

Fall 2008

Clark Memorandum: Fall 2008

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 » 2008



COVER PHOTOGRAPH *Abraham Lincoln*
 (detail), 1865, by Alexander Gardner. National
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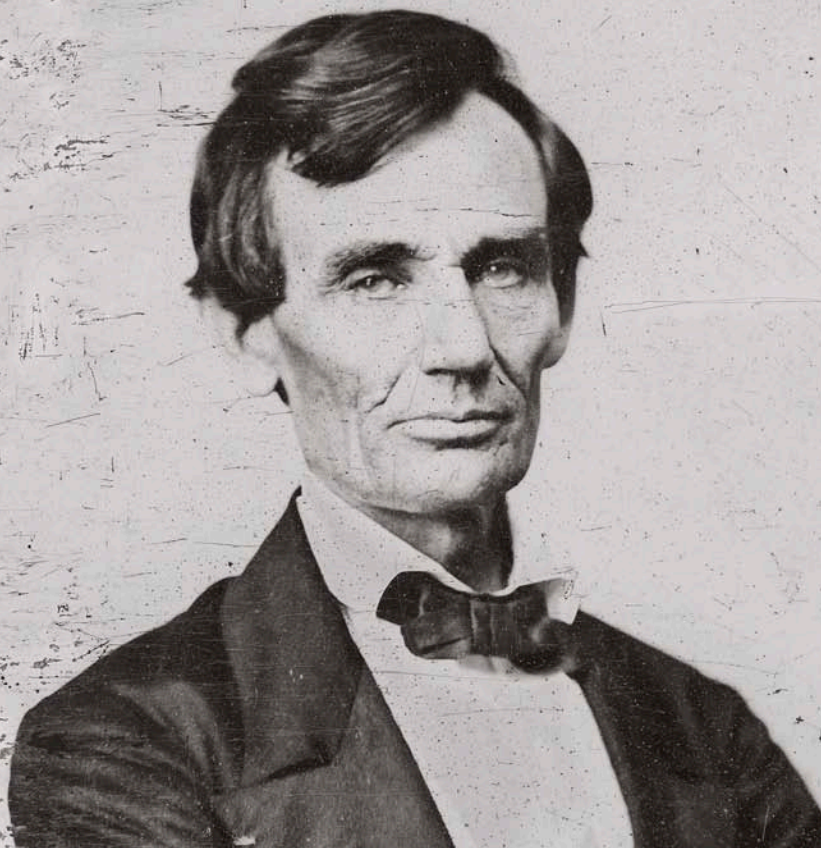
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The J. Reuben Clark Law Society
 draws on the philosophy and
 personal example of the Law
 School's namesake, J. Reuben
 Clark Jr., in fulfilling the following
 mission: We affirm the strength
 brought to the law by a lawyer's
 personal religious conviction.
 We strive through public service
 and professional excellence to
 promote fairness and virtue
 founded upon the rule of law.



A LAW UPON WHICH ALL BLESSINGS ARE PREDICATED

David A. Thomas

It is a privilege to stand before you at
this podium today.

This is not an occasion
that I anticipated
or aspired to, but it is
indeed a privilege,

PHOTOGRAPH BY BRADLEY SLADE

BE
THOU
HUMBLE



and I welcome the opportunity to share my testimony of the Savior and some things I have learned about being His disciple.

On April 8, 2008, I noted, as I always do on that date, the anniversary of my appointment as a faculty member here at BYU, beginning 34 years ago on April 8, 1974. I was not among the original group of faculty hired for what was then the new J. Reuben Clark Law School, but I was the first of the “non-originals,” and now, with the passage of time, have become the longest continuously serving member of the Law School faculty. I am profoundly grateful for the many students and colleagues—both at the Law School and the university generally—who have enriched my life.

I first became a student of the law at Duke University School of Law in September 1967—nearly 41 years ago. Only four years earlier I had received my patriarchal blessing, which included the admonition “Study the laws of the temporal affairs of men as well as of their spiritual affairs.” I began teaching here at the BYU Law School less than two years after completing law studies at Duke, and when I reread this patriarchal blessing a few years ago, I realized that most of my legal career had indeed centered on the “study” of the law.

My remarks today will touch on the laws of our temporal affairs as well as on the laws of our spiritual affairs. Our scriptures contain dozens of references to both temporal and spiritual laws. The Lord declared “that all things unto me are spiritual, and not at any time have I given you a law which was temporal” (D&C 29:34). Joseph Smith was urged by the Lord “to obtain a knowledge of history, and of countries, and of kingdoms, of laws of God and man, and all this for the salvation of Zion” (D&C 93:53). And to all of us the Lord commanded: “Let no man break the laws of the land, for he that keepeth the laws of God hath no need to break the laws of the land” (D&C 58:21). And thus we proclaim in the 12th article of faith our commitment to “obeying, honoring, and sustaining the law.”

The great prophet Lehi taught us that without the law of God there would be no sin, righteousness, happiness, punishment, or misery: “And if these things are not there

is no God” (2 Nephi 2:13). Alma affirmed this by teaching:

There is a law given, and a punishment affixed, and a repentance granted; which repentance, mercy claimeth; otherwise, justice claimeth the creature and executeth the law, and the law inflicteth the punishment; if not so, the works of justice would be destroyed, and God would cease to be God. [Alma 42:22]

Whatever else we learn from these scriptures, we learn that one of the important godly attributes is adherence to law.

However, it is important to realize that the law is not only for inflicting punishment. One of my favorite scriptures is the passage that teaches us how the law is also the gateway to blessings:

*This
devotional
address
was given at
the de Jong
Concert Hall
on June 3,
2008.*

There is a law, irrevocably decreed in heaven before the foundations of this world, upon which all blessings are predicated—

And when we obtain any blessing from God, it is by obedience to that law upon which it is predicated. [D&C 130:20–21]

One of the really important things we should think about each day is the blessings we have received and whether those blessings seem to be coming to us in response to our obedience to laws and commandments of the Lord. We should always remember to express our gratitude for these blessings. I think this is helpful to think about, even though, as King Benjamin put it, we will always be “unprofitable servants” (Mosiah 2:21)—that is, always in debt to our Father in Heaven.

I don’t know that there is a list of specific laws with specific blessings attached to them, but as we go through life we come to understand some of the important cause-and-effect relationships between our conduct and our blessings. Let me mention a few examples that are important to me.

I Liberty and the Rule of Law

Each year at our Law School convocation in the Provo Tabernacle, we conclude our services by all standing and singing “America the Beautiful.” The sights and sounds of that experience have always stirred me, even after par-

ticipating in this for over 30 years. One of the verses teaches an important law upon which blessings are predicated:

*America! America!
God mend thine ev’ry flaw,
Confirm thy soul in self-control,
Thy liberty in law.¹*

“Thy liberty in law” is a phrase that we might also describe as “the rule of law.” After a career of observation and study, it is clear to me that all of our human rights and civil liberties, indeed every blessing emanating from this promised land, are predicated on our success in “obeying, honoring, and sustaining the law,” as we declare in our 12th article of faith. In those nations where the commitment to rule of law is weakest, the suffering of the people is the deepest. Strengthening the commitment to rule of law is not only a national or community undertaking but also a challenge we all face individually. We do not disobey or ignore or flaunt our laws without weakening the fabric of our society. If our laws are not wise, we have well-known processes for addressing those flaws. One of those processes is wise participation in our electoral events. Thus Mosiah II taught:

Therefore, choose you by the voice of this people, judges, that ye may be judged according to the laws which have been given you by our fathers, which are correct, and which were given them by the hand of the Lord.

Now it is not common that the voice of the people desireth anything contrary to that which is right; but it is common for the lesser part of the people to desire that which is not right; therefore this shall ye observe and make it your law—to do your business by the voice of the people.

And if the time comes that the voice of the people doth choose iniquity, then is the time that the judgments of God will come upon you. [Mosiah 29:25–27]

II Blessings Predicated on Health Laws

Another law upon which important blessings are predicated is found in section 89 of the Doctrine and Covenants, familiar to us as the Word of Wisdom. This revelation “show[s] forth the order and will of God in the temporal salvation of all saints in the last days” (D&C 89:2). It tells us things to avoid and things to do. Then it states what almost sounds like a legal principle:



*Huey helicopter, Di An, Vietnam, March 1970.
(Photo taken by David A. Thomas).*

And all saints who remember to keep and do these sayings, walking in obedience to the commandments, shall receive health in their navel and marrow to their bones;

And shall find wisdom and great treasures of knowledge, even hidden treasures;

And shall run and not be weary, and shall walk and not faint.

And I, the Lord, give unto them a promise, that the destroying angel shall pass by them, as the children of Israel, and not slay them. Amen. [D&C 89:18–21]

Everywhere we go we see the negative and positive consequences of this law on the physical condition of our people. Less visible, but more important, is the effect of this law on the spiritual health of the Saints. Our obedience to this law has much to do with whether we are inviting the Spirit into our lives or leading lives that are not welcoming to the Spirit.

Somewhat related to this law are three minor laws I learned about when I was required to begin military service midway through law school. When I arrived in Vietnam on August 15, 1969, I was assigned to the army's First Infantry Division. Because it was too dangerous to travel on the ground, I was told to get in a helicopter.

The helicopter was what they called a Huey. A Huey had eight campstool-like canvas seats for passengers like myself. Four of the seats faced forward, and two on each side faced out to the sides. These Hueys had a machine gun mounted on each side. The side doors, like doors on a van, were pulled all the way back so the machine gunners could operate their guns if needed.

I took my place on one of the side seats, facing out to the side with a completely clear and open view because the side door had been

pulled all the way back. I took my seat with my M16 automatic rifle in one hand and my steel helmet in the other arm, looking forward to my first ride in a Huey helicopter. In a great roar of its engine and the rush of wind from its rotor blades, the chopper lifted off, rising straight in the air for about two hundred feet. Then, as it prepared to turn in the direction of where it was taking me, it leaned over, or banked steeply, to my side, so that I was looking almost straight down out of my open door.

At that moment I realized (1) that I had forgotten to fasten my seat belt and (2) that both my hands were full of important things that I did not want to drop out of the helicopter: my rifle and my helmet. Then realization number three happened. I started to slide out of my seat and drop out of the turning helicopter.

What happened next? Just before I fell from the helicopter, my feet discovered that each of these little seats had two little, straight, aluminum legs. My left foot found one of these, and I wrapped my boot tightly around it just as I was about to fall, and I managed to hold on until the helicopter straightened out. You will probably not be surprised to learn that I now always fasten my seat belt when I drive.

And it was on this occasion that I learned some new things about the law of unintended

consequences, about Murphy's Law (if anything can go wrong, it will), and about the law of gravity.

III Blessings Predicated on the Law of Obedience

Indeed, obedience is its own law. Pioneer wagon tracks exemplify to me that principle. In the summer of 1847, enduring tracks were first made by the creaking wagons and the dusty, weary members of the pioneer company of Latter-day Saints blazing the trail to the Salt Lake Valley. The tracks are found in a remote corner of southwestern Wyoming, away from human activity. It was at this spot that Brigham Young fell seriously ill with fever. Over the next 21 years, until 1868, tens of thousands of wagon and handcart wheels and pioneer feet—adult and child—wore down these tracks. Now, over 160 years after that first pioneer wagon train, in places the vegetation still will not grow back and the tracks are still discernible. These faithful emigrants, these “blessed, honored Pioneer[s],”² symbolize a commitment to obedience that must forever remain an example to us.

