative changes on us; the witness lies or bears witness of things outside of her personal experience. That’s the risk we run. The form has inherent weaknesses: narrative artificially designates a beginning and an end, while the underlying life that it presupposes to represent continues.³³

But testimony, like marriage, is in its “set form . . . an invocation to unknown possibility. . . . One puts down the first line of the pattern in trust that life and language [and grace] are abundant enough to complete it.”³⁴ Because God works with us, our stories change. In the retelling we add to the common body our increased knowledge of the Divine. Our spiritual lives and our faith community become, quite literally, open-ended creative narrative processes.

conclusion

We are, essentially, storytellers. Our first responsibility is to tell the story as simply as we can. This narration operates on many levels to satisfy our needs: it satisfies our need to have a voice and our need to bear witness, to attest to a personal God. The spiritual narratives of our lives attest that there is, in knowable fact, one who knows us and who is, in turn, knowable. Testimony provides evidence that God still operates on the earth, if not in our lives then in the lives of others. When we hear the stories others tell of a God who seems to know them personally, it creates in us a hunger to have that closeness or a skepticism that what was said could not possibly have happened the way purported. Either way, we are engaged, spurred on to become—if we are not already—competent witnesses with relevant stories to tell.

NOTES

- ① See Claudia Lauper Bushman, “Mystics and Healers,” *Mormon Sisters: Women in Early Utah*, ed. Claudia L. Bushman (Cambridge, Massachusetts: Emmeline Press, 1976), 3.
- ② *Id.* at 4–11.
- ③ *Id.* at 11.
- ④ *Id.* at 12.
- ⑤ Doctrine and Covenants 30:23.
- ⑥ Claudia Bushman, “Mystics and Healers,” at 12.
- ⑦ Richard Bushman, “My Belief,” *Believing History: Latter-day Saint Essays*, ed. Reid L. Neilson and Jed

- Woodworth (New York: Columbia University Press, 2004), 28.
- ⑧ See *U.S. v. Villalta*, 662 F.2d 1205 (5th Cir. 1981).
 - ⑨ Rule 602: “A witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter.”
 - ⑩ *U.S. v. Bedouire*, 913 F.2d 782 (10th Cir. 1990).
 - ⑪ *Fiedler v. McKee Corp.*, 605 F.2d 542 (10 Cir. 1979).
 - ⑫ See Charles J. G. Griffin, “The Rhetoric of Form in Conversion Narratives,” *Quarterly Journal of Speech* 76 (1990): 152.
 - ⑬ See Richard Bushman, “My Belief,” at 28.
 - ⑭ Rule 401.
 - ⑮ See *U.S. v. Carranco*, 551 F.2d 1197 (10th Cir. 1977).
 - ⑯ See Bushman, “My Belief” at 26–27.
 - ⑰ See D&C 8: 2.
 - ⑱ See, for example, Jay E. Jensen, “Testimony,” *Ensign*, November 2004, 22–24.
 - ⑲ See 2 Nephi 25: 23, 26–27.
 - ⑳ Jay E. Jensen, “Testimony,” *Ensign*, November 2004, 22–24.
 - ㉑ D&C 76: 22–24.
 - ㉒ D&C 93:15.
 - ㉓ Walter R. Fisher, “Narration, Reason and Community,” 214.
 - ㉔ All tellers, both oral and written, tell of a “conversion.” Our stories have in common “a recognition and confession of the writer’s own sins and the announced need for redemption. . . . [All] share a need to tell one’s story [and] the changed lives that these narrative relate. The impulse is the same—to witness, to testify. Indeed, the writing of a conversion narrative is, to a great extent, the final proof of that conversion—the equivalent of testifying.” Fred Hobson, *But Now I See: The White Southern Racial Conversion Narrative* (Baton Rouge, LA: Louisiana State University Press, 1999), 4.
 - ㉕ Hobson, “But Now I See,” at 1.
 - ㉖ Valerie Holladay, “The Path of the Wanderer: Autobiographical Theory and the Personal Essay,” *Dialogue: A Journal of Mormon Thought*, 89.
 - ㉗ Fisher at 209.
 - ㉘ Kenneth Karst, quoted in Fisher at 213.
 - ㉙ Rule 602.
 - ㉚ Rule 603.
 - ㉛ Hobson, “But Now I See,” at 3.
 - ㉜ Wendell Berry, *Standing by Words* (San Francisco: North Point Press, 1983), 201, 203.
 - ㉝ Gary Saul Morson, *Narrative and Freedom: The Shadows of Time* (New Haven, CT: Yale University Press, 1994), 37–38.
 - ㉞ *Id.* at 204–5.

