Spring 2005

Clark Memorandum: Spring 2005

J. Reuben Clark Law Society

BYU Law School Alumni Association

J. Reuben Clark Law School

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The Beginning and the End of a Lawyer
The Beginning and the End of a Lawyer
Elder Dallin H. Oaks

Jehovah's Code of Civil Justice
John W. Welch

Happy Anniversary
JRCLS Class of 1980

Talking About Ethics in a Post-Enron World
The Art of Courtroom Advocacy
Cliff Fleming and David Thomas

In Memorium
Doin' Justice
Two Law Alums Join BYU
Alumni Women's Law Forum
A Child's Hope Foundation
Austin Chapter Law Society
Class Notes
Watching Ukraine Vote Orange
Life in the Law
THANK YOU, PRESIDENT SAMUELSON, FOR THAT GRACIOUS INTRODUCTION. THANK YOU, THANK YOU FOR THIS UNDESERVED BUT DEEPLY APPRECIATED HONOR YOU HAVE PAID ME THIS EVENING. I FEEL HUMBLE BY THE PRESENCE OF SO MANY IN THIS AUDIENCE WHO I ESTEEM AS TREASURED FRIENDS AND ROLE MODELS, AND I EXPRESS MY PERSONAL AFFECTION AND APPRECIATION FOR EACH OF THE PERSONS ON THE STAND THIS EVENING—EACH A TREASURED, PERSONAL FRIEND.
Thank you, President Samuelson, for that gracious introduction. Thank you, thank you for this undeserved but deeply appreciated honor you have paid me this evening. I feel humbled by the presence of so many in this audience who I esteem as treasured friends and role models, and I express my personal affection and appreciation for each of the persons on the stand this evening—each a treasured, personal friend.
In the beginning every lawyer has some fathers or mothers in the law—persons whose teaching and example has a profound influence on their initial thinking and development in the profession. I have had many influential teachers and mentors in my life, but when it comes to my initial thinking and development in the legal profession, four men stand out above all the rest. I want to tell you about each of these fathers in the law and what I credit them with teaching me. I will mention them in the order in which they came into my life.

1. Dean Edward H. Levi

Most of you will remember Edward H. Levi as the United States attorney general whose stature and wisdom restored integrity to a Department of Justice badly bruised by the Watergate scandal.

Much earlier, Edward Levi was the dean of the University of Chicago Law School when I enrolled there in 1954. He was my teacher in various courses and circumstances. As dean he recruited me to the faculty in 1959. When he went to the university administration the following year, he appointed me acting dean of the law school and tutored me in those responsibilities. Still later he was the wise academic leader who spoke at my inauguration as president of Brigham Young University in 1971. The influence in my life of this great Jewish legal scholar and leader was prolonged and powerful.

In my first year Levi’s writings introduced me to the way of precedent and reasoning in the law (see Levi, Introduction to Legal Reasoning [1948]). As a teacher he was brilliant, thorough, and extremely rigorous. All of us remember being terrorized in classrooms by law teachers whose high expectations feared we would not be sufficiently tied to general principles that their recital would be helpful to lawyers who are 20 to 50 years my junior.

Levi taught that the law is a learned profession, so law study should be much more than preparation for the practice of law. The law requires intellect as well as craftsmanship, and its obligations include improvement of the system of justice for the common good of mankind. “The problem for the lawyer,” he once said, “is not just to know the law, but how to create within it. It is a world of artistry and craftsmanship and change” (see Edward H. Levi, “An Approach to Law,” Occasional Papers, University of Chicago Law School, 1[1976]; also see Edward H. Levi, A Talk on Legal Education, University of Chicago Law School [1955]).

President James E. Faust has said that his law school dean “constantly impressed upon us that his primary mission was not to teach us the law, for the law would change; rather, his primary mission was to teach us to think straight, based upon sound principles” (James E. Faust, “The Doctrine and Covenants and Modern Revelation,” The Doctrine and Covenants [Craig K. Manschill, ed. (2004)], 1). Dean Levi did the same for me.

Levi also gave his students assurance of the natural goodness of the law and the legal profession, showing how they are ideally founded on what President James E. Faust has called “the Spirit of Christ” and the “Spirit of revelation to receive spiritual gifts” (see Mor. 7:16). When I was a new law teacher, Dean and President Levi taught me the workings

Dear brothers and sisters in the law: I appreciate this invitation to address you in person and electronically in more than 200 locations. As the outset I express my gratitude for this generous introduction and pray that I will be able to fulfill the challenge it poses.

Your invitation has given me cause to reminisce. This is one of the privileges of age, and I am getting to the point when I feel unmerged to claim that privilege. I pray that these recollections will be sufficiently tied to general principles that their recital will be helpful to lawyers who are 20 to 50 years my junior.

I was admitted to the bar of the state of Illinois all years ago this summer. Next month it will be 34 years since the Board of Trustees of Brigham Young University announced the founding of the J. Reuben Clark Law School—two months after which I was announced as president of BYU. I immediately undertook the planning of the Law School: the appointment of a dean, the recruitment of faculty, the assembling of a library, and the construction of suitable quarters. So much has happened in all of our lives since that time!

I have titled my remarks “The Beginning and the End of a Lawyer.” For “the beginning” I will reminisce about my own foundations in the law. For “the end” I will review some of the things lawyers face as they reach the conclusion of their formal service in the profession.
In the beginning, every lawyer has some fathers or mothers in the law—persons whose teaching and example have a profound influence on their initial thinking and development in the profession. I have had many influential teachers and mentors in my life, but when it comes to my initial thinking and development in the legal profession, four men stand out above all the rest. I want to tell you about each of these fathers in the law and what I credit them with teaching me. I will mention them in the order in which they came into my life.

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In my first year Levi’s writings introduced me to the way of precedent and reasoning in the law (see Levi, *Introduction to Legal Reasoning* [1948]). As a teacher he was brilliant, thorough, and extremely rigorous. All of us remember being terrorized in classrooms by law teachers whose high standards for preparation were impossible to meet. Levi was different. When he lectured about a subject he always wanted to teach a lesson to me and everyone else, he cut me off with, “Oh, never mind, Mr. Oaks. You have to be good to do that.” Years later I could laugh about that put-down, but the scar tissue and the motivation for preparation have never left me.

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Dear brothers and sisters in the law: I appreciate this invitation to address you in person and electronically in more than 800 locations. As we meet I express my gratitude for this generous invitation and pray that I will be able to fulfill the challenge it poses.

Your invitation has given me cause to reminisce. This is one of the privileges of age, and I am getting to the point when I feel unpressed to claim that privilege. I pray that these recollections will be sufficiently tied to general principles that their record will be helpful to lawyers who are 20 to 30 years my junior.

I was admitted to the bar of the state of Illinois all years ago this summer. Next month it will be 14 years since the Board of Trustees of Brigham Young University announced the founding of the J. Reuben Clark Law School—two months after which I was announced as president of BYU. I immediately undertook the planning of the Law School: the appointment of a dean, the recruitment of faculty, the assembling of a library, and the construction of suitable quarters. So much has happened in all of our lives since that time!

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of higher education. This served me well as a faculty member, as an acting dean, and much later as a university president. For example, Levi was a master at honoring and leading his faculty. His faculty meetings were always routine, because he had already thoroughly analyzed every difficult matter, worked out the needed compromises, and done the advocacy with key individuals before the meeting was held. He avoided commission.

Levi also taught me the meaning of a credit of higher education. This served me well as a faculty member, as an acting dean, and much later as a university president. For example, Levi was a master at honoring and leading his faculty. His faculty meetings were always routine, because he had already thoroughly analyzed every difficult matter, worked out the needed compromises, and done the advocacy with key individuals before the meeting was held. He avoided commission.

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Levi also taught me the meaning of a calling in the workplace. This served me well as a faculty member, as an acting dean, and much later as a university president. I was able to keep my professional life, my spiritual life, and my Church work in balance. I reduced the time spent in my law practice, almost entirely omitting night work, and devoted that time to building up the kingdom of God. I was seeking first to build up the kingdom of God, and all those other things were added to me (see Matt. 6:33; 1 Cor. 9:19). This altered pattern also prepared me to receive and accept an offer to become a professor of law at the University of Chicago.

President Edmunds was instrumental in helping me gain the spiritual nourishment and eternal perspective I needed to handle these strains. He had a powerful testimony of the Lord Jesus Christ and of the Prophet Joseph Smith. He stressed the fundamental things of this world, and aspire to the honors of men, that they do not learn this one lesson—

That the rights of the priesthood are inseparably connected with his use of the scriptures, his spirituality, and the power of his example. Under his influence I was able to keep my life in balance—spiritual, intellectual, and practical. As the leader of the student senators and the student association, he was the only lawyer on the faculty committee and the university continued its work, all without outside intervention.

This was a time of great disruption on campuses throughout the country. When the political desire to punish student demonstrators produced proposals for federal legislation, I was asked to write my recommendations to Arthur F. Burns, a counselor to President Richard M. Nixon. I was merely following the teaching and leadership of Ed and Levi when I wrote:

My advice is for the federal government and federal officials to stay out of the controversy. Spare us the spectacle of federal prosecutions of university students. Federal law enforcement agencies are not well suited for the task. Let university administrators and faculty take the federal lead. (Letter of 11 May 1969)

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My year clerking for the chief justice was challenging, satisfying, and far-reaching. Beyond the obvious opening of doors for professional advancement, it was a remarkable personal experience. I was allowed to see and participate in the work of the nation’s highest court and to work side by side with lawyers who were the future leaders of the bench, the bar, and the nation. Among the special guests at the chief justice’s court were my family and close friends, and for that I was grateful.