*Covered wagon and handcart wheel tracks, Mormon pioneer trail, 1847–68, southwestern Wyoming.
(Photo taken by David A. Thomas, August 2007).*



Among those many thousands of pioneers were the great-great-grandparents of my wife, Paula. Hans and Maren Rasmussen were prosperous farmers when they accepted the restored gospel in Denmark. They responded eagerly and obediently to the call to come to Zion. After selling their farm, they paid their tithing, made a substantial contribution to the Perpetual Emigration Fund, and then equipped and funded themselves and about 30 other Danish Saints for the journey to Salt Lake City. With a covered wagon, they joined one of the two wagon trains accompanying the ill-fated Willie and Martin Handcart Companies. But they had started their journey too late in the summer of 1856. Among their several children were two-year-old twin girls. Soon after they got started, one of these little girls, named Christina—and known as Stina—came down with a simple childhood infection. She was unable to be treated on the trail and died in June 1856. As if this tragedy were not enough, three months later they were caught in the early and ferocious snow- and windstorms that caused so much terrible suffering for all in the Willie and Martin Companies. They also lost almost all of their goods.

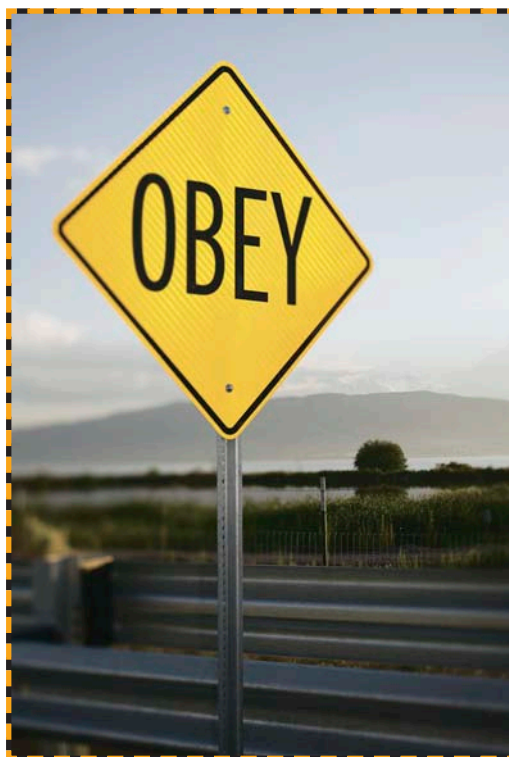
Shortly after arriving in Salt Lake City, the Rasmussens were called to go south and help settle the pioneer community of Ephraim. Soon thereafter they were sent further south to help settle the community of Richfield, where they lived in a dugout. A year later they were sent back to Ephraim.

Here Hans and Maren Rasmussen established their home by digging a dugout to which was added a two-room adobe house later and which was the home where this onetime rich young Danish convert couple spent the remainder of their lives. Here they raised their family, and though they never enjoyed even the luxury of a cookstove, they often gave expression to their joy of having been found worthy to make these sacrifices and to live among the Saints of latter days. They often said they would gladly do it all over again if necessary to enjoy the blessings of their deep testimony of the gospel.³

Many, many blessings are predicated upon the law of obedience.

IV Blessings Predicated on the Laws of Teaching and Learning by the Spirit

Another law upon which blessings are predicated is found in the admonition—which sounds like a law—that “the Spirit shall be given unto you by the prayer of faith; and if ye receive not the Spirit ye shall not teach” (D&C 42:14). Our scriptures refer to spiritual gifts of knowledge and wisdom (see D&C 46:13, 15–18; Moroni 10:9–10) and to admonitions to “seek learning . . . by study and also by faith” (D&C 88:118, 109:7). I understand from these scriptures that both



teaching and learning are gifts of the Spirit and that they are enjoyed as spiritual gifts when we do our very best to invite the Spirit into our lives. Maybe this has always been really obvious to most of you, but there is in fact a connection between spirituality and success in our academic endeavors.

So what sort of obedience may yield the blessings of enhanced teaching and learning? According to the scriptures:

1 We should be *humble*—that is, not prideful in our learning: “And the wise, and the learned, and they that are rich, who are puffed up because of their learning, and their

wisdom, and their riches—yea, they are they whom he despiseth” (2 Nephi 9:42).

2 We should be *receptive* to the teachings of the Spirit: “He that receiveth light, and continueth in God, receiveth more light” (D&C 50:24).

3 We should be *obedient* to the commandments: “When they are learned they think they are wise, and they hearken not unto the counsel of God. . . . To be learned is good if they hearken unto the counsels of God” (2 Nephi 9:28–29).

I am sure there are many things we can do to enhance our teaching and learning. Here’s one that I have had personal experience with. When I was in my early teens, I made a personal commitment to avoid doing homework on the Sabbath and to do all I could to keep my Sabbath days holy. Despite all of the circumstances that have challenged and continue to challenge that commitment, I know I have been blessed specifically in academic endeavors and in my professional life since then by whatever success I’ve had in honoring that commitment. This same cause-and-effect relationship pertains to all of our other efforts to obey the commandments and serve our God and fellow beings with faithful diligence.

Sometimes when I am asked by prospective law students why they should choose BYU Law School over other good law schools they may have opportunity to attend, I am tempted to answer: “Well, at BYU you could have me as one of your teachers, of course.” More seriously, perhaps the best answer I can give is this: This is a place where you will be surrounded by faculty and students who are striving to bring the Spirit of God into their lives, and therefore the spiritual gifts of teaching and learning will be found here in great abundance. Certainly it has been my privilege here, for over three decades, to be surrounded by friends and colleagues, both students and faculty, who are persons of great learning and wonderful intellectual attainment and who are also persons of faith and wisdom. Nowhere else on earth will you find that blessing in such abundance.

So, here are some principles of the law upon which these blessings of teaching and learning are predicated:

- The gospel of Jesus Christ includes and encompasses all knowledge and all truth.
- Ultimately all knowledge is revealed through the medium of the Holy Ghost.
- Increased spirituality and spiritual power increase access to and mastery of knowledge.
- Teaching and learning are gifts of the Spirit; therefore, greater spirituality and greater spiritual power should help us expand our present abilities to teach and learn.

Because my intellectual powers are enhanced by my spiritual powers, it is no coincidence that my most productive and successful years as a teacher, scholar, and lawyer have been in those years when I have tried my best to give a full measure of service in the intense Church callings of a campus stake presidency, a bishop of my home ward and of a BYU ward, and in the other callings that have come to me. I am edified by the example of my very busy law students who accept and serve faithfully in heavy Church callings while successfully pursuing their law studies.

V Blessings Predicated on Humility and Being Not “Weary in Well-Doing”

As in all else, we are led by the example of the Savior. During His mortal ministry, His disciples tried to protect Him from the press of people who sought His healing blessings. The disciples rebuked those who brought young children in the hope that the Savior would touch them.

But when Jesus saw it, he was much displeased, and said unto them, Suffer the little children to come unto me, and forbid them not: for of such is the kingdom of God. [Mark 10:14]

A similar incident occurred when the Savior visited the Nephites after His Resurrection. In chapter 17 of 3 Nephi we read of the Savior’s ministry among the people who had survived the great destruction that had occurred at the time of the Resurrection. After teaching many important doctrines throughout that day, he prepared to leave, saying, “My time is at hand” (3 Nephi 17:1). But then

he cast his eyes round about again on the multitude, and beheld they were in tears, and did look steadfastly upon him as if they would ask him to tarry a little longer with them.

And he said unto them: Behold, my bowels are filled with compassion towards you.

Have ye any that are sick among you? . . .

And it came to pass . . . all the multitude, with one accord, did go forth with their sick and their afflicted, and their lame, and with their blind, and with their dumb, and with all them that were afflicted in any manner; and he did heal them every one as they were brought forth unto him. [3 Nephi 17:5–7, 9]



and we have the Savior’s example before us. As we seek to be the Savior’s true disciples, this is one of our constant challenges. A month ago I was reminded of this Christlike quality as I learned something about the life of Abraham Lincoln.

In May of this year I had occasion to visit the recently restored Lincoln Cottage, a house about three miles north of the White House, where Abraham Lincoln lived with his family for five months a year during 1862, 1863, and 1864. Each day he rode, usually on horseback, from the White House to this sanctuary, where he could escape from the

And then He commanded them to bring their little children to Him. After praying,

he wept, . . . and he took their little children, one by one, and blessed them, and prayed unto the Father for them.

And when he had done this he wept again. [3 Nephi 17:21–22]

There followed then the marvelous miracle when these little ones were encircled about with fire (verse 24). All of this happened *after* Jesus had spent a full day teaching the people.

This reminds me that we have been asked to “be not weary in well-doing” (D&C 64:33),

“Lincoln Cottage,” Abraham Lincoln family summer residence, 1862–64, Washington, D.C. (Photo taken by David A. Thomas, May 2008).

hot and muggy weather, from the crowds seeking his personal assistance, and from the gloom of the recent death of his son Willie. He accomplished much important work in this “Cottage,” not the least of which was his drafting of the Emancipation Proclamation.

Late one hot summer evening in 1862, Lincoln was at home in the Cottage trying to calm his mind on the eve of a significant Civil War battle about to be fought on the outskirts of Washington, D.C. He was also



relieved to be momentarily free of an especially persistent woman who had called on him in the White House that day seeking a promotion for her husband.

Nevertheless, late that evening another private citizen, having been aided in finding the president by a Treasury Department employee, was admitted to see Mr. Lincoln. His story was poignant and wrenching. A Union officer from New Hampshire had been wounded in recent fighting. The officer's wife and her friend had both made the journey from New Hampshire to locate the wounded soldier and help him recover. As they journeyed by boat back to Washington, the boat collided with another boat at night and 73 passengers drowned, including both ladies. The wounded soldier barely escaped with his life.

The president's visitor had returned to Washington to locate and return the bodies of these ladies to New Hampshire. He sought access to the area of the disaster, which had been closed because of the pending battle. The Secretary of War had gruffly refused his request, so he was now before the president seeking intervention:

Without making any interruptions, Lincoln listened to the [visitor's] long and tragic story. At the end, however, . . . instead of displaying his legendary generosity, Lincoln reportedly said, "Am I to have no rest? Is there no hour or spot when or where I may escape this constant call? Why do you follow me out here with such business as this? Why do you not go to the War-office, where they have charge of all this matter of papers and transportation?" The embarrassed [visitor] tried to argue his case with the exhausted president, but to no avail. . . . [He was] dismissed curtly and sent back to the city without any relief.⁴

Lincoln later appeared at the visitor's hotel apologizing. He confessed, "I was a brute last night."⁵

Another version of the story reports:

[The president said:] "*I fear, Sir, that my conduct has been such as to make it appear that I had forgotten my humanity.*" . . .

. . . The two men sat down and talked as familiarly as old friends. Great tears rolled down the President's careworn face as he heard the story of the shipwreck. . . .

. . . He then wrote a mandatory order to [the Secretary of War], requiring him to furnish a

pass, transportation to the scene of the disaster, and all necessary assistance to find the bodies. . . .

. . . The result was that after cruising along the shore in the vicinity of the wreck, and after much inquiry among the inhabitants, the place where the bodies washed ashore and the place of interment were discovered, and they were brought home to their native New-Hampshire.⁶

Seeking the Spirit in our lives consists of much more than keeping basic commandments. Yes, it is important that we refrain from transgression. But there is a higher law. For me, this higher law is well expressed in two familiar scriptural passages.

The concluding statement of the 13th article of faith proclaims: "If there is anything virtuous, lovely, or of good report or praiseworthy, we seek after these things."