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D. Gordon Smith



John Borrows



Margaret C. Tarkington



D. Carolina Núñez

New Faculty at the Law School

D. Gordon Smith

Professor Smith comes to the Law School from the University of Wisconsin Law School, where he was a professor of law and the associate director of the Initiative for Studies in Technology Entrepreneurship from 2004 to 2007. From 1994 to 2002 he was a professor at Lewis & Clark Law School in Portland, Oregon.

He has been a Fulbright scholar in the Fulbright German Studies Seminar, Brussels, Belgium, and Berlin, and has taught in international law programs in Sweden, Germany, China, India, France, Australia, and Finland. Smith practiced law with Skadden, Arps, Slate, Meagher & Flom in Wilmington, Delaware, and he clerked for Judge W. Eugene Davis of the Fifth Circuit Court of Appeals.

Professor Smith came to BYU as a non-Mormon undergraduate and was baptized while an undergraduate. He attended the University of Chicago Law School and is married and has six children. He says:

BYU is a uniquely important place to me, and it continues to play a central role in my life. I came here

as an undergraduate in 1980, leaving a small dairy community in northern Wisconsin. I was not a member of the Church at the time, but I was so impressed by the friendliness and goodness of the people that I read the Book of Mormon and heard the missionary discussions. I was baptized in 1981. Because of my feelings for BYU, over the past five years, I have received many calls from other law schools, and I have declined to interview with any of them, except BYU.

John Borrows

A visiting professor at the Law School for the 2007–2008 academic year, Professor Borrows comes from the faculty of law at the University of Victoria in Canada, where he is the Law Foundation Chair in Aboriginal Justice. He is widely regarded as the leading Aboriginal legal academic in Canada and is a recipient of a National Aboriginal Achievement Award for his work in law and justice and a Fellow of the Trudeau Foundation. He holds five academic degrees and is a prolific scholar. His “Recovering Canada: The Resurgence of Indigenous Law” was awarded the Donald Smiley Prize by the Canadian Political Science

Association in 2002. His *Aboriginal Legal Issues: Cases, Materials and Commentary* is used in almost every law school in Canada, and his articles are frequently cited by the Supreme Court and other courts. He works tirelessly with the Department of Justice, treaty and mediation negotiators, and Aboriginal organizations to promote dialogue among Aboriginal and non-Aboriginal peoples in Canada and internationally.

This year Professor Borrows was elected a Fellow to the Academies of Arts, Humanities and Sciences of Canada, the country’s oldest and most prestigious scholarly organization. The award is the highest honor that can be attained by scholars, artists, and scientists in Canada.

Professor Borrows is married, with two daughters. He will be teaching international human rights and federal Indian law at the J. Reuben Clark Law School.

Margaret C. Tarkington

Professor Tarkington returns to BYU Law School as a visiting assistant professor of law after teaching professional responsibility and torts during the 2006–2007 academic year. She will be teaching

civil procedure for 2007–2008. After completing her law degree at the J. Reuben Clark Law School, she clerked for Chief Justice Christine M. Durham of the Utah Supreme Court, Judge Randall R. Rader of the United States Court of Appeals for the Federal Circuit in Washington, D.C., and Judge Kenneth F. Ripple of the United States Court of Appeals for the Seventh Circuit. She worked at Paul, Weiss, Rifkind, Wharton & Garrison and Cravath, Swaine & Moore in New York, and Wood Crapo in Salt Lake City.

Professor Tarkington is married, with a second son due in October 2007. She relates:

When I learned in 2005 that the Law School was looking for professors, I became very interested in applying. At that time I was practicing part-time and had not thought about being a law professor anywhere else, nor was I applying to other law schools. But the idea of teaching at J. Reuben Clark Law School was very appealing to me. I had wonderful experiences as a student, and I was intrigued by the opportunity at BYU to combine a spiritual outlook with the rigors of the study of law. Indeed, teaching profes-

sional responsibility this last year provided numerous opportunities to study the laws of men in light of the laws of God—not only to encourage students to be diligent, competent, hardworking, intelligent attorneys, but also to be true and faithful, honest and upright attorneys.