Chief Justice Earl Warren was an unlikely mentor and boss for a conservative lawyer like me. I was new, and he and others on the so-called “Warren Court” were the authors of many opinions that represent and reflect that some people, like the Chief, have the quality of treating everyone like a child of God.

The law school had no connections with him and offered me no encouragement. I contacted President Ernest L. Wilkinson of BYU, who put me in touch with his law partner, Carl Hawkins, who had clerked for Warren’s predecessor and still had a contact with that office. Hawkins also secured a recommendation from Senator Arthur V. Watkins of Utah. In a child of God.

In my lifetime I have observed that some people, like the Chief, have the quality of treating everyone like a child of God even though they lack the doctrinal understanding that requires this. Others who have the doctrine sometimes fail to act on it.

The chief justice taught me about professional confidences. He shared everything with his clerks, and in return advised us that he expected absolute confidentiality from them. He shared one example I have never forgotten. I only wish I had applied it as effectively in my professional life as he did in his. He told me that when he was attorney general and governor of California he would scold him severely... in regard to what I considered his faulty notion of how a judge should reach his votes on some cases, I adored the chief justice as a person, and I admired him as an administrator of the Court and as an outstanding public figure. I was learning how a man of the law—even the chief justice of the United States—assigned the highest priority to his family. He had me bring my wife and our children to his home without cutting off the avenue to deal with true emergencies—at the office.

The chief justice was faithful to his wife and his family in every sense of that word. Others who have the doctrine sometimes fail to act on it. Leadership requires selective concentration.

The chief justice was faithful to his wife and his family in every sense of that word. He often spoke of his fondness for President Heber J. Grant. That was his home, the place where he devoted himself to his work at the office. He never allowed any state papers to be delivered to his home. That was his home, the place where he devoted himself to his family, and he didn’t want any outside intrusions there. Once one of his staff phoned to say he had some papers of the utmost importance he needed to get to the governor right away. Could he bring them over to the house? Warren said he told him no, not to the house, but if the matter was that important the governor would change his clothes and come to the office and receive them there. The Chief said that when this became known, it reduced drastically the amount of interruptions he had at home.

For this and other reasons my confidential personal year-end tally shows that I disagreed with the chief justice’s votes on 40 percent of the cases decided on the merits that year. The 60 percent in which I agreed with him were obviously more comfortable for me, especially in cases where he was writing the opinion for the Court. Many of those were very satisfying to me personally.

Regardless of your opinion of your client’s choices, it is your professional duty to serve your client to the best of your ability—subject, of course, to the constraints of legality and legal ethics. In contrast to my disagreements with the chief justice’s votes on some cases, I adored him as a person and a public figure, and I admired him as an administrator of the Court and as a wise and considerate employer. On his part, the Chief (as we always called him) frequently praised my work, we got along well in every circumstance, and after about nine months he asked me to stay another year. But, typical of his consideration for his clerks, he told me I should feel free to decline if I felt this was best for me and my family. I therefore acted on my urge to get back to Chicago to practice law.

The chief justice gave his three law clerks a farewell luncheon on July 3, 1958. I recorded these thoughts in my personal journal:

My year clerking for the chief justice was challenging, satisfying, and far-reaching. Beyond the obvious opening of doors for professional advancement, it was a remarkable educational experience. I was allowed to see and participate in the work of the nation’s highest court and to work side by side with lawyers who were the future leaders of the bench, the bar, and the nation. Among the special guests at the chief justice’s court were my family and close friends, and for that I was grateful. He shared everything with his clerks, and in return advised us that he expected absolute confidentiality from them.

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And so forth. I can still hear his voice speaking those words and sending them right into my heart as an inspiration and a challenge.

From his example I learned how lawyers who were the future leaders of the bench, the bar, and the nation among the special guests at the farewell luncheon I had for him, he and others on the so-called “Warren Court” are the authors of many opinions that represent and set a pattern that would be followed by many future judicial activists. In my view this judicial activism has worked far-reaching mischief in the law. Whether one agrees or disagrees with the outcome of these activist decisions, they are unfortunate precedents because they are matters that should be decided by elected lawmakers, not lifetime federal judges.

For this and other reasons my confidence in the personal year-end tally shows that I disagreed with the chief justice’s votes on 40 percent of the cases decided on the merits that year. The 40 percent in which I agreed with him were obviously more favorable for me, especially in cases where he was writing the opinion for the Court. Many of these were very satisfying to me personally.

Those cases in which I disagreed with the votes of the chief justice allowed me to learn a good lesson in professionalism. Regardless of your opinion of your client’s choices, it is your professional duty to serve your client to the best of your ability—subject, of course, to the constraints of legality and legal ethics.

In contrast to my disagreements with his votes on some cases, I admired the chief justice as a person, and I admired him as an administrator of the Court and as a wise and considerate employer. On his part, the Chief (as we always called him) frequently praised my work, we got along well in every circumstance, and after about nine months he asked me to stay another year. But, typical of his consideration for his clerks, he told me I should feel free to decline if I felt this was best for me and my family. I therefore acted on my urge to get back to Chicago to practice law.

I felt a keen loss at leaving him. Though these pages hold him very dear, I wish I had applied it as effectively in my professional life as he did in his. He told me that when he was attorney general and governor of California he would never allow any state papers to be delivered to his home. That was his home, the place where he devoted himself to his family, he explained, and he didn’t want any outsiders intrusions there. Once one of his staff phoned to say he had some papers of the utmost importance he needed to get to the governor right away. Could he bring them over to the house? Warren said he told him no, not to the house, but if the matter was that important the governor would change his clothes and come to the office and receive them there. The Chief said that when this became known, it reduced drastically the amount of interruptions he had at home without cutting off the avenue to deal with true emergencies—at the office. The chief justice had a great respect for his Church and its leaders. He often spoke of his fondness for President Heber J. Grant. This gave me freedom to speak with him about Church matters, and that led to a funny experience. The Chief took me along during a farewell luncheon on July 3, 1958. I recorded these thoughts in my personal journal:

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decisions, I have developed a profound affection and respect for him. I believe he is completely honest, sincere, and utterly without guile. He has wonder-
ful character and judgment about many matters, and he is the most kind and considerate employer one could ask for, I will miss him.

The Chief continued his interest in his clerks. He urged me not to practice law in Chicago, which he considered a “crooked” place, but he later reversed when I told him I was leaving the practice to teach.

“Oh, that’s great,” he said. “You’ll be able to influence these young lawyers. That’s a wonderful thing to do.” (from my personal journal, quoted in Ed Gary, Chief Justice, p. 199-200).

When the chief justice reached in 1956, while still on good health at age 59, I wrote him a letter recognizing his resignation as a fulfillment of his intention—frequently voiced to his law clerks—to resign while still at the peak of his powers and effectiveness.

“I believe you have done that,” I wrote, “and expressed my relief that this was the right and proper course.” I continued, “That is what I would have wanted for you if you had been my father, and I feel the same way about you as one of a small group of men who are in a very real sense my fathers in the law.”

Lewis F. Powell

The Board of my fathers in the law is Lewis F. Powell. You will remember him as a highly respected justice of the United States Supreme Court. But that came later. His impact on me was in the year 1970–71, when he was a practicing lawyer in Richmond, Virginia, and I was a professor of law at the University of Chicago. Although Powell’s contribution to my education came 13 years after I graduated from Brigham Young University, he remained one of my fathers in the law because his tutelage was vital in preparing me for the important things I needed to do as president of Brigham Young University and in other important responsibilities that followed.

A highly respected former president of the American Bar Association, Powell was serving as chairman of the board of the American Bar Foundation, the research arm of the American Bar Association. As such, he was knowledgeable about the university environment and was located next door to the University of Chicago Law School. In the summer of 1970 Powell arranged for me to have 75 percent released time from the law school to serve as the executive director of the ABF. I was responsible to work with the board of directors and to direct the professional staff—the same task as the president of a corporation or the university president. I had never served on a board or worked under the direction of a board, so this was an entirely new experience.

In the role of a better teacher than Lewis Powell was, he was an expert at defining the respective responsibilities of a board and a professional staff. He was also brilliant at analyzing how to present matters to a board to obtain fruitful discussions and clear decisions to guide the staff. Powell was very careful in his conceptual principles, he knew the concerns of the enneads, and he knew the people who had to make and implement the decisions. All of these skills were needed because I was appointed to manage the ABF at a time when I was being tutored in my profession. I learned from Powell that the staff that its continued funding was in doubt. Differences had to be resolved, new policies had to be formulated, and conflicts had to be resolved. I described the results in my personal history.

One of the most valuable experiences was watching Lewis Powell engage and guide our ABF board meetings, skillfully resolving issues by deft phrasing and skillful compromise, with all the purpose of preserving harmony and helping the organization moving forward within the limits of our resources and faithful support.

Less than a month after this tutorial ended, I was meeting with the Board of Trustees of Brigham Young University, which then included the First Presidency and members of the Quorum of the Twelve, to discuss what policy changes would be required for the ABF. When I learned from Lewis Powell was total to my responsibility to help the board make the policies that would move us forward in a direction that I had learned from Lewis Powell. This included the foundation policies for the new J. Reuben Clark Law School.

Many times I have thanked a loving Heavenly Father for what I was privileged to learn from Lewis Powell. His teachings have been crucial in my experience and my service on boards, including particularly my five years as chairman of the board of the Public Broadcasting Service and my eight years as chairman of the board of the Polynesian Cultural Center.