And in the marvelous, divine instructions recorded in section 121 of the Doctrine and Covenants, we are told:

Let thy bowels also be full of charity towards all men, and to the household of faith, and let virtue garnish thy thoughts unceasingly; then shall thy confidence wax strong in the presence of God; and the doctrine of the priesthood shall distil upon thy soul as the dews from heaven. [D&C 121:45]

If we faithfully strive to do these things, I testify that we will have within our grasp the "law . . . upon which all blessings are predicated," helping us along the way to happiness in this life and exaltation in the next. In the name of Jesus Christ, amen.

NOTES

- 1 "America the Beautiful," *Hymns*, 1985, no. 338.
- 2 "They, the Builders of the Nation," *Hymns*, 1985, no. 36.
- 3 Text modernized and modified to refer to both Hans and Maren; see Mary R. Olsen, comp., *History of Hans Rasmussen and Maren Stephensen and Their Children* (Salt Lake City: n.p., n.d.), 13–14.
- 4 Matthew Pinsker, *Lincoln's Sanctuary: Abraham Lincoln and the Soldiers' Home* (Oxford, New York: Oxford University Press, 2003), 53; quoting from John R. French, "Reminiscences of Famous Americans," *North American Review* 141, no. 346 (September 1885): 238.
- 5 Abraham Lincoln, in Pinsker, *Sanctuary*, 53; from French, "Reminiscences," 239.
- 6 "Mr. Lincoln's Humanity: How He Atoned for His Seeming Rudeness to a Bereaved Father," 9 May 1885, *Boston Journal*; republished 10 May 1885, *New York Times*, 10.

"I FEAR, SIR,
THAT MY CONDUCT
HAS BEEN
SUCH AS TO MAKE IT
APPEAR THAT I
HAD FORGOTTEN MY
HUMANITY."

A R
THE LAWYER IS
PEACE
MAKER

T
K W
M P

BY MATTHEW B. DURRANT
THE FOLLOWING ADDRESS WAS
PRESENTED AT THE LAW SCHOOL
CONVOCATION IN THE PROVO
TABERNACLE ON APRIL 25, 2008.
ILLUSTRATIONS BY ALEX NABAUM



T

hank you, Dean Worthen. It is a great honor and privilege to be asked to speak on this day, one that marks the culmination of years of study and achievement—and of worry—both by you who are members of the Class of 2008 and by those who love you and support you. They sit here proudly—spouses, children, parents, grandparents, and others who have sacrificed to help you reach this moment. They are here to honor you, but I'd like to give you an opportunity to honor them. I ask that the graduates please stand and applaud those who have made this day possible.

The J. Reuben Clark Law School is an extraordinary institution. Measured by median LSAT scores and undergraduate GPAs, it is among the top 10 percent of all the law schools in the country. The Class of 2008 is an extraordinary class, possessing the highest incoming academic credentials of any graduating class in the Law School's history. This school's faculty is superb, and its graduates are highly respected in the legal community, both for their skills and for their integrity. As Elder Dallin H. Oaks has said, this Law School is “an institution superbly effective in strengthening the moral, ethical, and professional foundations that compose the finest heritage in our profession.”¹ Your diploma will be a badge of honor that you will wear throughout your professional life.

THERE IS A FAR DEEPER
SATISFACTION IN PRACTICING
LAW AS A **PROBLEM SOLVER**,
AS A PEACEMAKER, THAN AS A
FEE GENERATOR. THERE IS
ENORMOUS PSYCHIC INCOME
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tion superbly effective in strengthening the moral, ethical, and professional foundations that compose the finest heritage in our profession.”¹ Your diploma will be a badge of honor that you will wear throughout your professional life.

Now, I have a confession to make. I like lawyers. I know this is not a popular position. But—putting all the jokes and the cultural misconceptions aside—as a group, lawyers are an admirable bunch. There are, of course, exceptions, but in my experience lawyers tend to be honest, thoughtful, hardworking, and interesting. Law is a profession that self-selects conscientious achievers.

With that preface, I'd like to announce my topic: the lawyer as peacemaker. This might strike some as an odd incongruity, an oxymoron. We hear lawyers called many things, but seldom “peacemaker.” Indeed, in our popular culture—whether it be in movies, television shows, or lawyer jokes—the lawyer is often cast as the villain, fanning the flames of conflict, creating disputes, setting neighbor against neighbor. And, sadly, a few lawyers fit this stereotype. But most do not. The best never do.

Lawyers are uniquely positioned in our society to affect lives, whether for good or for ill, in the most profound ways. Often the fact that a person comes to a lawyer means that something has gone terribly wrong in that person's life. People come to lawyers with broken marriages, broken partnerships,

broken bodies, broken lives. They come when they have been done an injustice or stand accused of one. They come when their fortune, or even their freedom, is at risk. In short, people will come to you with a problem, often at a time in their lives when they are most vulnerable. It is how you see that problem that will define you as a lawyer. Do you see in it the potential for your own profit, or do you see in it an opportunity to serve?

To be a lawyer is to face an ongoing and inherent conflict of interest. Often what is best for you, in a strict financial sense, is worst for your client. Frequently the shortest path to resolution of a client's problem, whether it be in the negotiation of a business deal or in a lawsuit, is the least profitable path for the lawyer. I'm reminded of my first trip to New York City. A cab driver recognized me for the naive, wide-eyed rube that I was, and he took me for a very long cab drive, which I later found out—as I came to understand the city better—was far longer than it needed to be. My financial interest was in the shortest route possible; his was in the longest.

Lawyers frequently face the same temptation to which that cab driver succumbed. They typically bill their time by the hour. The more hours the lawyer works, the more money he or she makes. By unnecessarily prolonging a business negotiation or a lawsuit, the lawyer can earn additional fees. The more interrogatories that are propounded, the more depositions taken, the more motions filed and hearings held, the fatter the lawyer's wallet. The ugly reality is that, as a lawyer, your personal financial interest will often be in conflict with your client's best interest.

So, what will stand between you and the unfettered pursuit of your personal financial interest? In a word, honor. Usually, only you will know what truly motivates your decisions as a lawyer. Your knowledge of the law and legal procedures will be vastly superior to that of your clients. They will be vulnerable to your manipulation. They have little choice but to trust you. Will you be worthy of that trust or will you twist it to your own ends? Despite what the movies, television shows, and jokes may suggest, the great majority of lawyers are worthy of that trust. They are honorable men and women. You, as a young lawyer, need to know that it is not necessary to choose between honesty and effectiveness. It is not necessary to choose between honor

and success. You can be a good person and a good lawyer. You can be a problem solver, someone dedicated to finding the shortest and least expensive path to resolution of your client's problem. You can be a peacemaker.

How? First and foremost, you must see yourself primarily not as a businessperson but as a problem solver. As salaries have skyrocketed and discovery proliferated, the practice of law has come to be viewed, more and more, as a commercial enterprise. Partners demand higher and higher salaries, so they require that associates bill more and more hours, and it all results in greater and greater fees for clients. There is a ratchet effect. But as a lawyer you cannot be a purely self-interested, profit-maximizing, economic actor. Your fiduciary duty, your ethical obligations to your client, simply preclude it.

Now, I'm not so naive as to suggest that money doesn't matter in the practice of law. It does. You need to keep the doors open, the staff paid, the books in the black, and your family fed. As the entertainer Sophi Tucker once said, "I've been rich and I've been poor. Rich is better." And as NBA basketball player Patrick Ewing once said, in defense of his union's demands for more money, "We make a lot of money, but we spend a lot of money." I'm afraid I have only the latter part of that problem.

So you can't ignore the importance of adequate money. But I simply want to say that in resolving to be a little less rich, you might find yourself a whole lot happier. It is not that first dollar but the last that is so insidious. Sometimes as lawyers we need to decide that enough is enough, that squeezing out that last dollar is not worth what it will cost us. There is much freedom that comes from being willing to walk away from that last dollar: freedom in the legal career we choose, in the clients we accept, in the advice we give, in the way in which we solve our clients' problems, and in the way in which we balance our professional and family lives. There is a far deeper satisfaction in practicing law as a problem solver, as a peacemaker, than as a fee generator. There is enormous psychic income to be had in genuinely placing your client's interests ahead of your own.

And if you do so, while you may not make as much as you might have on a particular case, over time you'll develop the kind of reputation that will attract more and more clients. So the irony is that your long-term financial well-being will ultimately be better served by a commitment to unerringly subordinate your own financial interests to those of your clients.

Second, to be a peacemaker in your practice of law you must treat others with civility. This will allow you to develop the kind of reputation that *facilitates* problem solving instead of impeding it. Some lawyers are of the view that they can be most effective by being obnoxious, rude, or mean-spirited. They employ personal abuse and name-calling as tools of the trade. In fact, practicing in this style is profoundly counterproductive. Opposing lawyers are typically not cowed or intimidated into concessions; when they are attacked personally they usually attack in return. People are rarely persuaded by someone who belittles or insults them, and practicing in this way causes other lawyers to be defensive and suspicious. It prolongs business negotiations or litigation. It multiplies discovery and motions. It makes settlement more difficult. It increases the cost to the client.

The most effective problem solvers are those lawyers who consistently treat others with respect and dignity, who are professional even in the face of unprofessionalism, who refuse to mirror the mistreatment they receive. There is nothing more natural than to return slight for



EVERY PRINCIPLE BY WHICH YOU LEAD YOUR LIFE OUTSIDE THE LAW HAS EQUAL FORCE WITHIN IT. . . . [WHEN] OTHERS RESPECT YOU, BELIEVE YOU, TRUST YOU, . . . THERE IS NO MORE POWERFUL CACHET THAT YOU CAN HAVE AS A LAWYER.

slight, insult for insult, and anger for anger. But the best lawyers realize that the case is not about them. It's not about the slights they may have received, the disrespect they may have been shown. It isn't a personal contest with the other lawyer. The best don't make the cases personal. They are focused on resolving the problem in a way beneficial to their client. When cases become personal it only clutters and complicates their resolution.

Third, to be a peacemaker you must have consistency of character. You cannot compartmentalize your ethics. Here again, the reputation you develop is critical. Some lawyers treat the moral code that governs their private lives as inapplicable to their professional lives. Yet every principle by which you lead your life outside the law has equal force within it. If you are a dishonest lawyer, you are a dishonest person. If you are a cruel lawyer, you're a cruel person. If you are a dishonorable lawyer, you are a dishonorable person. No special set of rules excuses conduct by a lawyer that would be unethical or immoral outside the context of legal practice. And as you develop a reputation as someone who is unflinchingly honest, who does not seek to take unfair

advantage, who is not out to trick anybody, you develop enormous power as a problem solver, as a peacemaker. Others respect you, believe you, trust you, and there is no more powerful cachet that you can have as a lawyer.

You sit here today with a reputational blank slate. *You* control what you write on it. If you are consistent in your character, if you treat others with respect and dignity, if you are scrupulously honest, if you are fair, if you are the same man or woman in the practice of law that you are in your church, your neighborhood, or your home, you will develop the kind of reputation that will give you enormous power as a peacemaker. And in peacemaking you not only will serve your clients but will find genuine personal and professional satisfaction.