D. Carolina Núñez

Professor Núñez returns to BYU Law School in January 2008 as a visiting assistant professor of law. Originally from Venezuela, she received her undergraduate degree in international law and diplomacy and her law degree from the J. Reuben Clark Law School. She clerked for Chief Justice Christine M. Durham of the Utah Supreme Court and Judge Fortunato P. Benavides of the United States Court of Appeals for the Fifth Circuit. She joined Stoel Rives LLP as a litigation associate in her private practice of law.

Professor Núñez is married and has one child. She says:

I loved my law school experience at BYU, and I think it was due, in large part, to my professors. They projected an enthusiasm for the study of law that was contagious. I looked forward to class discussions—many of these discussions did not end at the close of that day's session. We students continued these discussions in the halls and in the library—we were genuinely curious about the law. I hope I can project this same enthusiasm and curiosity toward the law both in class and in my research and writing. I hope to help students take an inquisitive approach to the study of law, which, in turn, will help them enjoy their law school experience and maximize their learning. Likewise, by applying that same enthusiasm for the law in my research and writing, I will be able to focus on important and interesting legal issues and innovative and useful approaches to those issues.



LAW
SOCIETY
CONFERENCE
HELD IN
AUSTRALIA

The second Australian conference of the J. Reuben Clark Law Society was held in Melbourne on June 8–11, 2006. The 40 society members in attendance represented the Australian and New Zealand chapters. In addition, two members of the society attended from Singapore.

International board members Bill Atkin (Salt Lake City) and Neville Rochow (Adelaide, South Australia) were also in attendance and participated in the conference. Elder Paul K. Sybrowsky, Area President, spoke at the concluding fireside on Sunday night, which was attended by more than 200 people.

Law Society members and others attending the conference include:

BACK ROW Mark Bender, Steven Spencer, Russell Leneham, Kitione Vuataki, Bill Duval, Mathew Pawson, Mark Rice, Anthony Thompson, Karl Sorensen, Alan Grincer.

MIDDLE ROW Harrison Bender, Robert Menzie, Titilia Vuataki, Caroline Stirling, Keith Thompson, Walnetta McCall, Michael Stokes, Helen Black, Neville Rochow, Jessica Rancie, Andrew LaTerra.

FRONT ROW Barbara Ann Smith, Bill Atkin, Robert Bakes, Dineen Wells, Chris McCappin, Marie Davies, Monique Robb, Candice Evans, Holger Sorensen.

N. Randy Smith Appointed to the Ninth Circuit Court of Appeals

In late 2006 President George W. Bush appointed N. Randy Smith, '77, to the Ninth Circuit Court of Appeals, a move enjoying strong bipartisan support. || Following his graduation from the J. Reuben Clark Law School, Judge Smith practiced law with the J. R. Simplot Company, specializing in corporate business and tax law. He moved to the law firm of Merrill & Merrill as a civil litigator in corporate matters and insurance defense. An adjunct professor in the management and business political science departments at Idaho State University teaching business law, legal environment, and judicial process classes, he also has taught accounting classes at Boise State University and Brigham Young University. || In 1995 Judge Smith was appointed as a district judge for Idaho's Sixth Judicial District and served there until 2005, presiding over more than 6,000 civil and criminal cases. In 2004 he was named that court's administrative judge. || Honored for his efforts in reducing crime and preventing recidivism, he received the 2005 Statesman of the Year Award from Idaho State University. In 2004–2005 Judge Smith was the first adjunct faculty member to be selected as Outstanding Teacher by the Idaho State University College of Business. In 2003 he received the Idaho court system's George G. Granada Jr. Award for professionalism as a trial judge.





Paul M. Belnap



Ralph L. Dewsnap



Stanley E. Everett



Mark A. Ferrin



Joseph S. Martineau



Lynn C. McMurray



H. E. Scruggs Jr.



Terry L. Wade



David R. Clark

Law School Alumni Called as Mission Presidents

Nine graduates of the Law School and their wives have begun service as mission presidents. The following presidents left for their assignments this past summer.