I met last week with Lewis Powell concerning Brigham Young University. When President Harold B. Lee, First Counselor in the First Presidency, advised me that I had been chosen as president of BYU, I told him that when I was made head of the American Bar Foundation just a year earlier, I had committed to Lewis Powell that I would serve for at least five years. “You’ll see him,” President Lee directed, “and ask if he will release you from that commitment!”

I flew to Richmond and met my friend and teacher in his law office. I told him what had happened and asked him what I should do. I remember his words as if they had been uttered yesterday:

“I have been offered the presidency of the profession during my professional lifetime,” he said, “and I have never seriously considered leaving the practice of law for that occupation. But I know enough about you and enough about Brigham Young University to know that yours is a perfect fit. We are willing to give you the release from your commitment. Go out with our blessing.”

A few years later Justice Lewis F. Powell came to Salt Lake City for the ceremony dedicating the new Law School, and we awarded him an honorary degree.

I have spoken of men whom I call my fathers in the law, reviewing some of the things they taught me in my formative years in the legal profession. Each of you has had or is having mentors who teach you and help you in your ethical and practical course in law. You will have been blessed and supported by our mentors as I have been through mine.

The End of a Lawyer

Now I speak of the conclusion of the profes-
sional journey. In time, each of us will come to the end of our formal work in the legal profession. It may be by planned retirement, by serious illness, by death, or by a switch in occupations—or planned otherwise. Mine was the latter.

In 1984, while happily serving on the Utah Supreme Court, I went to the University of Arizona to judge a moot court. There, on Friday evening, April 6, I received a telephone call from President Hinckley of the First Presidency that changed my life. I enjoyed serving as an appellate judge more than anything else. I had done in my 30 years in the legal profession, and now it was over, and I was to leave the active practice of law. Suddenly I saw my work in the legal profession in a new light, as a means of preparing me for something due to follow. Since that transition will come to all of us, it is wise to ask now: What will remain when we reach the end of our formal work in the legal profession? What will we have that we will also leave behind, eventually?

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. So is my respect for him. I believe he is completely honest, sincere, and utterly without guile. He has wonderfully mature judgment about many matters, and he is the most kind and considerate employer one could ask for. I will miss him.

Little did our Savior designate for Himself (e.g., 3 Nephi 1:10, 110; 2 John 1:3-4; 3 John 1:11-14).

So what will remain when a lawyer comes to the end? Each of us will have our service to our clients, our profession, our communities, and our God. There will remain what we have become by that service. We will also have the eternal family relationships we treasure, as defined by the terms of our covenants and promised blessings and our fulfillment of the covenants on which they are based. All of this we can take with us as we have our last appearance before a judge: As we know from sacred writ, “we must all stand before the judgment seat of Christ” (Moroni 7:13), who “will judge all men according to their works, according to the desire of their hearts” (D&C 121:30). That appearance will provide the ultimate definition of what remains at the end of a lawyer.

My dear brothers and sisters, our lives come to the end? Each of us will have our service to our clients, our profession, our communities, and our God. There will remain what we have become by that service. We will also have the eternal family relationships we treasure, as defined by the terms of our covenants and promised blessings and our fulfillment of the covenants on which they are based. All of this we can take with us as we have our last appearance before a judge: As we know from sacred writ, “we must all stand before the judgment seat of Christ” (Moroni 7:13), who “will judge all men according to their works, according to the desire of their hearts” (D&C 121:30). That appearance will provide the ultimate definition of what remains at the end of a lawyer.

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Tadstool Oak, University of Chicago law student.
I have spoken of four men whom I call byu clark memorandum

Nos. 6 and 7 are patterned by our faith in the Lord Jesus Christ. I testify to you that that faith is sound and justified and that the Lord has prepared a way for you as you serve your families, your communities, your profession, and our God, in the name of Jesus Christ, amen.

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Virtually everyone is familiar with the Ten Commandments. They can be found in Exodus 20. Right after those Commandments, in Exodus 21–23, stands a lesser-known body of laws. That set of laws is known among biblical scholars as the Covenant Code, although it is not a "Code" in any modern sense of codification. The widely invoked Ten Commandments, which introduce the Covenant Code, are written in the distinctive "Thou Shalt Not" form. Hebrew sentences that begin in this way are described as "apodictic" laws. Such prohibitions are thought to be of elevated importance. They surpass in generality and forcefulness other provisions in biblical law, such as those that are written in sentences that begin "If a man," and thus pertain more to individual cases or particular situations.
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ew people notice, however, that the Covenant Code is not only introduced by the familiar list of 10 apodictic commandments, but it also concludes with another series of “thou shalt not” prohibitions. This concluding set of laws can easily be called Jehovah’s code of civil justice. One Old Testament scholar, J. W. McKay, has called this second set of commandments a “decalogue for the administration of justice.” Others agree that, behind or alongside the series of judicial rules found in Exodus 23, there once stood in ancient Israel other similar sets of instructions that were given to, or expected of, all who participated in the legal process. Frank Crossman has stated that “like no other texts, the instructions regarding behavior in a trial, which we find in Exodus 23:1–8, give us a picture of legal procedure during the monarchical period,” from about 1000 to 600 B.C. in ancient Israel.

I believe that these judicial commandments in Exodus 23 still offer important guidance to lawyers and litigants today. These commandments establish standards of behavior for judges and officials involved in the legal system. These rules also apply to plaintiffs and witnesses who appear in court. Nowhere else in scripture or in ancient law codes can one find a comparable cluster of mandates for judges and lawyers to follow. This body of ethical requirements is the earliest code of professional responsibility in legal history. Notwithstanding their antiquity, the principles of justice and righteousness embodied in this code of judicial conduct remain applicable today.

Jehovah’s Judicial Code in Context

McKay’s insightful article focuses on what he counts as 10 judicial commandments in Exodus 23:1–3 and 6–8. In actuality, if one begins counting at the beginning of the text and considers the context of the book of the Covenant Code, in Exodus 23:1–8, 19–28, these 19 commandments pertain primarily to religious conduct, with only the last 10 dealing with the administration of justice. McKay’s analysis, however, should be expanded so that the central 10 judicial commandments are read in their full legal context. The 10 injunctions that provide the “judicial decreologue” and the four prohibitions that come after it provide the social and religious bookends that surround Jehovah’s code of civil justice. The 24 apodictic injunctions in Exodus 22:13–31 can thus be divided into three sets: Sets A, B, and C.

The first set of 10 (Set A) is found at the end of Exodus 22. It deals mainly with the operation of a just legal system. These 10 prohibitions are directed more specifically toward those involved personally in the administration of justice. Each of these 10 rules of professional conduct will be discussed in more detail below. In essence, they require that all people involved in the legal process, especially those who act as judges, be honest, independent, impartial, careful, and compassionate. In particular, they must be beyond any reproach of spreading gossip or hearsay, colluding with the guilty, carrying group pressure, obstructing justice, favoring the rich, telling lies, killing the innocent, accepting bribes, or abusing their power over the vulnerable.

The second set of 10 (Set B, McKay’s 10), is found at the beginning of Exodus 23:1. In general, it deals overall with the operation of a just legal system. These 10 prohibitions are directed more specifically toward those involved personally in the administration of justice. Each of these 10 rules of professional conduct will be discussed in more detail below. In essence, they require that all people involved in the legal process, especially those who act as judges, be honest, independent, impartial, careful, and compassionate. In particular, they must be beyond any reproach of spreading gossip or hearsay, colluding with the guilty, carrying group pressure, obstructing justice, favoring the rich, telling lies, killing the innocent, accepting bribes, or abusing their power over the vulnerable.

In overview, these 24 “thou shalt not” injunctions set forth responsibilities toward one’s neighbor, one’s system of government, and one’s God. From this overall arrangement one can readily see that Jehovah’s code of justice operates on three levels: social, judicial, and religious. Without a sense of social justice among the populace at large, it is unlikely that any system of legal enforcement will ever bring about a just society. Without a judicial system that functions with impeccable integrity, no collection of written norms will ever be implemented with justice or confidence. From the biblical perspective, without reverence and obedient devotion to God no people will be deeply committed and motivated to keep their laws, to become holy or gracious, as is God Himself.

Interestingly, Thomas Leclerc has found a similar threefold configuration in the construction of the book of Isaiah, confirming the depth of this conception of justice throughout both the law and the prophets in ancient Israel.

Crüseman has stated that “like no other texts, the instructions regarding behavior in a trial, which we find in [Exodus 23:1–2, 7–8], give us a picture of legal procedure during the monarchical period,” from about 1000 to 600 B.C. in ancient Israel.

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People in a just society are to respect authority (God and leaders), discharge their obligations punctually, and behave generally in a fair, respectful, and dignified manner. These 10 injunctions in Exodus 22:1 to 28:19 can thus be divided into three sets: Sets A, B, and C.