Now, I'd like to share a story about my favorite lawyer, a man who exemplifies each of the traits I've discussed here today and who to me is the paradigmatic example of the lawyer as peacemaker: Abraham Lincoln. In 1855 Lincoln was asked to join the defense team in the McCormick Reaper Case, an enormously important and complex patent infringement case filed in an Illinois federal district court.² Numerous Lincoln biographers have discussed his involvement in the case. In my account I draw primarily from biographies by William Miller and Stephen Oates.³ Both sides in the reaper case were represented by high-powered and nationally prominent lawyers. The lead defense lawyers, Peter Watson and George Harding, decided, after some pressure from their clients, to retain a junior lawyer from Illinois as local counsel. Their first choice turned them down, and, somewhat reluctantly, they chose Abraham Lincoln. From the start, they did not envision a significant role for Lincoln, and when the case was later transferred to Cincinnati and yet another able and prominent lawyer, Edward M. Stanton, was



added to the defense team, Lincoln became even more the odd man out.⁴

But Lincoln was unaware of this status. He labored under the impression that he would be presenting oral argument in the case and immersed himself in intense preparation. Perplexed that his colleagues would not send him key documents or respond to his letters, he dutifully made his way to Cincinnati for the trial. After he arrived it soon became clear that he would not be presenting oral argument. So he sent Harding a written manuscript of the argument he had intended to make, which he had worked for two months preparing. When Lincoln received word that Harding had not even bothered to glance at the manuscript, he asked for it back so that he could destroy it, and it was returned to him unopened.⁵

The indignities did not end there. Though Lincoln stayed in the same hotel as Stanton and Harding, they never sought to discuss the case with him, never asked him to their rooms, never even asked him to dine with them at their table. When the judge in the case invited counsel from both sides to dinner at his home, Lincoln was not invited. Further, William Herndon, his longtime law partner, remembered Lincoln telling him that he—Lincoln—had overheard, through a slightly open door, Stanton saying of him, “Where did that long-armed creature come from, and what can he expect to do in this case?”

By this time Lincoln was painfully aware that he was to have no role in the case. Yet he did not return home. He stayed in Cincinnati and attended the trial every day, sitting in the back of the courtroom determined to listen and learn from these legal masters. What he learned proved invaluable to him in his subsequent and very distinguished legal career. Finally, when the trial concluded and Harding and Stanton left Cincinnati without a farewell, or even so much as a word to him, Lincoln’s humiliation was complete. When Watson sent him the agreed-upon fee of one thousand dollars, a huge sum at the time, Lincoln sent it back, saying he didn’t deserve it because he had made no argument at the trial. Only when Watson sent the check again, insisting that Lincoln was entitled to it because he had prepared the argument, did Lincoln keep it.⁶

How flabbergasted must Harding, Stanton, and Watson have been when, just five years

later, Lincoln became the Republican nominee for president? But even then their disdain for him continued unabated. In a letter to a friend shortly into Lincoln’s presidency, Stanton referred to “the painful imbecility of Lincoln.” One source indicates that Stanton said he “had met [Lincoln] at the bar, and found him a low, cunning clown.” In conversations with General George McClellan, Stanton referred to Lincoln as “the original gorilla.” As Frederick Douglas said of Stanton, “Politeness was not one of his weaknesses.”⁷

So, once he achieved power, what revenge did Lincoln exact on these three public men who had so humiliated him? How did he get even? Well, he didn’t. In fact, remarkably, he offered each of them a role in his administration, with Stanton accepting the position of secretary of war, the most powerful and significant position in Lincoln’s cabinet. Lincoln simply refused to let the personal offenses he had endured cloud his assessment of what was best for the country. However much Stanton may have belittled Lincoln personally, the fact remained that Stanton was extraordinarily capable. He was a superb advocate, as Lincoln had witnessed from the back of the Cincinnati courtroom, and was renowned as a competent leader, a master of detail, and an “incorruptibly honest” man. Stanton had precisely those abilities necessary to remedy what had become a deeply dysfunctional war department. Lincoln’s soul was simply too big and his commitment to the best interests of his country too great to allow his pride to stand in the way of the Union’s preservation.⁸

Edward M. Stanton made an invaluable contribution to the Union war effort. He and Lincoln developed an extremely close working relationship in conducting the war, with Lincoln “cross[ing] the street to the war department almost every day” to confer with Stanton. Their relationship and the mutual trust and respect they developed proved to be crucial to the preservation of the Union and the abolition of slavery. Indeed, it could be said to be one of the most important relationships in our nation’s history, and, for that matter, the world’s history—all because Lincoln’s commitment to his country transcended his personal interest in protecting his pride.⁹

Stanton came to know, quite personally, Lincoln’s remarkable qualities and became a

committed and vigorous defender of him, telling Harding that “no men were ever so deceived as we at Cincinnati” and that “never afterwards, would any disparagement of Lincoln be tolerated by [him] or members of his family.” Lincoln’s son Robert Todd said that Stanton called upon him for more than 10 days after his father’s death “and spent the first few minutes of his visits weeping without saying a word.” And it was Stanton who said over Lincoln’s dead body: “Now he belongs to the ages.”¹⁰

Lincoln exemplified what a lawyer should be, what a human being should be. He was driven not by money or by his emotions, but by principle. He subordinated his own interests first to those of his clients as a lawyer and then to those of his country as president. He refused to let personal slights deter him from his more important objectives. He did not let how he was treated by others dictate how he treated them. A man of towering integrity, his character was consistent in every context of his life. I will close by quoting to you the advice that he once gave law students: “Discourage litigation. Persuade your neighbors to compromise whenever you can. Point out to them how the nominal winner is often a real loser in fees, expenses, and wasted time. As a peacemaker the lawyer has a superior opportunity of being a good man. There will still be business enough.”

Thank you.

Matthew B. Durrant is an associate chief justice of the Utah Supreme Court.

NOTES

- 1 Dallin H. Oaks, *Ethics, Morality and Professional Responsibility*, 1975 BYU L. Rev. 591, 599 (1975).
- 2 I wish to thank Douglas G. Mortensen for sharing his research on Abraham Lincoln.
- 3 Stephen B. Oates, *With Malice Toward None: A Life of Abraham Lincoln*; parts 3, 7; 103, 278 (HarperCollins Publishers, Inc., 1994) (1977). William Lee Miller, *Lincoln’s Virtues: An Ethical Biography*, chapter 16, 410–26 (Alfred A. Knopf) (2002).
- 4 William Lee Miller, *Lincoln’s Virtues: An Ethical Biography*, 410–11.
- 5 *Id.* at 416.
- 6 *Id.* at 416–18.
- 7 *Id.* at 415, 421–23.
- 8 *Id.* at 422–24.
- 9 *Id.* at 424–25.
- 10 *Id.* at 426.

Women in the Law

does that mean me?



Studying. all I did in
law school was
study



this was soon after
I met my husband.



raising five children



Women in the law committee

I graduated from law school 23 years ago. I haven't practiced law for 20 years. Instead, I married and have been at home raising five children. So, when I asked myself the question "Do I belong in a female legal society?" the answer was "I don't think so."

Initially after I quit practicing law, fellow lawyers would invite me to things. After a while that stopped. After a while longer, I quit thinking of myself as a lawyer. Over half the people I knew probably had no idea I was a lawyer. That was fine with me. I didn't feel like a lawyer any more.

So what changed? Why am I thinking and writing about this now? Bill Atkin, associate general counsel for the Church and a member of the executive committee of the J. Reuben Clark Law Society, asked me to serve as chair of the Women in the Law committee for the Phoenix Chapter of the Law Society. At first I thought he was joking. Me? Chairing a Women in the Law committee? I laughed. He persisted. I said yes.

The question that came to mind was "What could a Women in the Law committee do for me, a stay-at-home wife, mother, and lawyer?" The second question (and I am sad to say it wasn't the first) was "What could I, as a stay-at-home wife, mother, and lawyer, do for Women in the Law?" I have thought a great deal about those two questions. Before I could answer either of them, I had to do some soul-searching.

For years I felt like I had disappointed the J. Reuben Clark

Law School and its faculty by not practicing law and choosing instead to stay at home. These feelings were so strong I didn't enjoy visiting the school or talking to former professors. I happened to be at the Law School one day because my husband (also a lawyer and currently serving as a judge) was involved in a moot court competition. While there, I summoned my courage and asked then Dean Reese Hansen if he was disappointed in the number of women the Law School trains that do not end up practicing law. I tentatively waited for his answer. It came quickly and without hesitation. He said (and I'm paraphrasing), "Absolutely not. The Church believes in education, and the Law School is pleased with all their students regardless of their career decisions after law school." After his response I felt much more at ease.

I am a lawyer and feel confident that my training was not just a part of my past but also a part of my current and future life.

Other concerns I had were that my fellow women lawyers would look down upon me or think of me as a second-class citizen because of the choice I made not to practice. I haven't had the courage to ask them about this

directly. However, my unemotional guess would be that they were having the same concerns about me looking down upon them because of the choice they made to practice. It's funny how we sometimes seem to search for ways to demean or discourage ourselves, regardless of the choices we make.

The next hurdle I had to overcome was determining what Women in the Law could offer me that would be a big enough benefit to get me out of my day-

to-day role and activities. The thought came to me: one benefit would be to get me out of my day-to-day role and activities.

Another benefit of my involvement in Women in the Law would be for me to recognize that I am a lawyer and feel confident that my training was not just a part of my past but that it should also be a part of my current and future life. Elder Dallin Oaks made some very enlightening comments about this topic in an annual address to the Law Society in 2005. In his talk, entitled "The Beginning and the End of a Lawyer," he stated:

Most of us will conclude our formal activity in the legal profession before we die. But the skills and ways of thinking we have acquired as lawyers will remain—for better or for worse. And when properly applied, those skills and ways will still be a source of blessing to many.

For example, I am conscious every day that my approach to gathering facts, analyzing problems, and proposing action is a product of my legal training.¹

An additional benefit would be to get to know some women who were good lawyers with values similar to mine—lawyers I could then refer to friends. Several times a year someone asks me for legal help or a referral. It would be a great benefit to me to be able to give them some names of lawyers in whom I had confidence.

Yet another benefit to Women in the Law participation would be getting involved in some legal-related community service. Although I do not currently hold an active license to practice law, I feel strongly that my training and my experiences over the past 20 years at home could be of some benefit, or

to put it in Elder Oaks' words, "a source of blessing to many."²

After thinking about and sorting through all of the above, the most important reason to answer yes to the question posed in the title is this: God's plans are not for the short term. Let me explain. While at a Law Society presentation a few weeks ago, Bill Atkin stated to a group of LDS lawyers that there was a reason they went to law school and were lawyers. That comment rang true to me. There is a reason. For years I thought the reason was so that I could meet my husband, so that I could be involved with something demanding at a difficult time in my life, or so that I would have a good "insurance policy" if I ever needed to go to work. However, those reasons reflect only short-term thinking. God does not work that way. Everything He does interconnects and is interwoven for a purpose, for a reason. I know that I was supposed to attend the J. Reuben Clark Law School. God wanted me there. The short-term reasons are a part of the plan; but I do not think they are the entire plan. They are to be interwoven with my present and future. To quote Elder Oaks once again, "When properly applied, those skills and ways [learned in law school and in practice] will still be a source of blessing to many."³

I am not quite sure *how* I am supposed to be a "blessing to many," but I know that I am supposed to be, and I believe involvement in Women in the Law may be part of that plan.

Women in the Law. Does that mean me? Yes, it does.

NOTES

- 1 Elder Dallin H. Oaks, "The Beginning and the End of a Lawyer," *Clark Memorandum* (spring 2005): 2, 11.
- 2 *Id.*
- 3 *Id.*



WITH CHARITY FOR

THE FOLLOWING
LECTURE WAS GIVEN
TO THE LAW AND
LITERATURE CLASS
AT THE J. REUBEN
CLARK LAW SCHOOL
ON APRIL 3, 2008.