Paul M. Belnap, '78, and his wife, Elizabeth, serve over the Washington Kennewick Mission. From Kaysville, Utah, President Belnap is an attorney and partner at Strong and Hanni. He and his wife have six children.

Ralph L. Dewsnap, '77, of Salt Lake City, presides over the Puerto Rico San Juan East Mission with his wife, Mary. He is an attorney at Dewsnap, King & Olsen. President Dewsnap and his wife have five children.

Stanley E. Everett, '80, is the new mission president of the Russia Vladivostok Mission. From

Kirtland, Ohio, he and his wife, Virginia, have eight children. President Everett is an attorney at Brouse McDowell.

Mark A. Ferrin, '76, is accompanied by his wife, Cheryl, as he presides over the Philippines Naga Mission. An attorney in Huntsville, Utah, he and his wife have five children.

Joseph S. Martineau, '76, an attorney in Gilbert, Arizona, is the new mission president of the Puerto Rico San Juan West Mission. He and his wife, Susan, are the parents of 10 children.

Lynn C. McMurray, '80, and his wife, Charlene, have left their home in Salt Lake City to serve in the Tonga Nuku'alofa Mission. President McMurray is an attorney at Kirton and McConkie. He and his wife have 11 children.



Wilford W. Andersen



David L. Cook



Stephen L. Fluckiger

Law Alumni Are New Area Seventies

Three BYU Law School alumni were sustained as Area Seventies at general conference this past April: Wilford W. Andersen, '76; David L. Cook, '86; and Stephen L. Fluckiger, '80.

Wilford W. Andersen, of Mesa, Arizona, is a partner at Andersen Investments, specializing in real estate and property.

David L. Cook, of Pittsford, New York, is a partner at Nixon Peabody LLP in Rochester. Among his areas of practice are construc-

tion, litigation and dispute resolution, and real estate.

Stephen L. Fluckiger, a partner at Jones Day in Dallas, lives in Sunnyvale, Texas. His areas of expertise include private equity, mergers and acquisitions, and life sciences and biotech.

Steve E. Snow Called to Presidency of the Seventy



Steven E. Snow, '77, of the Seventy has been called by the First Presidency of the Church as

one of three new members of the Presidency of the Seventy.

Elder Snow was a senior partner in a law firm in St. George, Utah, when he was called as a General Authority. Sustained to the First Quorum of the Seventy in 2001, he served as second counselor in the Africa Southeast Area in 2001, first counselor in that Area Presidency in 2002, and Area President from 2003 to 2004. He served as an associate director of the Priesthood Department in 2005 and has been the executive director for the past year. Before being called as a General Authority, he was called as an Area Authority Seventy in April 1999. He previously served as president of the California San Fernando Mission.

Elder Snow and his wife, Phyllis, have four sons.



Cheryl Preston Receives Award

Law Professor Cheryl Preston, '79, has received BYU's Women's Research Institute 2007 Distinguished Research Award, given annually to those who have contributed substantially to the scholarly study of women.



Galen Fletcher Honored

Galen L. Fletcher, faculty services librarian at the Howard W. Hunter Law Library, is the 2007 recipient of the American Association of Law Libraries' Joseph L. Andrews Bibliographical Award. The award was presented during the AALL annual meeting held in New Orleans this past July.

He is a contributing author of *Prestatehood Legal Materials: A Fifty-State Research Guide, Including New York City and the District of Columbia*.



C. Douglas Floyd Honored with Karl G. Maeser Teaching Award

A favorite professor at the Law School since 1980, C. Douglas Floyd has received the Karl G. Maeser Excellence in Teaching Award. The prestigious honor, recognized at the 2007 annual university conference, follows Professor Floyd's many teaching awards and superior evaluations from his students at the Law School.

Professor Floyd's gift for making some of the most challenging courses clear and intriguing for law students is matched by his important contributions as a thoughtful and productive scholar.



Law School Professorship Awarded

Larry C. Farmer became the Glen L. Farr Professor of Law in August 2006. Professor Farmer joined the J. Reuben Clark Law School faculty in 1974. He obtained a doctor of philosophy degree in clinical psychology from BYU in 1975.