The first set of 10 (Set A) is found at the end of Exodus 22. It deals mainly with the operation of a just legal system. These 10 prohibitions are directed more specifically toward those involved personally in the administration of justice. Each of these 10 rules of professional conduct will be discussed in more detail below. In essence, they require that all people involved in the legal process, especially those who act as judges, be honest, independent, impartial, careful, and compassionate. In particular, they must be beyond any reproach of spreading gossip or hearsay, colluding with the guilty, carrying group pressure, obstructing justice, favoring the rich, telling lies, killing the innocent, accepting bribes, or abusing their power over the vulnerable.
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Jehovah's Judicial Code in Context

McKay's insightful article focuses on what he counts as 10 judicial commandments in Exodus 23:1–3 and 6–8. In actuality, if one begins looking at the respect awarded the Sovereign of the Covenant and the volume of the Covenant Code contain not just 9 or 10 prohibitions but 24 "thou shalt not" expressi...
Thou shalt not spread any false reports (Exodus 23:1). Group and rumors almost always damage reputations and the standing of people in the community. Tattling, which would include hearsay and gossip, are off-limits for all people who work in the justice system (see Leviticus 19:16). Lawyers are in a particularly strong position to have inside information and to have reason to accuse or to disparage their opponents. People who spend all day trying to judge cases, advocate causes, or criticize opponents must exert special efforts to stop judg- ing others in ordinary social settings. Especially because judges and lawyers are often influential and powerful people in the community, rumors or false reports started by them are likely to be given higher cre- dence than information coming from ordi- nary people. With this high degree of potency comes a high level of responsibility. Thus the biblical code of legal conduct requires its agents to be especially scrupulous in respecting confidences, in guarding against the dissemination of false information, and in keeping confidences. The Hebrew speaks literally against “spreading” or “carrying” any false report; one should simply drop such matters. Particularly, one should not carry such things “up,” that is, to the temple or to the gate of the city where the town elders or courts of judgment typically met in ancient Israel (see Ruth 4:2, Jeremiah 18:10). The Septuagint Greek adds the connotation that one should not “accept” or “welcome” any such rumors either. The Hebrew word (“report”) can refer to any hearing, report, rumor, news, evidence, or witness. Truth in all such reports is to be promoted. To be avoided is any that is “shav”: false, empty, lying, vain, worthless, destructive, or deceitful.

Thou shalt not be a malicious witness to help a wicked man (Exodus 23:1). Righteous conduct is inimical to malicious prosecution. Suborned witnesses, revengeful plaintiffs, and compliant counsel who use the legal sys- tem to promote unjust causes wield power and manipulate the judicial process wrong- fully. The legal system is a tool. Like any other tool, it can be used either to build up or to tear down. Those who sit in seats of power must be careful at all times to use that power to promote just and right causes. The Hebrew concept behind the word malici- ousness in this context involves greedy desire, ill will, exploitation of the socially helpless, or even hatred. Thus the meaning of the biblical text is that fallacious and overreaching use of the legal process is to be abhorred and that kindness must be consciously cultivated in a setting where power has been entrusted to those with potentially bad blood.

Thou shalt not pervert the course in pursuing justice (Exodus 23:2). Judicial morals require individuals to stand up courageously for what is right, regardless of peer pressure or the prevail- ing consensus. The independent vote of Alma the Younger in favor of acquiring Abrahim in the Book of Mormon is a heroic example of one who did not follow the crowd (Mosiah 17:4). The pressures on judges and lawyers are no less potent today. One must guard against being immi- nated. The Hebrew word for follow here includes the connotations of submitting to or answer- ing to those who would pervert justice.

Thou shalt not speak against the majority with intent to pervert justice (Exodus 23:2). This is an interesting provision. Biblical justice requires people not only to oppose the majority when it is wrong but also to be careful not to speak out against the majority when the speaker intends to obstruct justice. Minority views need to be heard, but special interests can become just as pyra- midal as majority domination, especially if their advocates lack the intent of doing principled jus- tice or wish to pervert (literally to “turn aside”) the course of justice. Cooperation is crucial to civic-mindedness and collective well-being.

Thou shalt not be partial toward the poor in a lawsuit (Exodus 23:3). Since the beginning of civilization the rich have had easier access to the law. In addition, judges and lawyers are inclined to favor the rich for many reasons. The briefs of rich clients are usually better written than those of poor peo- ple. Thus the rich may appear more credible. The effects of this bias must be overcome (see, for example, commandment number 6). But that is not the focus of commandment number 3, which prohibits people from bend- ing over too far in the opposite direction. The main question in interpreting this provision is, what does the Hebrew word (“par- tial”) mean? What is it that a judge or lawyer should not do to the poor? This word may actually mean that one should not give “undue honor” to the poor. In other words, the text prohibits partiality of any kind, whether to the rich or to the poor. The Septuagint Greek goes so far as prohibiting the judge from showing too much mercy to the poor or from being swayed by pity.

Thou shalt not deny justice to the poor in a lawsuit (Exodus 23:6). In this commandment readers must struggle with the meaning of the words “deny” or “deny.” The Hebrew words here are broad in mean- ing, requiring that judges and lawyers not be partial toward the poor when they handle the cases of the poor. Judicial morals require individuals to stand up courageously for what is right, regardless of peer pressure or the prevailing consensus.
1. Thou shalt not spread any false reports (Exodus 23:1). Grouping and rumors almost always damage reputations and the standing of people in the community. Tattling, which would include hearsay and gossip, are off-limits for all people who work in the justice system (see Leviticus 19:16). Lawyers are in a particularly strong position to have inside information and to have reason to accuse or to disparage their opponents. People who spend all day trying to judge cases, advocate causes, or create opportunities must exert special efforts to stop judging others in ordinary social settings. Especially because judges and lawyers are often influential and powerful people in the community, rumors or false reports started by them are likely to be given higher credence than information coming from ordinary people. With this high degree of potency comes a high level of responsibility. Thus the biblical code of legal conduct requires its agents to be especially scrupulous in respecting confidences, in guarding against the dissemination of false information, and in keeping confidences. The Hebrew speaks literally against “spreading” or “carrying” any false report: one should simply drop such matters. Particularly, one should not carry such things “up,” that is, to the temple or to the gates of the city where the town elders or courts of judgment typically met in ancient Israel (see Ruth 4:6, Jeremiah 18:10). The Septuagint Greek adds the connotation that one should not accept or “welcome” any such rumors either. The Hebrew word “report” can refer to any hearing, report, rumor, news, evidence, or witness. Truth in all such reports is to be promoted. To be avoided is anything that is false, empty, lying, vain, worthless, destructive, or deceitful.

2. Thou shalt not be a malicious witness to help a wicked man (Exodus 23:1). Righteous conduct is illegal to malicious prosecution. Subordinated witnesses, revengeful plaintiff, and compliant counsel who use the legal system to promote unjust causes wield power and manipulate the judicial process wrongfully. The legal system is a tool. Like any other tool, it can be used either to build up or to tear down. Those who sit in seats of power must be careful at all times to use that power to promote just and right causes. The Hebrew concept behind the word maliciousness in this context involves greedy desire, ill will, exploitation of the socially helpless, or even hatred. Thus the meaning of the biblical text is that fallacious and overreachings use of the legal process is to be abhorred and that kindness must be consciously cultivated in a setting that is prone to breed hostility and bad blood.

3. Thou shalt not imitate the crowd in perverting justice (Exodus 23:2). Judicial morals require individuals to stand up courageously for what is right, regardless of peer pressure or the prevailing consensus. The independent vote of Alma the Younger in favor of acquiring Abrahim in the Book of Mormon is a heroic example of one who did not follow the crowd (Mosiah 14:2). The pressures on judges and lawyers are no less potent today. One must guard against being intimidated. The Hebrew word for follow here includes the connotations of submitting to or answering to those who would pervert justice.

4. Thou shalt not be partial toward the poor in a lawsuit (KJV: Thou shalt not countenance the poor in his cause) (Exodus 23:3). Since the beginning of civilization the rich have had easier access to the law. In addition, judges and lawyers are inclined to favor the rich for many reasons. The briefs of rich clients are usually better written than those of poor people. Thus the rich may appear more credible. The effects of this bias must be overcome (see, for example, commandment number 6).

5. Thou shalt not deny justice to the poor in a lawsuit (KJV: Thou shalt not wrest the judgment of thy poor in his cause) (Exodus 23:6). In this commandment readers must struggle with the meaning of the words “wrest” or “deny.” The Hebrew words here are broad in meaning. The Septuagint Greek goes so far as prohibiting the judge from showing too much mercy to the poor or from being swayed by pity. In other words, the text prohibits partiality of any kind, whether to the rich or to the poor. The Septuagint Greek goes so far as prohibiting the judge from showing too much mercy to the poor or from being swayed by pity.

6. Thou shalt not give justice to the poor in a lawsuit (KJV: Thou shalt not wrest the judgment of thy poor in his cause) (Exodus 23:6). This commandment resonates with the meaning of the words “wrest” or “deny.” The Hebrew words here are broad in meaning.
ing and application. If a poor person asserts a claim of right, the legal process should not stand in the way; it should not make it difficult for a person to obtain the entitled benefit. The poor are granted several rights under biblical law: the right to glean in the fields of local farmers, the right to reclaim sold property, the right to be given startup capital upon release from servitude, and other such rights. If a poor person comes forward and claims these benefits, the law should not stand in the way.

This commandment is related to the earlier commandment from the first set: “Thou shalt not take advantage of a widow or orphan” (Exodus 22:22). Justice in the biblical sense indeed is not blind. It makes a difference who the parties are. The weak need protection. Widows and orphans are especially vulnerable because they lack a husband or a father, who in biblical society would have advocated and defended their interests. Neglecting one’s way through the legal system requires knowledge and experience. In their lordliness widows and orphans are sometimes prone to making weak decisions, they may be in special need of counsel and advice. A football game between a champs onship college team and a regular high school team would be inherently unfair. Even though the football field was exactly the same size for both teams and even if the referees blew the whistle even-handedly on both sides, their contest could in no way be thought of as a fair comparison.

For the judicial code of the Bible, human law should be a respecter of persons, in the sense of looking out for the interests of others. Of us it is required to administer justice in a manner that is fair and equitable to all parties. Indeed, if lawyers and judges do not fashion justice in a frowning way, God will apply a fitting reciprocal punishment: “Your wives will become widows and your children orphans.” In the book of Mosiah, King Benjamin similarly required his people in a covenant context to give to the poor and the needy who ask for sustenance, if they did not, the reciprocal consequence would be that God would deny their petitions to him (Mosiah 4:23).