ALL

t the invitation of Associate Dean Scott Cameron, I am here to talk to you about some things that I've recently published in a book called *Bonds of Affection: Civic Charity and the Making of America*. I'm coming at this as a political scientist—in particular, a political theorist—but there are lots of interesting connections, I believe, to the study of law. I want to talk about an important moment in the development of American political life and culture in Lincoln's second inaugural speech—one of his last and, I believe, very best speeches. To appreciate what he has to say here, though, we must first consider one of his very first speeches.

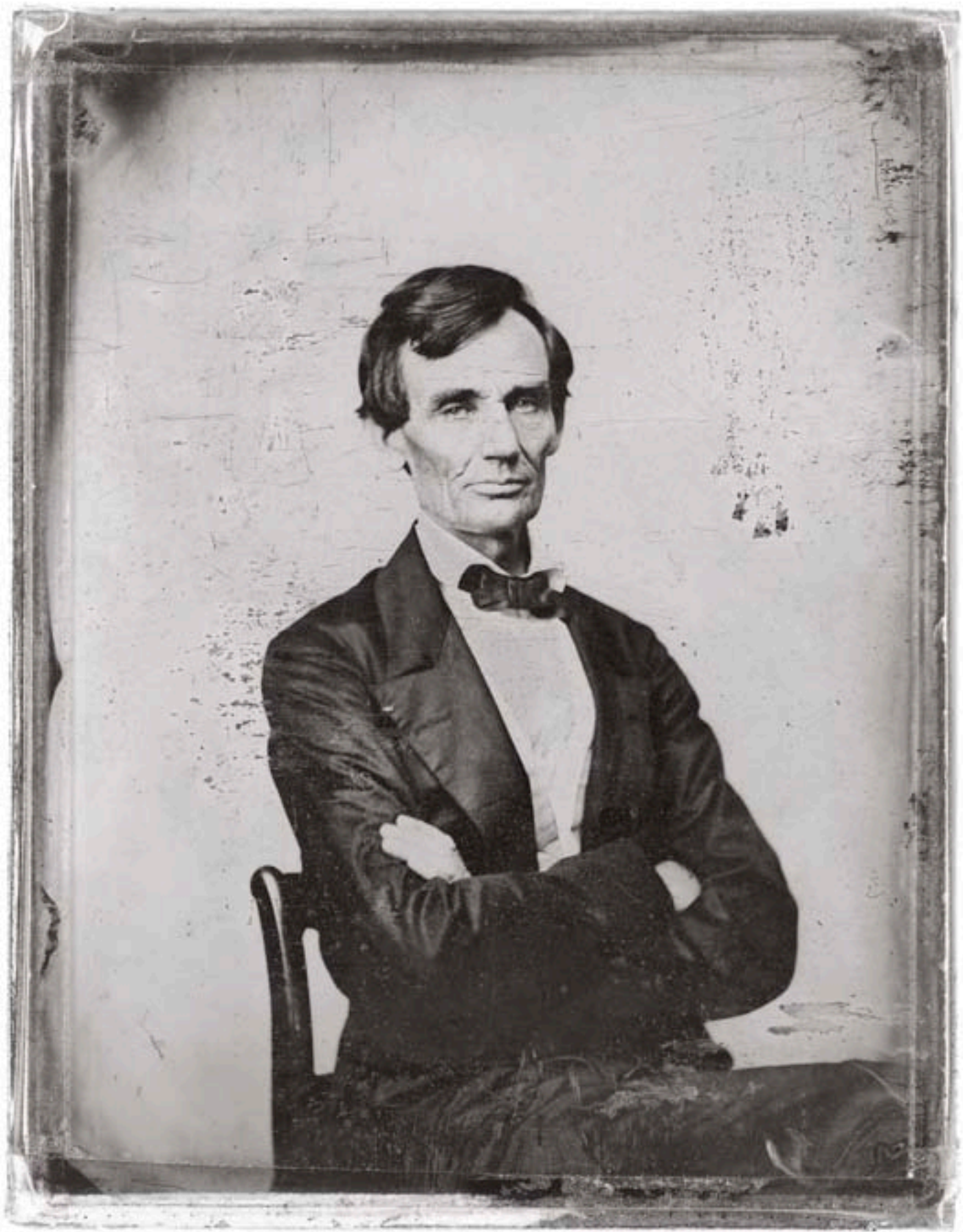
BY MATTHEW S. HOLLAND

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Lincoln's speech to the Young Men's Lyceum on January 27, 1838, is one of his earliest published speeches, given just after he moved to Springfield, Illinois, to open what would become a very successful law practice. In the heart of this speech, he said:

Let reverence for the laws be breathed by every American mother . . . ; let it be taught in schools, in seminaries, and in colleges; let it be written in primers, spelling books, and in almanacs; let it be preached from the pulpit, proclaimed in legislative halls, and enforced in courts of justice. And, in short, let it become the political religion of the nation.

Lincoln greatly admired and loved the law. He thought it was absolutely essential that the rule of law prevail, even to the point of declaring that we must obey bad laws, or unjust laws, because to just choose which laws we will live will exacerbate tendencies to mob rule. Accordingly, he urged that America adopt a "political religion." By this he meant that the country should collectively work at giving reverence to the law, preaching all over the land—in churches and schools and homes—how critical it is for everyone to obey the law at all times. This political religion, was a kind of extra resource he thought was needed to preserve democratic order and freedom.

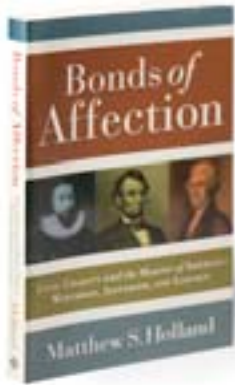
In Lincoln's view, political religion was not dependent upon a robust view of the god of the Bible or upon any of the other doctrines found in scripture. The fact is that most evidence suggests Lincoln was not much of a Christian believer in his youth. Political religion was purely about bringing a sense of sacredness to the law and fostering a religious commitment to it. He thought it necessary because of a tendency of what he called "our baser passions" to get the best of us. We are given to hatred, and we are given to revenge, and these passions, if not kept in check, will overwhelm the system. They will cause us to skirt the law or carry out our hatred upon another person. And if that happens, he said, we will lose our affections for government and the law and we will be ripe for tyranny. Lincoln began his speech saying that the only way we could lose our liberty in America is internally. We'll always be strong enough and protected enough through our geography, through our natural resources, and through our latent sense of patriotism to rebuff an outside attack. But we could become vulnerable to tyranny if we become detached from a fervent commitment to due process and the substance of duly passed law.

This was the early Lincoln. But then a remarkable change came over him. By the time of the Civil War, Lincoln had gone through a religious transformation. He never joined a particular church or confessed Jesus as his savior, but by the end of his presidency, he had developed what could only be considered a robust biblical sense and faith. And this new-found faith caused him to urge a kind of political religion. For Lincoln, America was in critical need of a civic faith that not only would foster reverence for law but would more actively encourage a Christlike spirit of love, concern, and forgiveness.

Now, let me say a word about the Bible and charity and the Civil War. One of the key influences leading the North into the Civil War was a piece of literature: *Uncle Tom's Cabin*, by Harriet Beecher Stowe. It was the single most important political novel that had ever been written. The first year it was published, the only book to outsell it was the Bible. It was a blockbuster; there had been nothing like it before in the history of the country. Why did this book have such a profound effect? In my book I argue that it was the nature of the chief protagonist, Uncle Tom.

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Matthew S. Holland is an assistant professor in the Department of Political Science at Brigham Young University. His recent book *Bonds of Affection: Civic Charity and the Making of America—Winthrop, Jefferson, and Lincoln* examines how Christian charity shaped the political thought of John Winthrop, Thomas Jefferson, and Abraham Lincoln in their development of American democracy.

Holland first looks at seminal speeches by Winthrop to show how Puritan theology galvanized a sense of self-rule and a community of care in the early Republic, even as its harsher aspects made something like Jefferson's Enlightenment faith in liberal democracy a welcome development. Holland demonstrates that between Jefferson's early rough draft of the Declaration of Independence and his first inaugural, Jefferson came to see some notion of charity as a necessary complement to modern political liberty.

Finally, Holland argues, it was Lincoln and his ingenious blend of Puritan and democratic insights who best fulfilled the promise of this nation's "bonds of affection." With his recognition of the imperfections of both North and South, his humility in the face of God's judgment on the Civil War, and his insistence on "charity for all," including the defeated Confederacy—and all of this as he firmly prosecuted a war in the name of a "new birth of freedom"—Lincoln personified the possibilities of religious love turned civic virtue.

In our culture *Unde Tom* is a pejorative term. It conjures up an image of a shuffling, self-loathing, subservient soul who is trying to cater to his white master in order to get ahead within plantation life. That's a very different view than you get if you read the novel itself. There, Uncle Tom is a strong, powerful character who repeatedly makes great efforts of self-sacrifice to protect his family and other slaves on the plantation, finally giving up his own life and emerging as what can only be read as a Christ figure. This had a dramatic effect on northern Protestants who read about this slave figure from a population that heretofore had not been considered on a par with fellow whites. The readers saw this black slave practicing Christian charity with a kind of Christlike quality superior to anything they saw among themselves, and they said, "How is it that this man could do that in slavery and be treated in this way?" So, at some level then, I argue that it was distinct ideals of charity and Christianity that took us into the Civil War. Such ideals, triggered by this powerful move, were critical to prompt Northern determination to end the grossly uncharitable and unjust practice of slavery. Thus, when Harriet Beecher Stowe came to the White House and Lincoln purportedly said, "So here's the little lady that started this Great War," he was not exaggerating too much.

Now let's turn to Lincoln's second inaugural speech at the end of the Civil War. I want to share some assessments of the speech and then explain why I think it is the most remarkable speech ever given in American political life.

First of all, Alfred Kazin, a noted public intellectual on the left, calls this speech the most remarkable address in our history and the only one that has reflected literary genius. And George Will, from the right, calls it "the only presidential inaugural that merits a place in the nation's literature." You can, I think, read the second inaugural like you would read a classic piece of literature; it operates on that profound level of depth and wisdom.

The speech opened in an unexpected way. Lincoln began by saying that this was not the occasion for a long speech, like his first inaugural. For that speech, Lincoln noted, there was good reason and real need to lay out a detailed argument concerning what the country was facing and where it should go. Consequently the speech was a finely tuned piece of jurisprudence, a careful reading of the constitutional prerogatives Lincoln thought he had as president. In short, it was a clear and crisp summary of the constitutional limits on what he thought the North could and couldn't do vis-à-vis slavery, and it was also a constitutional argument about what the Southern states could and couldn't do vis-à-vis succession. At the time of the second inaugural, Lincoln suggested there just was not as much to say. After four years of war, the war was still going. And while he stressed that victory depended on the progress of arms and that things seemed to be going in a reasonably satisfactory way, he gave no ultimate prediction of what would happen. Now this was just remarkable. Why? It had something to do with the setting. At the moment he was speaking, Lee was pinned at Richmond, the capital of the Confederacy. Grant was dug in to the west; Lee obviously couldn't go into the North; and Sherman was marching up through the South with his swathe of destruction in an unstoppable fashion. So the biggest army, the best general, and the capital of the Confederacy were right there in the clutches of the North, and everybody knew it. Four years of the costliest war we had ever fought and the enemy was within our clutches, and

President Lincoln delivered his second inaugural address at the U.S. Capitol on March 4, 1865.



Lincoln refused to predict victory and say anything in concrete terms about what the country would need to do after victory.

