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Dale A. Whitman

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Memories of Carl Hawkins

*Dale A. Whitman**

In 1972 virtually every LDS lawyer knew about the decision to found a law school at BYU. There was plenty of speculation about what type of school it would be. Would it have a main stream or a right-wing orientation?¹ What role would Ernest Wilkinson, former BYU President, play? In what physical facilities would it operate? Who would lead it and serve on its faculty?

There was considerable relief among the watchers when Rex Lee was named as the founding dean in 1971. Rex was already well-known among LDS lawyers and had a fine reputation.² One of his first tasks (and there must have been many tasks indeed³) was to assemble a faculty. Because of the fact that the law school would have only one class during its first year of operation, the number of faculty initially needed was fairly small, but everyone recognized that they would have an enormous influence on the future of the school.

At that time there were relatively few LDS law professors in the country. Several held positions at the University of Utah, but it did not seem likely that they would be interested in moving to Provo. Outside of the “U,” there were two professors who stood out as experienced and highly regarded: Carl Hawkins of the University of Michigan and Ed Kimball of the University of Wisconsin.⁴

* The author is Professor of Law Emeritus, University of Missouri-Columbia, and was a member of the founding faculty of the J. Reuben Clark Law School, Brigham Young University.

1. I recall Rex Lee telling the story of a young man, about to graduate from college, who came to see him during the time that the planning for the new law school was taking place. “Brother Lee,” he asked in a very serious tone, “is this going to be a *constitutional* law school?” Rex said he thought for a moment, and then replied, “Well, it isn’t going to be an *unconstitutional* law school.”

2. Rex had not previously served as a full-time law faculty member, but had proven himself a very effective law teacher as an adjunct professor for four years at the Arizona State University Law School in Tempe.

3. There were students to recruit for the first class, physical facilities to arrange, a staff to hire, and a first-year curriculum to decide on. Rex was enormously assisted in these matters by Bruce Hafen, who became the Associate Dean, and later the Dean.

4. A third experienced and well-regarded professor, Doug Parker at the University of Colorado, came to BYU a few years later.

Rex quickly became aware of their reputations and set out to recruit them. He believed, correctly as it turned out, that if they committed themselves to move to BYU, others would follow. Hence, Rex began a course of “shuttle diplomacy,” visiting with both Carl and Ed as well as less experienced, less well-known people like me.⁵ I recall sitting with Rex in the kitchen of my home in Kensington, Maryland in the spring of 1972 and hearing him say with satisfaction and relief that Ed and Carl had both made the decision to join the BYU faculty.⁶ There’s no doubt that this information made my decision to join the enterprise much easier, and I’m sure that the same is true of most of my colleagues on the original faculty.

Carl’s wisdom came into play immediately when the law school commenced operation, and it was truly invaluable. He had been at the University of Michigan for sixteen years⁷ before coming to BYU, and he had pretty much “seen it all” in terms of law school issues, policies, and procedures.

The number of decisions that must be made when a law school begins is daunting. There are literally hundreds of policies that must be established. Many of them are obvious: What grading scale will be used? How many credits will be required for graduation? What will be the minimum grade average for graduation? What classes will be taught in the first year? Which of them will be required for graduation? How many credits will be assigned to each? What opportunities will be provided for student clinical experiences? Externships? Simulation courses? Dispute resolution? The list goes on, seemingly forever.

We had to decide all of these matters, many of them during the first year of the school’s operation. While we had differing opinions, the discussions were never rancorous, and they were often surprisingly brief and efficient. Carl deserves a great deal of the credit for this fact. His calm personality and even-handed manner,

5. I had taught for three years at the University of North Carolina, a year at UCLA, and was at that time working for the federal government in Washington, DC.

6. When informed of Carl’s decision, University President Dallin Oaks is reported to have remarked, “I guess the Lord really wants this law school . . . to be a good one. Carl’s coming.”

7. Carl graduated from Northwestern University School of Law in 1951. He began teaching at Michigan in 1957 after clerking for a year with Supreme Court Chief Justice Fred M. Vinson and several years of practice with Wilkinson, Cragun, Barker & Hawkins, Earnest Wilkinson’s firm in Washington, DC.

combined with his great record of experience, made it easy for us to accept him as a natural leader.

My fondest memories of those days are of socializing with the faculty and their wives. Rex was, of course, a sort of cheerleader for life. He always had a joke, a kind word, and an upbeat thought. Carl was a bit less demonstrative, but always good-humored, well-reasoned, and easy to talk with. We had many informal parties, giving all of us a chance to become better acquainted with Carl's lovely wife, Nelma. Eating ice cream, playing board games, telling jokes, and just relaxing together—it was a grand experience, and one that I have never quite replicated at any other law school where I have served.

In 1975 Rex went to Washington to serve as Assistant Attorney General over the Civil Division of the Justice Department, and Carl took over as dean. Administrative duties came naturally to him, since he had served as Bishop and Stake President while living in Michigan. Rex returned in 1976, and then became U.S. Solicitor General in 1981. Carl became dean again in his absence. While Carl never gave the impression of having strong administrative ambitions, he was in fact an excellent dean. He had a dignity and calm demeanor that gave instant credibility to everything he did, and his wealth of knowledge about legal education allowed him to listen to all sides of an argument and then deliver an astute and sensible decision that all contenders could live with comfortably.

Carl was deeply spiritual, but not much inclined to brag about it. He possessed what always seemed to me a well-honed sense of his (and all of our) frailties. He was wary of dogmatism, and of imposing his religious views on others uninvited. I recall him once remarking to me, as we were having lunch in the Wilkinson Center, that when we arrived in the Spirit World, he thought we might discover it to be a very different place than we expected. Now he has the opportunity to see for himself, and to be reunited with his beloved Nelma. I consider knowing him to have been one of the great privileges of my life.