© Thou shalt not stay away from lies (Exodus 23:7). In the Ten Commandments one reads, “Thou shalt not bear false witness” (Exodus 20:16). When applicable to broad society, this means “Don’t lie.” But in a judicial context it requires judges and lawyers to stay away from any forms of deception, misrepresentation, misleading omission, and perjury. Biblical law was especially hard on perjury. Deuteronomy 19:19 requires the judges to impose on a perpetrator the following penalty: “Then shall ye do unto him, as he had thought to have done unto his brother.” In other words, in a capital case the penalty for perjury was death. Perjury is especially problematic because the legal process in ancient Israel involved God as a presence in the courtroom. Plaintiffs and witnesses verified their claims and assertions in the name of God. Defendants certified their innocence by solemn oaths and vows pledged before God or in His sanctuaries. Both taking the name of God in vain and swearing a false oath by the name of God were forms of blasphemy. Thus the Hebrew law requires the judge or participant to be “far away from, be distant from, to depart from, or to withdraw from” anything that approaches perjury. One should not even get close to this line.

© Thou shalt not execute the innocent or righteous (Exodus 23:7). Biblical law requires a righteous legal system to take precautions to prevent the miscarriage of justice. The innocent, literally “those who are free from liability,” are explicitly entitled to protection. The judicial system must particularly see that those people are never executed. Those who break this commandment are themselves guilty of a serious infraction of the law, not just an excusable or unfortunate error (see Deuteronomy 19:16–21).

© Thou shalt not take a bribe (KJV “gift”) (Exodus 23:8). Any kind of bribery or financial influence on judicial decision should be eschewed. Jewish law went so far as to prohibit any judge from accepting money from anyone to a lawsuit—whether before, during, or after the lawsuit. Even an expectation that a wealthy or influential person might sometime in the future give favors to a judge in return for a favorable verdict or judgment was excluded under Jewish law. The biblical code prohibits even a shachad (“gift” or “donation”) of any kind to or for the benefit of judges. Undue influence in the judicial process need not be as blatant as Zeezrom’s onti (“reward”) offered to Alma and Amulek if they would reverse their indictments against the city of Ammonihah and reverse their religious position. Any such influence, according to the biblical command, will “twist, pervert, or overturn” the words of even an otherwise righteous man.

© Thou shalt not mistreat a resident alien or oppress him (Exodus 23:9). The biblical code of legal conduct repeats the requirement that the legal system not be used to take advantage of foreigners living in the land. This point, which was made applicable to the general population in Yet A, is directed also at those involved in the administration of justice—for good reason. Oppression of people from other lands is especially easy because of...
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language barriers and the lack of familiarity with local judicial and governmental systems. Biblical law makes this mestizaje of foreign law and practice all the more beneficial because the people of Israel themselves were foreigners who were oppressed in a distant land. The law requires all participants in the judicial process to empathize with these disadvantages, and just as God was kind to Israel in hidrding them from bondage, so it is becoming of all lawyers to emulate this divine characteristic in promoting fairness in the interest of resident aliens.

For all their shortcomings and other failings, ancient Israel apparently honored these rules in practice as well as in theory. Biblical law makes this point by emphasizing that judges were to avoid “iniquity” or any perversion of justice, “respect of persons” or improper partiality, and “judicial weakness”.

Similar reflections of this judicial code of conduct are found in several other places in the OT. The Code of Hammurabi, the Babylonian law code, is a system of jurisprudence with very similar rules. Do not respect persons in judgment, but ye shall hear the small as well as the great; ye shall not be afraid of him that is able to condemn thee” (Deuteronomy 16:17–18). “Judge the people with just judgment. Thou shalt judge the poor with justice, and the needy, with equity, and with judgment shalt thou condemn the wicked” (Deuteronomy 16:19).

The violation of these rules of professional conduct especially among judges could lead to a complete breakdown of justice. Amos 5:12 reads, “For I know your manifold transgressions and your mighty sins: they afflicth thee, as thy face, they turn aside the poor in the gate from their right.” The prophet Zechariah demanded, “Execute the judgment of truth and peace in your gates and let none of you imagine evil in your hearts against your neighbor, and love not false oaths: for all these are abominable unto the Lord” (Zechariah 8:16–17). For this reason “the fear of the Lord is listed in Psalm 19 among the defining, operative components of Hebrew law, namely, the Torah, the testimony, the statutes, the commandments, and the judgments of the Lord altogether (Psalms 19:7–10).

Conclusion

For those involved in the administration of justice under Hebrew law in biblical times, all this was a serious business indeed. In these ancient rules of conduct all who can be found the divine ancestors of many of the modern codes of professional responsibility and the rules that demand openness, truthfulness, fairness, diligence, competence, and avoidance of bribes. Modern rules of professional conduct will require many of the same virtues as did these ancient commandments.

At the same time, Jehovah’s code of law seems to go even further in explicitly requiring participants in the judicial process to shun false rumors; to keep confidences, to avoid overreach, to eschew ill, to be courageously independent, not to be overzealous for a ministry, to be at all times true to their ministry, to eschew prejudice, to be careful, and to accept no inappropriate personal benefits for the need of the discharge of legal authority.

NOTES


Religious experts from Baylor, BYU, Columbia, Pepperdine, and other major universities will participate in the symposium. Elder Dallin H. Oaks, a member of the Quorum of the Twelve Apostles, will be the keynote speaker. "There is a great need to teach the message of the Book of Mormon in the University of Chicago. The symposium is open to the news media and interested scholars in the fields of American history and religious studies. Each session will feature the presentation of a paper, three respondents, and time for open discussion. Some seating by registration only will be available to the public. The program will also be broadcast on the Internet." James H. Hutson, chief of the manuscript division at the Library of Congress, says people will find it instructive to be informed by a group of distinguished scholars exactly how the Church, founded by Joseph Smith, evolved from a small, persecuted band to a major religion in the United States, and how the principles he taught will remain relevant in the future.

Another of Smith’s contributions was the translation of the Book of Mormon, a religious history of peoples who lived on the American continents before and after the time of Christ. Today the book is printed in 104 languages. A first-ever commercial edition of the Book of Mormon will be published this November by Doubleday.

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For all their shortcomings and other failings, ancient Israel apparently honored these rules of judicial conduct in practice as well as in theory. Scholars strongly suspect that behind or alongside the series of judicial rules in Exodus 22–23 there stood a basic model of ancient Semitic specific sets of instructions that were given to or expected of those who participated in a legal process. There is evidence of this in several places. Judges in Israel were charged with the duty of judging righteously according to these rules of conduct.

In a Chronicles 13–17, 9, King Jehoshaphat insisted judges and sent them to do justice. As he did so he expressly charged them to avoid “impartiality” or any perversion of justice, “respect of persons” or improper partiality, and “various forms of corruption.”

Similar reflections of this judicial code of conduct are found in several other places in the OT. Classical formulations of judicial ethical codes are found in Deuteronomy: Judge righteously between every man and his fellow, and do not accept a bribe. Do not respect persons in judgment, but hear the small as well as the great; ye shall not be partial in judgment; do not be of those who be hurried by the face of man (Deuteronomy 16:16–17).

Judge the people with just judgment. Thou shalt not hear a slanderous report, neither shalt thou respect persons; neither take a gift (Deuteronomy 16:18–19). They shall jointly assessed the case. They shall put down; thou shalt not respect persons, neither take a gift (Deuteronomy 16:18–19).

The violation of these rules of professional conduct apparently led to discipline and disapproval and amm. 515 reads, “For I know you manhandled your magistrates and your judges afflicted those who are poor and mistreated outsiders and aliens. And I was displeased and目录和 sponsor conference on Worlds of Joseph Smith
Happy Anniversary

All of 2005 will see the initiation of a new Law School tradition: the 25th anniversary book. This compilation of pictures and stories of the class celebrating its 25th reunion must be preordered and will be available during the fall reunions. Members of the Class of 1980 have been contacted and are already submitting material for their anniversary book. Here’s a sneak preview of some of those stories.
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Maybe we shouldn’t teach them to look both ways.
It will take the kids years to cross this street.

As we attended our 20-year class reunion, I carefree children asked busy and important questions over priceless laughter. With candy breath they screeched, wiggling sand between happy toes and licking the monkey bars for fun.

The older I get, the better I was. As the years fly down mortality’s inexorable path, there is some truth to my opening ... somethings get better with age, and I hope we include ourselves in that rarified vintage called Experience and Wisdom.

**William John, Jonahon**

The following account is something that I have never before and probably will never again put into print.

We have fond memories of the Law School. Our lives have been full. Our children and the Church have kept us busy and focused on the things that matter most in life. After having five biological children, Susan and I decided to graduate from law school through foreign adoptions. In 1991 we traveled to Kazakhstan for two children, and Susan graduated from our third through adoption in 1994. We then returned to Taiwan for our last child, a subsequent trip to our law school years that she’d be willing to live anywhere except Minnesota (20 degrees below zero in November was too much for this California girl), we had no idea we’d become longtime Tennessee residents. In fact, when law school friends would ask where I’d be willing to go, I often responded, “Anywhere except the South.” My father (Richard E. Riggs) had spent some time in the Deep South during the early days of the civil rights movement and had left his family knowing he would never return. Perhaps in the future we can say we learned that although doing is important (“be ye doers of the word”), being is vital. Who we are, what we believe, and what we will reveal about our natures is the ultimate challenge. No one is without the capability of the right steps. We look forward to it all with wonder and no small sense of awe.