How many politicians do you know who would not take every opportunity possible to claim credit and predict victory, especially in such a costly cause at what appeared to be such a triumphant moment? But Lincoln wouldn't even say it looked like they were going to win. He made no prediction; he just didn't speak about it. Why not? Well, I think this odd start has something to do with the unprecedented ending of his speech. What was that unprecedented ending? Why was it unprecedented? Well, again, let me build this up a little bit more. Let's talk about the costs of the war. These are statistics I've pulled from the federal archives put out from the Department of Defense about casualties associated with each of our wars up until the most recent one.

The Civil War had 364,000 casualties. You've probably heard all your life that there were more people killed in the Civil War than all other wars put together, but these statistics do not bear that out. What is going on here?

Student: It's a proportional figure.

We can say something even stronger than that.

Student: It's only soldiers?

Okay, you're getting warmer.

Student: It's just the Union forces.

Yes, it is just the Union forces. The Confederate soldiers did not fight for the U.S. Army, so their deaths are not counted. So what you have to do is take that number and double it. Then, if you extend the analysis out a year or two and count soldiers who died after the war from disease or amputation, you get about a million deaths.

So there truly were more people killed in this war than all other wars put together. Proportionately it's astounding, but even in raw numbers alone it's astounding. And that's just the death figures; that's not the number wounded and that's not saying anything about the women and children who were left behind to fend for themselves. It's not saying anything about the damage done, especially in the South after Sherman's marches: the farms that were ripped up, the railroads that were destroyed, the homes that were blown up, the economy ruined. So many people's lives were ruined. It's just hard to calculate and fathom the price we paid as a country for these four years of war.

So that was going on at the moment when Lincoln stood up to give this address. I also want to personalize it a little more and talk about the war's cost not just to the country but to Lincoln himself. Lincoln was savaged in the press—not just the Southern press but also the European press and even the Northern press. In one cartoon he was made out to be a vampire figure hovering over the pure figure of Columbia representing America. In another cartoon he was personified as death itself, but death attired in a Caesarean wreath as a Roman dictator, depicting that the bloodshed and war were from Lincoln's evil ambitions for power and domination. On the other hand, there were images that captured the view many people had that Lincoln was not a commanding figure at all, showing him as a pathetic middle-of-the-road character, a cross between a baboon and a hellish imp. These depictions were what he saw when he picked up the paper in the morning even as he was doing everything in his power to hold this country together and eliminate the great injustice of slavery.



During the Battle of Antietam, President Lincoln met with Union Army General George B. McClellan, October 1862.



Abraham Lincoln, 1860.

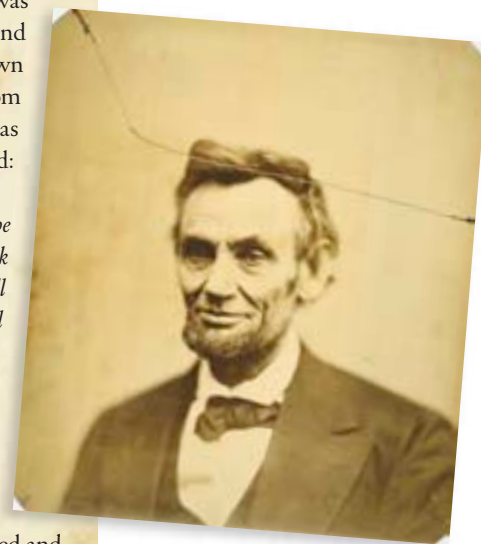
At 51 years old, Lincoln appears fairly young in the first photo portrait taken of him after he received the Republican presidential nomination, innocent as yet of the great toll the presidency would take on him.

The toll all of this took on Lincoln was vividly captured in Lincoln's own face. Compare the photograph of him taken just a few months before he became president with one of the last known photos we have of him taken just four or five years later. You can see what this experience did to him physically, adding deep subcutaneous lines of worry. He looks 20 years older, if not more. That is the Lincoln I want you to have in mind: that war-weary, melancholy, devastated Lincoln who led this country through this incomprehensibly costly war. And now finally the South was in the country's grasp. If ever there was a moment to gloat or to speak out in tones of vindication and revenge not only against the South but also against his own political allies—including cabinet members, several of whom had been disloyal to him and publicly ridiculed him—this was it. Yet what did he say? He looked out at that audience and said:

With malice toward none, with charity for all, with firmness in the right as God gives us to see the right, let us strive on to finish the work we are in, to bind up the nation's wounds, to care for him who shall have borne the battle and for his widow and his orphan, to do all which may achieve and cherish a just and lasting peace.

I have read a fair amount of American and world history. And nowhere in that reading have I come across anything like this. There Lincoln was, standing not just as the president or leader of a country but as a military leader leading a country in the middle of civil war. And there, in the middle of all the bloodshed and personal abuse, Lincoln stood up and said, "With malice toward none, with charity for all." It was just an absolutely breathtaking, unprecedented moment in human history to have a military leader stand up and say something like that. Where on earth did he find the power, the strength, and the direction to do this?

Let me just boil it down to two things. One comes from what I would call his anthropology, his view of human nature. All through his life Lincoln saw people as the same. He saw that human nature was relatively consistent wherever you were. If you saw significant differences in behavior, you should chalk things up primarily to the environment people were in and thus be quite generous in your assessments of others. All through his life he effectively said to the North: "Don't get on your moral high horse. If you lived in the South, you would probably be proslavery too. There are such strong incentives financially; there is such a strong culture and tradition of it; be a little bit careful about being morally self-righteous." Lincoln efficiently emphasized this sense of human sameness and unity in his extensive use of pronouns throughout the second inaugural address. First there was the repeated theme of "all." Speaking of the war, Lincoln indicated that *all* thoughts were anxiously directed toward it. *All* dreaded the war. *All* sought to avert it. *All* deprecated war. *All* thought the interest of slavery was somehow the cause of war. This theme of "all" was followed by repeated references to "neither," "each," and "both." Neither party expected the war to last as long as it did. Neither anticipated that slavery would end before the war would. Each looked for an easier triumph. Both read the same Bible. Each invoked God's aid. The prayers of both could not be answered; neither side's had been answered fully. Again and again Lincoln put the North and the South on the same moral footing. But this alone fails to explain the depth and power of Lincoln's sense of mercy and forgiveness.



Abraham Lincoln, 1865.

Taken a few months before his death, this photograph of a tired Lincoln was made from a large, broken glass negative. Some have interpreted the crack running through the image as a portent of the president's impending assassination.

The second and most critical key here comes from Lincoln's religious transformation. This was the mature Lincoln, the believing Lincoln, the biblical Lincoln who got to the point of charity in part because of his relatively new biblical outlook. Here Lincoln advocated a kind of political religion that went well beyond a simple, sacred reverence for law. What he came to see and teach for purposes of political and national well being was that there was a God with His own purposes, and if God punished people according to injustice, which the Bible said that He did, then those who introduced and brought about those injustices had better watch out. And it seemed to Lincoln very likely that slavery was one of those offenses, and thus the North and the South should be expecting retribution. Why? Why could Lincoln say that God gave this awful war to both the North and the South if most of the North, at the time, had eliminated slavery? In part it was because Northern economic interests still depended upon and did business with Southern, slave-owning powers. Furthermore, the North, even if mostly free of slavery at the time, had practiced slavery for a long time. Lincoln wasn't just talking about the payment for slavery now but for 250 years of slavery. For more than two centuries many of the Northern states had practiced slavery. If there was a God of justice—and every drop of blood drawn with the lash of a slave master had to be paid for with another drawn by the sword of the soldier—then God was still just. Thus Lincoln concluded that God was likely giving this war to both the North and the South.

Now this, I argue, helps explain not only the remarkable, charitable ending but also the unprecedented start of this speech. Lincoln couldn't predict the end of the war, even though all signs were pointing toward it. Why? Because it was not his war; it was God's war. God was in charge. God had His own purposes. They were not always fully fathomable—rarely are they fathomable to the human mind. God was doing something here, and so we had to be patient and let it unfold. That was the kind of faith Lincoln came to by the end of the war. And, by seeing both the North and the South responsible for the war and the war as a matter of God's judgments against both sides, he took away from the North a moral high ground from which to seek revenge on the South for starting and sustaining the war, and he took from the South the low ground of resentment and retaliation against the North for the brutal, bulldog tactics finally required to end the war. What Lincoln accomplished in this masterpiece of literature and political thinking was to take away the impetus for both of these hateful impulses so that both the North and the South had to come together, forgive each other, and move forward in unity. To say all of this while still effectively leading the troops in battle, was, again, a kind of unmatched moment in political and military history. Also, it bears repeating that, as in his address to the Young Men's Lyceum, Lincoln was still concerned in the second inaugural address with the threats that human hatred posed for democratic health and survival. The big difference now was that he went beyond just making human law sacred as a way to minimize the effects of human hatred. Rather, he employed a recognizably Judeo-Christian worldview and ethic to try to root out hatred itself.

What Lincoln tried to do in the second inaugural address—heal a nation through notions of mercy and love—was cut short by his assassination a month later. But in some ways, at least in the long term, Lincoln's untimely death only added to the power of his second inaugural message. Within hours of his death there developed around Lincoln what

LINCOLN

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—LEO TOLSTOY



I call a Christological myth. This myth used to be a lot better known in our American culture than it is today. Frederick Douglass, a noted black abolitionist, was the first one to foster this notion. When called upon extemporaneously to say some words at a hastily called memorial for Lincoln, he said that while Christ's blood atoned for our sins, perhaps Lincoln's blood was required to atone for the sin of slavery in this nation.

There are some remarkable similarities between Christ and Lincoln. Christ was born in a manger; Lincoln, a log cabin. Both had rustic beginnings in life. We know there are traditions of Christ's saintly mother; Lincoln famously speaks of his "angel" mother as the most important influence in his life. Christ grew up in Nazareth; Lincoln, on the American frontier. Christ was a man of sorrows; in that last picture of Lincoln you can see the heaviness and the burdens he suffered regularly from depression. Christ made a triumphant entry into Jerusalem a week before He was crucified; Lincoln made a triumphant entry into Richmond exactly one week before he was killed.

Lincoln was in Richmond with his son Tad. He came off a boat unannounced, slipping down without fanfare. Slave populations now freed gathered around him and started to call him "Messiah," started to kneel down before him. Lincoln said, "Don't kneel to me. Save that for your Maker, who made you free. That is not me."

But their impulse was to see him as their savior and to worship him. Christ was crucified; Lincoln was shot. Lincoln was shot on Good Friday, the day the traditional Christian world recognizes as the crucifixion day of Christ. He didn't die immediately. It was a long, slow, painful death just like crucifixion was. The bullet went into the back of his head and lodged behind his eye. He was in immense pain. He was attended to through the night while his wife and various figures of government kept watch. He moaned and labored and breathed through the night and didn't die till seven o'clock the next morning.

At the turn of the century the most famous man in the world was a man of letters, author of some of the world's finest novels. Among his words, Leo Tolstoy wrote, "Lincoln was . . . bigger than his country—bigger than all the Presidents together. Why? Because he loved his enemies as himself. . . . He was a Christ in miniature."

The image of Lincoln as a second Christ is a two-edged sword for Latter-day Saints. On one hand we have to remind ourselves that there is one God and we are to have no other gods before Him. Lincoln was not a god. He did not atone for the sins of America. That was done by somebody else long ago and in an infinite way that Lincoln never could. We must not fall into the trap of revering him as a kind of deity or a god that he wasn't or worshipping him in a way that would be blasphemous. On the other hand, to do as so many people have done and try to make Lincoln just a man, an ordinary politician driven by shameless self-interest and self-advancement, is to miss this great figure who is great because he saw something powerful in the life and teachings of Jesus Christ.