The professorship is part of the Farr family and the Union Pacific Railroad's endowment to honor Glen Farr by supporting legal education.



Clark Memorandum Shines in Publication Competitions

As an award-winning university publication, the *Clark Memorandum* is in good company.

The Council for Advancement and Support of Education (CASE) presented the magazine with a bronze medal in the Special Interest Magazines category. Among the five other medal winners in that category—including Harvard Medical School, Stanford University Medical School, and the Johns Hopkins Bloomberg School

of Public Health—BYU was the only law school to win an award.

In the CASE Visual Design in Print category, the magazine also received a silver medal for the entry "Lifting Others" in the spring 2006 issue and a bronze medal for "Grief and Hope: A Prosecutor Looks at the Rwanda Tragedy" in the fall 2006 issue.

"Lifting Others" also won a Merit Award from the Salt Lake City Chapter of AIGA and an Award of Excellence in the 47th Annual Design Exhibition of *Communication Arts* magazine.

Senator and Chief Justice of United States to Speak This Fall

Harry Reid, U.S. Senator of Nevada for 20 years and Senate Majority Leader following the 2006 elections, will speak on October 9.

John G. Roberts Jr., chief justice of the U.S. Supreme Court since September 2005, will speak at a BYU forum at the Marriott Center on October 23, 2007.



Howard W. Hunter

100 Years Since His Birth | 1907–2007

Howard W. Hunter Law Library

10 Years Since Its Dedication | March 21, 1997

THE FOLLOWING EXCERPTS ARE TAKEN FROM SPEECHES
PRESENTED BY THE FIRST PRESIDENCY AND FROM THE DEDICATORY
PRAYER AT THE LAW LIBRARY'S DEDICATION:

President Gordon B. Hinckley

I sat next to [President Hunter] for twenty years in the Council of the Twelve. I was on his left hand as we went around the circle. That circle is a rather sacred thing in the Council of the Twelve—very carefully observed. What a great soul he was: a student, yes; a scholar, yes; a hard worker, yes. But above all [he was] a man of great kindness and love and respect and care and thoughtfulness and consideration. It was not his brilliance in the law that came through as you knew him. It was his love for humanity which made the big difference in his life. He was a man who loved and respected people. He did a great deal of pro bono work as a lawyer, a vast amount of pro bono work to help those in need and in distress, the poor and the struggling among us who needed help. He observed the great dictum of the Master that we go about doing good. I am so grateful for my acquaintance with him and for what he did for me, for the contribution which he made to my life of being careful of what you do, what you say, how you do it, nothing that was not deliberate and careful and proper. God bless his memory to our great good, each of us.

President James E. Faust

A great law library is a fitting way to memorialize President Howard W. Hunter. His was such a far-reaching and astute mind. His aptitude and wisdom were extraordinary. He was so capable of everything. . . . President Hunter's life epitomizes the words of Micah: "And what doth the Lord require of thee, but to do justly, and to love mercy, and to walk humbly with thy God?" (Micah 6:8). We loved and admired him so very much and are grateful that this great library has been built to carry the name of Howard W. Hunter.

President Thomas S. Monson

One day in a moment of quiet reflection, President Hunter shared with me his personal philosophy: "I feel ours is the mission to serve and to save, to build and to exalt." That all who come into this library may carry the virtues of Howard W. Hunter and "seek . . . out of the best books words of wisdom; seek learning, even by study and also by faith" (D&C 88:118) is my prayer.

Excerpts from the Dedicatory Prayer by President Gordon B. Hinckley

May these very facilities become an inspiration to all who will use them.

May those who have given generously to make this structure possible have satisfaction in the knowledge that it will fill a need, and that it will add immeasurably to the stature of this school.

May it contribute to the strength of scholarship and the attitude of those who are graduating from this institution. May they go forth into the world of work as defenders of the law and of the precious Constitution of this nation.

May the plaque which adorns the hall of this library and which contains words on the law and government from the Doctrine and Covenants prove an inspiration to all who shall pause to read it.

May the graduates of this institution bring dignity and integrity to the profession of which they will become a part.

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

Clark Memorandum

J. Reuben Clark Law Society

J. Reuben Clark Law School

Brigham Young University