I commend to you my reflection a poem I published last year. Perhaps it expresses a slice of our collective feelings in some small way:

**The Penthouse**

In the penthouse busy and important men and women sort over rare cigars and plump strawberries. With lightly breaded they tire out threads and church big data graphs for lawyers listing at percentages.

Across the street is a park with a sandbox where children play and busy and important questions over picturesque laughter with candy breath they screech, wagging sand between happy toes and licking the monkey bars for fun. It will take the kids years to cross this street. Maybe we shouldn’t teach them to look both ways.
Bruce E. Babcock, ’80

When I was a law student I taught a Japanese class for the BYU Department of Asian and Slavic Languages each semester, and I was also a JISU teach. One day Dean Rex Lee called me in for one of his famous chats. He told me that I should decide whether I wanted to be a lawyer or a business major, minor lawyer or in JSU, and get out of the university as quickly as possible so that he could admit new students. It told him that I wanted to do...
I have a wonderful family. My father died in 1996, so I invited my mother to move into the new home I had just completed in 1994. As the situation became permanent, Mom decided to finish my walk-out basement as her own apartment and to do it just how she wanted it. My brother Gary had a plaque inscribed with “The Mary Kay Suite,” as the carpet and walls were all pink! Mom and I had many happy times together. She was my best friend. She reminded me of the importance of slowing down and enjoying life and taking time for Mom. She died in January of 2004, just past the start of the general season. My siblings are close, and that has helped me continue forward and transition.

My ward is great, with wonderful, land people. I believe that when I was called to my ward Relief Society presidency in late November 2001, I didn’t realize how difficult that role was going to be for Mom and me. I was beginning something challenging to do in a church job. I serve with a terrific president and counselor, who are great friends.

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Since August of 2002 David A. Golden, ’92, has been employed as the director of ethics and compliance at $5.8 billion Eastman Chemical. With this company he is working in the post-Enron generation of legal compliance, directing the implementation of the latest governmental regulations in corporate finances, securities, and governance. His job at Eastman is to ensure that the company’s practices and policies are in keeping with the Sarbanes-Oxley Act’s definition of an effective compliance program, including the 2002 federal law’s requirement that people in positions of power have “reasonable assurance” that there was no violation of company laws or regulations.

Corporations rely on counsel not only to advise them of the law but also to serve as a conscience for the company— to render sound judgment.

“Unfortunately,” says Golden, “there is no experience of ethics always picked up in law school. It is always important.”

He adds, “but [the] Enron [incident] just highlights the importance.”

This new atmosphere of corporate ethics, the BYU Law School and its graduates have an opportunity to play in the tenor of corporate compliance. “Certainly,” says Golden, “BYU doesn’t have a monopoly on inculcating ethics in day-to-day learning. But I think it is in a unique position to do so.”

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He adds that his experience at BYU was one where ethics were “addressed in the classroom, even “before it was vogue, as it is in the post-Enron world.” A BYU education in the classroom is to “ground a lawyer,” Golden concludes, “so that they can make a difference as they go into the world and confront real problems and issues that take moral courage to resolve.”

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I loved the study of law—two years at the J.B.C.L. and one at the University of Alberta Law School (to fulfill Canadian requirements). After law school I loved the process of helping people understand the law applied to their circumstances. But the most general practice area in which I found进货 was the law school, where I attended and worked (1980–1998), was so busy it felt as if 20 years of practice were compressed into five. I was burned out, and though I practiced the law and the firm, the blemish necessity of converging my interests into billable hours became increasingly unbearable. This dislike of having to bill for work and advice is something I really didn’t want it that I really didn’t want it. I really didn’t want it. I really didn’t want it.

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Law school was an unexpected development in my life. The idea never occurred to me until a summer day in 1976 (I was almost 27 years old). By then I had a bachelor of arts and a master’s of education in psychology and, as a member of the Italian-American community, I was looking forward to serving a mission and possibly embarking upon a new career. Or perhaps even just some time away from my parents. Two of our four children were married, and both of them had blessed us with grandchildren. I had a law-school degree, an on-ion-in-law, and one of our grandchildren had just moved out to Utah. It looks like we now look forward to seeing a lot more of Utah again. Such is life.

David Golden, ’92

Since August of 2002, David A. Golden, ’92, has been employed as the director of ethics and compliance at $5.8 billion Eastman Chemical. With this company he is working in the post-Enron generation of legal compliance, directing the implementation of the latest governmental regulations in corporate finances, securities, and governance. His job at Eastman is to ensure that the company’s practices and policies are in keeping with the U.S. Sentencing Guidelines’ definition of an effective compliance program, including the 2010 Federal Sentencing Guidelines, which impose strict accountability and penalties on corporate organizations and their employees.

In a 2004 interview with Compliance Work, Golden expressed that, to him, the job goes beyond legal compliance. “Part of our baseline compli-ance,” he explained, “is what the law might allow, but it’s just not the right thing to do. So we exercise a responsibility not only to the highest standard of the law, or the right thing to do.”

Eastman is glad that the law was making an environment where this kind of attention to ethics has worked out. “Is that to say I’ve never thought we’d never have wrongdoing? No!” he stated. But Eastman has never had anything like what others have reported. I think we have a good culture. . . . Before I took this job I told the CEO that I really didn’t want it unless he was committed.”

The role of corporate counsel has changed since Enron in two significant ways, says Golden. “First, there are a myriad of new requirements that have arisen because of Enron, such as Sarbanes–Oxley and associated rule makings leading the way. So corporate counsel needs to be aware of the new laws.”

Second, I think the scandal has changed since Enron in two significant ways, says Golden. “First, there are a myriad of new requirements that have arisen because of Enron, such as Sarbanes–Oxley and associated rule makings leading the way. So corporate counsel needs to be aware of the new laws.”

In this new atmosphere of corporate ethics, the BYU Law School and its graduates have a role to play in the tenor of corporate compliance. “Certainly,” says Golden, “no one doesn’t have a responsibility to enforce the ethics and ethics in day-to-day learning. But it’s not in a unique position to do so.”

Golden recalls interviewing for a summer job during his second year of law school and asking the interviewer whether he thought there were “too many lawyers in the courtroom.” The interviewer’s answer, says Golden, “has always stuck with me. ‘That is why we have people who want to be an unethical lawyer or someone concerned only with what is legally permissible and nothing else—then, yes, there are too many lawyers. But if someone wants to be a ethical and encourage their client to be ethical—then, no, there are too many lawyers.’”

He adds that his experience at BYU was to one where ethics were in the classroom, even “before it was vogue, as it is in the post-Enron world.” “At BYU I was able to lose some of the detours that I would have been able to follow due to my interests in theatre and media arts in 2001 when my widowed mother had a serious fall and I became her full-time caregiver. She is a 90-year old gem, and the silver lining of this dusting is that I have been able to complete a substantial family history project that otherwise would not have been done.”

Unexpected detours and delays seem an inevitable part of life, like squaws in Haran or Egypt, deserts— or in extended caregiving. But sometimes in these delays our self-will becomes too heavy a bear, and at length we are glad to get rid of it and to wait upon God. (Alas, if only this lesson did not have to be learned so many times!) But for now I have a dream, an extended time of preparation, and most important, a gracious Sudanese woman whose well-being is worth whatever delay is required.

M. Gay Taylor, ’80

I have gone to Peru twice. The first time I went with friends. Two years later my brother Greg, who is legally blind, convinced me to go again and to take him, another brother who is legally blind, and other family and friends. We took the 16-mile trek to Machu Picchu. Last year my brother Greg and I hiked to the top of Mount Whitney with my cousin and some other friends. That was a thrilling accomplishment.

PHOTO CREDIT

Page 52—The Ragtag: SCOTT ADELSON; Page 58—BYU Photo

CLARE MCKINNON 27
Russ Herman

The Orrin G. Hatch Distinguished Trial Lawyer Series

The Art of Courtroom Advocacy

The idea had been growing in trial attorney Jim Parkinson’s mind for years. Parkinson, “saw... had seen the inside of courtrooms all over the country and shared the air with jurists, expert witnesses, and panels of judges, learning the steps of effective trial advocacy. Why couldn't there be a series of seminars assembling panels of experts to teach and train law students in principles of trial advocacy?

Couldn't he be expanded to practitioners to get some mentoring from the experts? Excellent advocacy in the courtroom was a science, an art, that could be taught and passed on. The Art of Courtroom Advocacy could be the first in a series of presentations.

Parkinson enlisted the help of Michael Goldsmith from the J. Reuben Clark Law School, an expert on sentencing and criminal procedure, the Herman brothers from New Orleans, Russ and Maury, who had been instrumental in obtaining billions of dollars for plaintiffs in the tobacco company litigation, and others. When Senator Orrin Hatch agreed to lend his name to the conference, the first annual Orrin G. Hatch Distinguished Trial Lawyer Series became a reality.

Parkerman knew that obtaining experts to sit on these panels would be key to the conference’s success, so he enlisted Judges Dee Breson, Dale Komuhl, Monroe McCoy, and Douglas Miller, as well as noted practitioners Paul Warner, Will Colom, Max Wheeler, David Schwendeman, and Robert Drew.

October 29 and 30 saw the first Orrin G. Hatch Distinguished Trial Lawyer Series presented at the J. Reuben Clark Law School. Russ Herman gave the keynote address. Acknowledging the large numbers of returned missionaries among the audi-

ience, he exclaimed: “If you can convert people to the Mormon Church from places as diverse as Central America, Mexico, and Central Asia, and among them there are people from different races, nationalities, and religions, you can convince a jury of anything!”