As citizens of this great country, we must learn from Lincoln. In moments of dissension and difficulty—moments you will face as you practice law—you must, even as you fight with a "firmness in the right" as Lincoln did, remember that your highest and holiest obligation is to love your enemies as yourself. And the greatest exemplar and teacher of that is Christ, of whom I testify, in the name of Jesus Christ, amen.



Thomas Nast's 1866 painting depicts President Lincoln thronged by adoring people as he entered Richmond, the capital of the Confederacy, on April 4, 1865, shortly after Robert E. Lee's retreat and the end of the Civil War.

ART CREDITS

Page 19: Still-life photograph by Bradley Slade. Lincoln images: Library of Congress, Prints and Photographs Division, LC-DIG-pga-02040, LC-USZ61-1938, LC-DIG-cwpp-04326.
 Page 20: Library of Congress, Prints and Photographs Division, LC-USZ62-7728A.
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 Page 24: The Metropolitan Museum of Art, Gilman Collection, Purchase, Joyce F. Menschel Gift, 2005 (2005.100.89) Copy Photograph © The Metropolitan Museum of Art. *Abraham Lincoln*, 1865, by Alexander Gardner. National Portrait Gallery, Smithsonian Institution.
 Page 26: *Lincoln Entering Richmond*. Credit: PictureHistory.

Judge Michael W. McConnell Speaks at Law School

Michael W. McConnell, a federal judge on the U.S. Court of Appeals for the 10th Circuit and a professor of constitutional law at the University of Utah College of Law, spoke to law students at the J. Reuben Clark Law School on January 17, 2008.

Judge McConnell spoke about the patriot Patrick Henry and his opposition to the ratification of the Constitution. Henry feared the day would come when the United States would be a militaristic empire with a too-powerful executive, leaving too little protection for civil liberties. At the Virginia ratifying convention Henry stated his view: "You are not to enquire how your trade may be increased nor how you are to become a great and powerful people, but how your liberties can be secured, for liberty ought to be the direct end of your government."

When reached late in the night by a messenger telling him that the Constitution had been ratified, Patrick Henry immediately went to the meeting place to address the group that still opposed the Constitution, establishing the first precedent in the American Constitutional tradition: "The question has been fully discussed and settled. As true and faithful republicans you had all better go home. Cherish the new Constitution. Give it fair play. Support it." Political opposition may be impassioned, but after speeches and arguments are made, no matter how strong the feelings that there is error or how grave the dangers to American liberty and democracy appear, when the matter has been fully discussed and settled by our fellow citizens, we go home.

Here are excerpts from the question-and-answer period that followed Judge McConnell's remarks.

Would you say that it was more of the civic virtue of United States citizens than implicit words in the Constitution that led to the success of the early republic?

Yes, I would say that. It was one of the most common and widely held views that you could not have a republic without public virtue. "Virtue" meant courage and self-sacrifice. I think the closest modern equivalent of this would be something like voluntary self-sacrifice in the public good.

How do you produce virtue? The founding generation thought the American people were especially blessed, but they also did not believe that would last forever. How do you inculcate virtue?

As one of the possible mechanisms for inculcating public virtue, Patrick Henry advocated a system at a local level in which everyone was required to contribute to the church of their choice. There wouldn't be an established church, but there would be multiple churches established. His proposal was rejected, and indeed the six or so states that had some form of establishment gradually disestablished them over the first generation or so in America. Nonetheless, religion has remained strong in America and, along with other voluntary associations, has played a major role in the formation of the national character.

Another important aspect of public virtue can be seen in our American military tradition. When our officer corps go to places like West Point, they learn that they are not supposed to be little Caesars, that the American military are servants of the people and not of their leaders.

And, of course, Patrick Henry was teaching a kind of public virtue when he told opponents of the

Constitution to go home when they had lost the fight in the ratifying convention. This is the public virtue of acceptance of the democratic rule, even when you aren't prevailing, and that's an important thing. That is the importance of concession speeches on election night. We remember the really gracious concession speeches, don't we? When politicians lose and seem to try to keep up the battle and try to undermine the person who's elected, we sort of recoil, don't we? We say, "This is not the occasion for that." Concession to the will of the majority is a kind of education in democratic public virtue that is really important and not seen in countries around the world.

When there is an issue that is politically charged and it goes through the democratic process and my side loses, I find that I tend to continue being angry or wanting to fight against the ultimate result, or I turn to apathy. I'm curious about the application of Patrick Henry's message from what he said, that we should cherish the Constitution and go home. Yet at the same time, it seems that he continued to passionately fight against the aspects of what he didn't like in the Constitution for the rest of his life. So I'm wondering about my personal application of this message when I'm the loser. Should I cherish and accept the thing I don't like, or should I continue fighting against it through the democratic process?

Don't suddenly stop believing in what you did before. That is not what our republicanism is all about. Republicanism, at its best, means that all of us, all citizens, think about and vote and urge what we believe to be in the public good. Public virtue, in part, means putting aside things that are merely in our private interest. You know, I may be a wheat farmer and profit by hav-



ing wheat subsidies, but are they really in the public interest?

But self-interest, as powerful as it is, is not the thing that most infects American politics. What I think most infects American politics today is an excessive partisan zeal, such that people often hope for not what they think is in the public interest, but rather what they think is going to advance their team and cause the other team to lose. We should really fight against that impulse. I think that it is wonderful to have people with different ideas about what promotes the public good, but I think that it is factionalism at its worst when people wish for things to become worse because they think that it will advance their cause.

I would also suggest that when you lose, you at least entertain the following thought and see if it could be even sincerely made. Say, "I think they are wrong, but I hope they are right." For instance, somebody proposes a national health care system that you think is a bad idea. You argue against it, you point out all the flaws that you think it's going to have, and you don't think it's going to work very well; but it is enacted. How about the next day just saying, "Well, I still have all the doubts that I had before, but I really do hope it's going to work." This leads to a different spirit of opposition.



Kevin J. Worthen
New University
Advancement Vice
President at BYU

In June, BYU President Cecil O. Samuelson named Kevin J. Worthen new advancement vice president, effective September 1, 2008, and announced James D. Gordon III as interim dean of the Law School. Worthen will retain his faculty position at the Law School and will continue teaching as circumstances permit.

Of Gordon's appointment, Worthen said, "I have great confidence in the interim dean, Jim Gordon, who has an extraordinary mind and exceptional judgment. He has had an enormous positive impact on key decisions at the Law School, not only during the past four years as associate dean but for many years before that. He and those who will work with him are among the brightest, most talented people I know."



James D. Gordon III
Named Interim Dean
of the Law School

Gordon is the Marion B. and Rulon A. Earl Professor of Law. He received a JD from the University of California, Berkeley, and clerked for Judge Monroe G. McKay of the U.S. 10th Circuit Court of Appeals. He practiced with the law firm of Rooker, Larsen, Kimball & Parr in Salt Lake City and joined the Law School faculty in 1984. He served as associate academic vice president for faculty at BYU from 1996 to 2000. Gordon has served as the Law School's associate dean for faculty and curriculum since 2004. He has published in leading law reviews, including California, Cornell, Michigan, Stanford, Texas, UCLA, Vanderbilt, and Yale.

"I appreciate Jim Gordon's willingness to take on this new challenge. We are fortunate to be able to call upon one so able and

so well prepared as Jim to assume this responsibility," said John S. Tanner, BYU academic vice president. "I have full confidence in the ability of this new team to provide strong and wise leadership for the Law School through this transitional period."

Already, a search committee has begun the process of identifying a new dean. "This is a time of transition for the Law School, a time of challenges and opportunities," said Gordon. "Over the next several years a number of faculty members will retire, and we'll need to work hard to hire new faculty. Then we'll need to help the new faculty members develop into successful teachers and scholars. I'm optimistic about these efforts because we're building on a strong foundation."



Katherine Pullins Looks
Backward and Forward

After 20 years at the J. Reuben Clark Law School, Katherine Pullins retires. She answered questions about her work here and about what lies ahead.

How did you start working at the Law School?

The month before I graduated from the Law School in 1988, the Career Services director retired, and I received a call from Assistant Dean Claude E. Zobell asking me to apply—something I had never considered. Dean Bruce C. Hafen's question "What if I promised you I'd give you every opportunity to put more heart into this operation?" triggered a spiritually seismic shift within me, and I enthusiastically became the new director. As I worked with students in Career Services, challenges in their lives would often surface. In an effort to assist these students, I learned about resources both on campus and in the community at large. Because I had been involved in extra- and co-curricular organizations during my time as a student, when questions came up about these groups, students often sought me out. Because I had just recently graduated, when students wanted

some advice on classes to take, my office was one of the stops they would make.

After two years, when Dean H. Reese Hansen and I assessed how my time was being allocated, we could see that the student affairs part of the job description was developing into what could—and should—be a full-time job. At that point, we hired a Career Services director, and I became the dean of Student Relations.

What will you miss the most in leaving the Law School?

I will miss the rhythm of the school year and the sense of being a part of something that the hand of the Lord is guiding. Most of all I'll miss my association with the amazing individuals whom I have had the privilege of knowing because of our mutual ties to the Law School: students, graduates, and my colleagues. Since it was the promptings and stirrings of my heart that brought me to this work in the beginning, I've never thought of my work here as just a job. I've felt more of a sense of calling, of mission. Undoubtedly, I will leave a large part of my heart here at the J. Reuben Clark Law School.

What are your plans for the future?

All of my sons and their families, including four perfect granddaughters, now live out of state. So, I plan a flurry of traveling this fall to visit family members. Afterwards, I'd like to begin a phase that's a throwback to my prelaw English-major days. In today's vernacular, you might call it *So You Think You Can Write?* I've always said that I have at least four books in me, and I plan to start with a series of children's books.



Douglas Floyd Retires

After 28 years teaching at the J. Reuben Clark Law School, Douglas Floyd, Francis R. Kirkham Professor of Law, retired this summer. In his nearly three decades at the Law School, Professor Floyd has been an outstanding teacher who has brought humor, compassion, a love of learning, and scholarly insights to the task of educating law students. New students soon realized that Floyd thought deeply about legal ideas and concepts, and his

enthusiasm proved contagious. He recently received the Karl G. Maeser Excellence in Teaching Award, the university's highest award for teaching, which is a well-deserved recognition of the impact Floyd has had on the lives of thousands of students.

He has published thoughtful and well-crafted articles in highly regarded law reviews and is the coauthor of an important treatise on private antitrust actions. In the next year he will be working to complete two books.



THOMAS R. LEE



KIF AUGUSTINE-ADAMS



WENDY C. ARCHIBALD

New Associate Deans and New Assistant Dean at the Law School

Thomas R. Lee has been named the new associate dean for faculty and curriculum at the Law School, assuming the duties of James D. Gordon III, who will serve as interim dean.

"I appreciate Tom's willingness to serve," Jim Gordon said. "He is an excellent teacher and scholar and has sound academic judgment."

Lee graduated from the University of Chicago Law School, and he clerked for Judge J. Harvie Wilkinson III of the U.S. Fourth Circuit Court of Appeals and for Justice Clarence Thomas of the U.S. Supreme Court. He then practiced with the law firm of Parr, Waddoups, Brown, Gee & Loveless in Salt Lake City before joining the Law School faculty in 1997.

He served as deputy assistant attorney general in the Civil Division of the U.S. Department of Justice in 2004-05. He has published widely, including articles on trademark and copyright law.