Herman was especially pleased the series was named for Senator Orrin Hatch, stating: “Orrin Hatch is an extraordinary statesman who has dedicated his life to the cause of justice and fairness. He has been a voice for the underdog, a champion of the little guy, and a friend to all who seek justice and equality.”

The conference was hosted by Russ Herman because he was already hooked on good stories—topics such as The Key to Effective Trial Practice, Jury Selection, Opening Statements, Direct and Cross Examination, Difficult Foundational Issues, and Closing Statements.

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 I tried a case in El Dorado, Arkansas, a small rural town in southeast Arkansas. The case was over, and we had a decent result. I had two hours to spend before I got there. The remaining book was illustrated with a cowboy on horseback saving a woman in distress. The author’s name was Louis L’Amour. I said, ‘I don’t have much money, but who would name himself ‘Louis of L’Amour?’ I didn’t really want to read a cowboy book, but I picked it up because it was the only thing there was to read. In the gap of the next year I read 15 Louis L’Amour novels.

 Herman was hooked on Louis L’Amour because he was already hooked on good stories—the heart of trial practice—learning the problems of his client’s lives and picking up his gift of persuasion to right wrongs.

 Our firm’s primary practice is learning the problems of his client’s lives and picking up his gift of persuasion to right wrongs.

 Finally, Herman admonished those wishing to pursue the art of trial advocacy to carry the kind of responsibility that would bring.

 You need to take cases for the right reason, for someone who has lost his job or his freedom. Our commitment to helping people who have been wronged, who are ready to stand up and fight for their rights, not only for the money they deserve, but also for the dignity that they have lost.

 We believe in the rule of law and the rights of all citizens to stand up and be heard in their own cases. We will not take or continue any case unless we feel that we can do the best job possible for our clients.

 In our country we have not seen attempts to make more than one-fourth of a percent of the nation’s resources to the judiciary. Nonetheless, the judiciary is the bulwark and legal systems that keep us free.

 The law is more than a profession; it is a calling. A single lawyer can make a difference. You can make a difference—first for the client, then for the larger society in which we live.

 If we allow bad laws to deprive our citizens of their rightful entitlement to freedom, we have failed the profession, our country, and the community.

 Remember, when government acts as a judge, it is the court that rules, not the citizens. When government acts as a prosecutor, the defendant is the court that rules, not the citizens.

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Anxiously Engaged in a Good Cause:

Cliff Fleming and David Thomas
Research, Write, Teach, and Speak

J. Reuben Clark Law School professors Cliff Fleming and David Thomas are prolific in their scholarly output—researching, writing, teaching, speaking, and serving on boards and committees. Here is a brief look at how and why they are “anxiously engaged” in doing all they do.

Professor J. Clifton Fleming says there is a point to all his research and writing. Recently he completed an article on international income taxation where he argued in favor of a minimum tax to reduce the federal deficit and lower rates for everyone else. “That kind of premise would translate into a wide-reaching financial boon to the country of lawyers would listen, ‘but deep pocket corporate America is winning,’ he deadpans.

Professor Fleming’s demeanor is serious; he is a serious person who puts in as many as 20 to 30 miles a week. But the seriousness is belied by the ironic punch lines scattered through his conversation and the poster on his office wall of a runner, sweating, tongue lolling, collapsed at the finish line, the words heralding what “fun” it is to run. For 40 years Fleming served as an assistant dean at the Law School, starting with Bruce Halen and continuing through the administration of Reese Hansen. He has introduced the members of the faculty to many classes of first-year law students in their first week of school, billing himself “as the acculturating with an accountant’s sense of humor.”

Every spring Fleming travels to Australia and Central and Eastern European University, where he teaches graduate level courses on taxation to eastern European and central Asian students. The point of his participation? “I teach those young lawyers things that will all them build up their professional self-confidence and to build their market economies. I hope it will make a difference.” He has also developed contacts with law schools in Australia and teaches there to give those law schools the opportunity to want more about comparative taxation in light of Australia’s tax system.

Professor Fleming came into legal education so he could teach and write. He stepped into law school administration when called and has spent years working toward the AALS accreditation process, inspecting and evaluating other school programs as they come up for either member- ship or membership renewal. All of this to help institutions locate the heat they can be for their students. He is happy to return to a full teaching load explaining basic and international tax law to eager young students primed to make a difference in the world, free speech, legal education, and legal history from Roman, Dark Ages Britain, and Norman laws to the legal profession in the United States. Professor Fleming is the author of a Practical Guide to Dispute Resolving Landowners.

While director of the Law Library, Professor Thomas excelled his scholarly writing. He started with library issues, property, and civil procedure themes but has also written prolifically on free speech, legal education, and he is the author of Thompson on Real Property. Thomas was asked to teach first-year property, which expanded to an offer to revise Hand’s edition now stands at 15 volumes, and he continues to revise one volume of the series each year. With Professor Jim Backman, Thomas wrote Professor Fleming’s "Doin’ Justice." When I recall that day, I picture the small sign hanging near the table where we ate chocolate cake. The embroidered sign, a gift from a former law clerk, seemed particularly appropriate on the day I became a lawyer. It read: “Doin’ Justice.”

Whenever I think about what it means to be a lawyer, I always end up back at the sign at the table and my 12 pages of notes contain a measure of Judge Aldisert’s learning and wisdom. After a lifetime of service, Judge Aldisert made a statement that I believe represents the altruism and humbleness of our judicial profession must strive for.

“When I look at myself,” he said, “whether I’m liberal, conservative, or moderate. I look to whether I have suf- ficient precedent to bring about a result that benefits society.” I have concluded that Judge Aldisert’s judgments and Hand were correct. For a man like Judge Aldisert—who had no political acumen, no special legal office and occupied the ivory tower, who has both met with public and private enemies and defended those who the government sought to corrupt, and who has both intellectual and street wise—we cannot construe disagreement to mean unending conflict. With the belief that it is not a question of what it means to be a lawyer, I always end up back at the sign at the table. "That's what Judge Aldisert taught me: Apply the law, sure, but ‘do justice, sir, do justice.'"
Professor David A. Thomas joined the J. Reuben Clark Law School faculty in 1984, the first new hire to add to the original complement of professors who started with the school. His initial assignment was to teach civil procedure. Thus began his tenure as a professor in his professional life of accepting assignments, becoming involved in those assignments, and then expanding beyond their original limits. The new professor engaged in teaching civil procedure was soon asked to add Law Library director to his duties. Not long after that he was contracted to write Utah Civil Practice, which expanded to an offer to revise Pound on Real Property. The Real Property "edition" now sat on my volumes, and it continues to evolve as the case law and statutes evolve.

I cannot forget my first day as a member of the bar. That's what Judge Aldisert taught me: Apply the law, sure, but "do justice, sir, do justice." The judge said he had been advised that teaching civil procedure was what it means to be a lawyer, I always end up back at the sign I saw on my first day as a member of the bar. That's what Judge Aldisert taught me: Apply the law, sure, but 'do justice, sir, do justice.'

Judge Aldisert to the United States Court of Appeals for the Third Circuit in 1958, she made it and served in 1949 three generations of law clerks simply as "The Judge" had already served seven years on the Allegheny County (Pennsylvania) Court of Common Pleas. It was during that time that Judge Aldisert, now serving his fifth term in the United States Senate, to the judges to the mem-

When I recall that day, I picture the small sign hanging near the table where I was seated that read, "Knowledge is a spiritual gift that all may be taught and pointed out."

Judge Aldisert to the United States Court of Appeals for the Third Circuit after a lunch appointment. As Justice Holmes entered his carriage to be driven away, Judge Learned Hand stated: "Do justice, sir, do justice."
Ed Carter, ’03, and Kory Staheli, ’87, have recently become faculty of Brigham Young University. Carter joins the Communications Department; and Staheli, the Law Library.

Carter graduated from BYU in 1993 and received a master’s degree in journalism from Northwestern University’s Medill School in 1999. Following his graduation from the BYU Law School, he took a clerkship with Judge Ragger J. Aldisert of the United States Court of Appeals for the Third Circuit. Rather than take a job with a firm or agency, Carter has accepted a position as an assistant professor of journalism in the Communications Department at BYU.

Carter’s experiences are varied, from working as a reporter for the Daily Herald and the Deseret News to working as a reporter in Washington, D.C., for the Mexico City News to his clerkship.

“I enjoyed newspaper reporting because it allowed me to learn things about various topics,” says Carter. “One day I was interviewing a congressman or multimillionaire businessman, and the next day I was interviewing a little old lady about her unique aluminum can collection.”

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Two Law Alums Join BYU

Ed Carter, ‘03, and Kory Staheli, ‘87, have recently become faculty of Brigham Young University. Carter joins the Communications Department, and Staheli, the Law Library. Ed Carter graduated from BYU in print journalism in 1996 and received a master’s degree in journalism from Northwestern University’s Medill School in 1999. Following his graduation from the BYU Law School, he took a clerkship with Judge Raggi at the Alu...
The book takes the reader step-by-step through the process of prayer. Drawn from the scriptures, it discusses one’s proper ... message of all is that there is an answer to every prayer. Published by Horizon Publishers, the book is available through

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Class Notes

Donald A. Mehta was presented with the 2003 J. Reuben Clark Society Lifetime Achievement Award at the Annual Outstanding Leader Seminar. Mehta, a lawyer and educator, is the co-founder of Real Clark Law Society and the Austin Management Society.

Eric T. Clark and Clark Law Society Chair Karen Whet was the Law Society presented its Faith and Integrity in Legal Services Award to Texas Supreme Court Justice Scott Briscoe. Required throughout his legal career for his dedication, fairness, and unflinching integrity, this award was given to recognize Briscoe’s efforts to promote judicial efficiency and to improve the administration of justice in Texas. Briscoe has been praised for his contributions to the legal profession and for his commitment to the rule of law.

Derek R. Brown is the attorney-in-charge of the Metropolitan Area Inmate Project (MAIP) at the Salt Lake Correctional Center. He has contributed significantly to the project’s success through his leadership and dedication to improving the lives of incarcerated individuals.

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After graduation he worked both in New Orleans and as a public defender and as an assistant district attorney. He then became a staff attorney for the Public Defender's Office in Salt Lake City and then moved to the office of the State's Attorney in Salt Lake City. He served as a trial attorney for the United States Attorney's Office in Salt Lake City for eight years. He then became the assistant director of the Federal Bureau of Investigation (FBI) in Salt Lake City. He served as a trial attorney for the United States Attorney's Office in Salt Lake City for eight years. He then became the assistant director of the Federal Bureau of Investigation (FBI) in Salt Lake City. He served as a trial attorney for the United States Attorney's Office in Salt Lake City for eight years. He then became the assistant director of the Federal Bureau of Investigation (FBI) in Salt Lake City. He served as a trial attorney for the United States Attorney's Office in Salt Lake City for eight years. He then became the assistant director of the Federal Bureau of Investigation (FBI) in Salt Lake City.
David Renyon, an associate in the Health, Life Sciences, and Technology Practices litigation at Greenberg Traurig in New York City, co-authored “Civil Procedure in New York City Office of Morgan, Lewis & Bockius” an associate in the New York City office of Morgan, Lewis & Bockius has returned to private litigation practice at the legislature on real estate and development issues and for the Legal Resource Center. He has also retained partnership interest in his small law firm, Marchant, Kohler, & Kyler.

Kirk Hermann, who spent 13 years living and working in the Ukraine, including two terms as a Peace Corps volunteer and a year teaching English in the country, has accepted a position with the Legal Resource Center. He and his wife added a baby girl to their family and bought a new home near Thanksgiving Point.

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David Breckinridge served as the director of regulatory affairs at Planned Parenthood in 2002. After a career in public service, he is now a consultant for health care organizations. He attended Harvard University and received his J.D. from HLS. He lives in Cambridge, MA, with his wife and daughter. He has two children from a previous relationship.

John Smith is a partner at the law firm of Howrey & Saffo in Washington, DC. He is a graduate of Harvard Law School and received his B.A. from Princeton University. He lives in Bethesda, MD, with his wife and two children.
Suddenly the trucks stopped, then turned around, and finally returned to base. Our ambassador, a man of great courage, reflected that Ukrainian generals had called Kuchma’s top officials with this paralyzing news. And yet our boys don’t stand down, my boys are going to win. The demonstrator’s song hymned about God’s mercy and Ukraine’s beauty. Their leaders spoke of Ukraine as the ‘center of Europe,’ of restoring personal dignity, and of throwing off prior government’s ‘desecration.’ Chornobyl, corruption, and crackdowns. Our extremities were soon numb, but cold, the demonstrators impatiently chanted their songs for hours. ‘Freedom cannot be stopped’ and ‘We are many, and we will overcome!’ When a trio of powerful officials from Western Europe took the stage, the crowd erupted with ‘Our fight is not over.’ Another chant, ‘One heart, Five voices—together,’ responded to threats that democracies in Ukraine would split the country or reignite the Cold War. (Then Minister of Foreign Affairs Konstantyn Gryshchenko met with our delegation and expressed a similar sentiment toward Europe and Russia: ‘We don’t want to go into a good family and forget about our brothers.’)

To the Orange demonstrators, it seemed very clear what their victory would impact the region geopolitically, and they were ready to stand. Among the forces in Kiev, with proportionally large crowds in other cities.

What was it like among several key factors, Ambassador Herbst singled out one factor that stunned everyone—even the opposition itself—and may have been the pure determination of the Orange demonstrators. The government hurled threats, the weather turned frigid and wet, and will those demonstrators stood their ground, swelling in numbers to over a million in Kiev, with proportionally large crowds in other cities.

The high degree of discipline and planning in the tent city was like nothing I’d ever seen. How did they maintain this? The Orange revolutionaries were aware that their victory would impact the region geopolitically, and they were ready to stand. Among the forces in Kiev, with proportionally large crowds in other cities.

How did results differ in November to 8 percent in December? How did the December revote succeed? Our ambasador later learned that a...
Exhilarating. I attended rallies in Independence Square in December’s final round in November to 8 percent of demonstrators on Kiev’s streets. As a missionary in Ukraine a decade ago, I had looked into the eyes of thousands of its citizens. For many, despair and powerlessness had dimmed their spirits. But on the Square in 2004 I saw bright eyes radiating hope and strength. For perhaps the first time as a people, they had discovered the liberating power of a particular kind of organizing, a particular kind of passion, a particular kind of love, and they were able to express themselves in the course of a political movement. They gathered to the Square, their young children, who were quick to flash a smile and a V-for-victory hand sign. They wanted their children to absorb and remember this moment.

On election day itself, our 20-hour effort began at Polling Station No. 7 in Cherkassy’s “Friendship of Nations Palace of Culture.” We watched ballots being removed from the sealed safe, and we took evidence of ballot stuffing.”

Did you observe any election fraud in the December revote? Our team in Cherkassy did not. Although there were some minor ballot irregularities and irregularities in the home town of the President, Volodymyr Lytvyn, met with our delegation and shared his view of what motivated the Orange Revolution: “We want to live in a civilized, democratic country.” He explained that Ukrainians were so used to being lied to that “when truth began to be spoken, people awoke.”

Positive, although Ukraine has already become a leader among post-Soviet countries for its relatively progressive trend toward you like we feel toward our mother and father.” A radio journalist confided his initial dismay over the spread for the day after Christmas, thinking would be Western observers and journalists to interview the demonstrators. As a result, our team was able to submit a full report of our experience to the International Election Observation Mission of the OSCE.

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The tent city was the heart of the mass demonstrations in Kiev. When the fraud of the November round became obvious, we began organizing ourselves. We gathered to the Square, and the demonstrators there were able to express themselves in the course of a political movement.

The locals we encountered in the tent city were like nothing I’d ever seen after a dozen years in post-Soviet countries. A large tent became home to hordes of students who converged on the capital from around the country. Protruding from every tent were signs proclaiming the occupants’ hometown. The tent city was the heart of the mass demonstrations in Kiev. When the fraud of the November round became obvious, we began organizing ourselves. We gathered to the Square, and the demonstrators there were able to express themselves in the course of a political movement.

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Unfolding in Time

BY GALEN L. FLETCHER, ’93

I HAVE BEEN INVOLVED AS A STUDENT OR AN EMPLOYEE WITH THE BYU LAW SCHOOL for half of its existence. As such, I attest to the truthfulness of Dallin H. Oaks’ first-day-of-school prediction of a long-term, “slow-release” mission for the institution and its students. Rex E. Lee made a similar statement in 1988, commenting that “the amalgam of values that constitute the mission of this Law School will become more apparent to us over the years,” adding that he had always felt that way.

The best way I know to describe the mission of the J. Reuben Clark Law School is with an example about children and learning. Children pass through experiences whose meanings often change and become deeper much later in their lives. For example, a child does not often understand her parents’ sacrifices for her until she is grown. In the same way, I expect the meaning and purpose of the BYU Law School to become something different for each of us as time passes.

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The constant changes in our mission are fitting, however, since the Law School and Law Library are dedicated as places of learning. I’m reminded of the time a few years ago when one of the law librarians encountered a well-dressed woman looking confused in the halls of the building. The woman asked where the temple entrance was. The woman was closer to the truth than she may have realized. The spiritual learning in the temple and the learning in the Law School both have the power to impact our lives now and far into the future.

The scriptures describing the Kirtland Temple can apply to the J. Reuben Clark Law School: “Seek ye out of the best books words of wisdom. . . . Establish a house, even a house of prayer, a house of fasting, a house of faith, a house of learning, a house of glory, a house of order, a house of God” (DS&C 88:118–19).

President Marion G. Romney spoke to the Law School in 1981 about our personal learning beyond graduation, urging us to follow the example of President J. Reuben Clark: “You must not regard your legal education as consisting of the three years that you have spent in this Law School. . . . The great lawyers are the ones for whom the legal education process never ends.”

Such learning will come as we follow the counsel of President James E. Faust (and President Romney) to “study and practice . . . the laws of man in light of the laws of God.” Returning to President Romney’s remarks, “Much more important than a list of the Law School’s purposes is this fact: whatever they are[,] . . . the best way to achieve them is for you and those who have graduated before you and those who will graduate after you to respond to the challenge . . . to become Christlike advocates.”

Thomas Proffit, a student speaker at the Law School’s 1982 convocation, concluded, “The J. Reuben Clark Law School will have fulfilled its mission if its graduates seek first the kingdom of God and his righteousness, not riches, not the honors of men, or worldly power.”

What is our mission, Law School and graduates, today? Elder Dallin H. Oaks shared an observation by University of Chicago Law School Dean Edward H. Levi. “Don’t refer too much to the early days and the great faculty members who were here when this law school was founded,” Levi counseled. ‘You have to avoid talking too much about the great faculty members of the early days lest the students and the public conclude that the great people who have taught at this law school were all in the early days and overlook the fact that the really great ones are those who are here now.’”

I agree. As important as the BYU Law School’s founders were and are in fulfilling their mission, our purpose is to faithfully fulfill God’s mission for us now, content in the assurance from Elder Oaks that in some future time the meaning of our actions today will be realized.

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.