Lee will join Kif Augustine-Adams, associate dean for Research and Academic Affairs at the Law School, who took over James R. Rasband's duties earlier this year when he assumed a university leadership position as associate academic vice president for faculty.

Augustine-Adams' primary responsibilities include faculty scholarship, student academic matters, and cocurricular organizations. She received her juris doctorate from Harvard Law School in 1992 and then practiced law with the firm of Covington & Burling in

Washington, D.C., before joining the faculty at the J. Reuben Clark Law School in 1995. She was a visiting professor at Boston College Law School for the 2007-2008 academic year and returned to BYU Law School this fall semester. Her principal research interests include citizenship, immigration, and gender issues. Her work, published in both English and Spanish, has appeared in numerous journals.

Wendy C. Archibald, '93, has been named the new assistant dean for students and internal relations at the Law School. She assumed her new duties in August, upon the retirement of Assistant Dean Katherine Pullins. Archibald is a partner in the law firm of Archibald Mahoney and has worked as a staff attorney in Congress. She is a past president of the BYU Law School Alumni Association.

Six New Mission Presidents Are BYU Law Alumni

Six BYU Law School alumni began callings as mission presidents on July 1, 2008.

Eric M. Jackson, '78, joined by his wife, Saurell, presides over the California San Jose Mission. Born in California, President Jackson served a mission as a young elder in the Arizona Temple Mission. He and Saurell live in Mesa, Arizona, where he is an attorney and partner at Jackson White. The Jacksons have six children.

Kenneth W. Jennings Jr., '78, of Alpine, Utah, presides over the Korea Busan Mission with his wife, Catherine. He previously spent years in Korea as a young missionary and later with his young family. An attorney and partner at Colter Jennings Attorneys, he and his wife are the parents of four children, one of whom is game show champion Ken W. Jennings III.

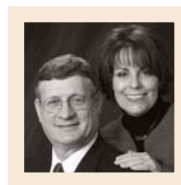
Robert G. Condie, '79, an attorney in Kirkland, Washington, is the new mission president of

the Germany Munich/Austria Mission, an area in which he served as a young missionary. He and his wife, Linda, are the parents of five children.

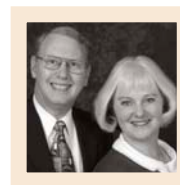
Melvin B. Sabey, '79, accompanied by his wife, Sondra, presides over the Ghana Cape Coast Mission. As a young man, President Sabey served a mission in the England North Mission. Now an attorney in Littleton, Colorado, he and his wife have six children.

Reid Tateoka, '81, is the new mission president of the Japan Sendai Mission, where he served a mission as a young man. His wife, Shauna, joins him. An attorney and the president of McKay, Burton & Thurman in Salt Lake City, he and his wife are the parents of three children.

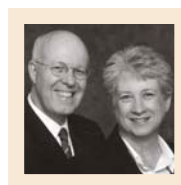
Byron L. Smith, '87, is joined by his wife, Bonnie, as he presides over the Ghana Accra Mission. From South Jordan, Utah, he is a retired area manager of TruGreen Chemlawn. He served a mission in the North Central States Mission. The Smiths have five children.



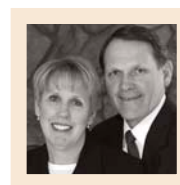
PRESIDENT AND SISTER
ERIC M. JACKSON



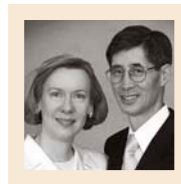
PRESIDENT AND SISTER
KENNETH W. JENNINGS



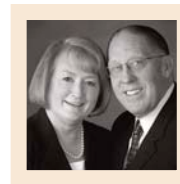
PRESIDENT AND SISTER
ROBERT G. CONDIE



PRESIDENT AND SISTER
MELVIN B. SABEY



PRESIDENT AND SISTER
REID TATEOKA



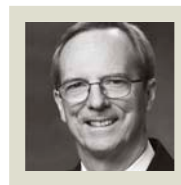
PRESIDENT AND SISTER
BYRON L. SMITH



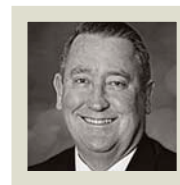
LAWRENCE E. CORBRIDGE



JAMES J. HAMULA



TAD R. CALLISTER



JAMES B. GIBSON

Four New General Authorities

Two J. Reuben Clark Law School alumni were called as members of the First Quorum of the Seventy in April 2008.

Lawrence E. Corbridge, '76, is a shareholder and senior attorney at Corbridge Baird & Christensen in Salt Lake City. Elder Corbridge's many Church callings have included president of the Chile Santiago North Mission. He and his wife, Jacquelyn, are the parents of five children.

James J. Hamula, '85, is an attorney and partner at Gallagher & Kennedy, PA, in Phoenix, Arizona. At the time of his call, Elder Hamula was serving as a member of the Sixth Quorum of the Seventy in the North American Southwest Area. He has also served as president of the Washington, D.C., South Mission. He and his wife, Joyce, have six children.

Two Law Society members also were called as General Authorities in April.

Tad R. Callister, JD, UCLA, '71, serves as a member of the Second Quorum of the Seventy. Previously, he was the president of the Canada Toronto East Mission. He served as a member of the Fifth Quorum of the Seventy, North America West Area, from 2000 to 2005. In addition to his JD degree, Elder Callister holds a BS degree in accounting from BYU and an LLM degree in tax law from New York University. An attorney practicing in California, he and his wife, Kathryn, have six children.

James B. Gibson, JD, California Western School of Law, '75, is an Area Seventy serving in the North American Southwest Area. He has been the mayor of Henderson, Nevada, since May 1997. He received a bachelor's degree at BYU in 1972 before earning his law degree. Elder Gibson and his wife, Lora, are the parents of six children. Their oldest son, Brin, graduated from the BYU Law School this past spring, and a son-in-law now attends the Law School.

Nearon Donates Paintings to Center for Law and Religion

Linda Nearon is a woman of many talents, not the least of which is her capacity to capture beauty and meaning in her nature paintings. Spending summers in the Wasatch Mountains as a young girl and later living in California's northern climes, Linda developed a love for nature that she desired to capture. "I have a passion to paint these scenes and preserve their memories," she says.

Linda recently won the prestigious Merit Award in the Salon International 2008 art competition for her stunning painting *Morning Song*. She has won many other awards for her paintings through the years. A list of these awards and some of her impressive paintings can be viewed on her Web site.

Recently, the International Center for Law and Religion at the J. Reuben Clark Law School has been the beneficiary of Linda's talents. She has donated a total of four paintings to the center depicting experiences that she and her husband, David, have had as members of the center's International Advisory Council. These paintings show buildings in Budapest, Hungary, and Kiev, Ukraine, where she and David accompanied the center as it participated in conferences on religious freedom. She has also contributed her painting *The Treasury*, of the famous ancient structure in Petra, Jordan, in honor of Judge Abdul Karim M. Pharaon and other Jordanian friends of the center. Finally, *Color of Fall*, a beautiful depiction of Guardsman's

Pass in the Wasatch Mountains, now hangs in the fourth floor reading room. This painting is reminiscent of Linda's participation in the center's Annual Law and Religion Symposium, held each October during general conference weekend.

"Linda and David have been wonderful supporters of the center in every way imaginable. Along with their generous financial support, they have hosted guests from all parts of the world at our annual symposia and have traveled with the center to many countries in Europe and Asia. For me, Linda's paintings bring a sacred honor to their consecrated service," says Robert Smith, managing director of the center.

Linda is now accompanying her husband, David, in Moscow, Russia, where he recently accepted a call to serve for 18 months as associate area legal



The Treasury (Petra) honors Jordanian friends of the Center for Law and Religion.

counsel for the Church. They are the parents of four children and 10 grandchildren.

The Law School is grateful for Linda's many talents, which it expects she will use to capture many beautiful scenes in Russia.

Annual Arts Night at the Law School

Each spring, law students with musical backgrounds have the opportunity to share their talents with the Law School community in an evening recital. Sponsored by the Sports and Entertainment Law Society, law student performers play instruments and sing, many using the grand piano donated to the Howard W. Hunter Law Library by Constance Lundberg and Boyd Erickson following the remodeling of the library in 1997.



LEFT: *Naseem Nixon*, '09;
BELOW: *Mike Allongo*, '10.



ABOVE: *Professor Kristin Gerdy*, '95 (left);
Kari Baardson, '08 (right).
LEFT: *Jennifer Carlquist*, '08.

As Lawyers Face Retirement

by J. Robert Nelson

JD, UCLA, '71, of Counsel VanCott, Bagley, Cornwall & McCarthy.

THE FOCUS OF THIS SHORT PIECE IS A FACT ALMOST AS INEVITABLE AS DEATH AND TAXES: retirement. While a few will literally work until they drop, most of us at some point will face retirement. Indeed, with the aging of the baby-boom generation, the numbers confronting this “inevitability” will only increase.

Most of us would acknowledge at least some trepidation at the prospect of leaving what has filled our time and defined our lives for so many years. The horror stories—and there clearly are some—probably heighten the anxiety. In my case, the negative anecdotes begin with an associate who, probably by coincidence, died soon after leaving his life-long job. While that may be extreme, there are numerous tales of the difficulties attendant to being put out to pasture. Typical is the experience of an executive of a large Las Vegas hotel/casino. His retirement marked for him a dramatic change. The things that for so many years had defined his professional life were gone overnight. There were no more telephone calls and interruptions; neither were there problems to address, questions to answer, directions to give, nor authorizations to provide. In place of the hectic pace, there was only a profound quiet. The contrast was so wrenching that, in short order, this executive came out of his retirement and returned to the business world that he knew.

Some in our profession find the transition that we know as retirement particularly difficult. If not already genetically programmed, most of us quickly adapt to a professional life marked by energy and activity. The prospect of sedentary retirement years does not always resonate with the type A personalities drawn to our profession. Then there is the singular focus that most of us apply to our work. While crucial to professional success, that focus may limit the development of interests that can have a cushioning effect in retirement. Finally, some counselors have suggested that a disproportionate number of us are loners whose social interaction tends not to go beyond our business contacts. Eliminate those contacts at retirement, the thinking goes, and you have the makings of loneliness. With all of this, it is not surprising that retirement can bring with it concerns about inactivity and disengagement. After all, we leave behind a profession that has defined and provided structure to our lives. Not only that—for many of us, our law firms have functioned as a support group and provided much of our social interaction. That changes when we walk out the door for the last time.

In terms of retirement, there is obvious danger in generalizing. Our paths will not all be the same. Some will take deep satisfaction from a life of golf, family affairs, and social involvements. For them the law quickly becomes a distant memory. Others will choose continued professional involvement as senior counsel to firms that value the experience and wisdom that can come with age. Some will maintain their tie to the profession as judges, mediators, and arbitrators. Still others will teach the next generation of lawyers. Then there are those who will fill their time with service including Church assignments and opportunities.

The truth is that most of us will face at least a few moments when thoughts will turn to retirement and how we will define and find satisfaction in our waning years. While working, most of us have developed professional relationships and honed a particular set of skills. They include the ability to spot issues, to express ourselves effectively, to advocate positions, and to solve problems. Those skills and our professional relationships have permitted us to function effectively and experience the satisfaction of jobs well done. There is no reason to assume that all that must end at retirement. There are ample opportunities to use those very skills and contacts in a variety of new and equally interesting settings. By so doing, we can remain active and engaged and continue to experience in retirement the same satisfaction that we did during our professional years.

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.

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J. Reuben Clark Law Society

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