

GUARDIANS OF THE LAW

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I
am grateful
to Dean Scott
Cameron for
a humbling
introduction by
a very humble,
decent person
and a wonder-
ful friend. It's
really quite
intimidating to
be before this
august group.
I have always
wanted to say
that—*august*—
especially since
we do this in
August.

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The Statue of Liberty

1886

Gift from France

As part of the 100th anniversary of the Statue of Liberty, the National Park Service has created a special exhibit to celebrate the statue's centennial. The exhibit features a variety of artifacts, including the original torch, the original tablet, and the original crown. The exhibit is located in the Statue of Liberty Museum, which is situated at the base of the statue.

*This
address was
given at
the J. Reuben
Clark Law
School
Founders
Day
commem-
oration
in Salt
Lake City
on August
29, 2013.*

President Samuelson, Dean Rasband, distinguished guests, faculty, staff, students, and friends, this is an undeserved honor for me. I have thought about this since the time that Dean Rasband asked me to speak, and I truly hope that there will be something for you that will be useful in your lives and helpful in your practices as I discuss the things that I have learned in preparing to talk to you.

A WOMAN IN THE LAW

It was suggested that I talk about being a woman in the law since half of us here are women. So, I'm a woman. Because people weren't used to women in the practice of law 40 years ago, I had great opportunities and experiences as a "first woman" in various situations. Many of those were to my benefit. Some were surprising.

I was in my third year of law school when one of my fellow classmates came up to me and said, "You shouldn't be here. You're taking the place of a man who needs to support his family." His view was not a view peculiar to BYU at the time.

My boss in Salt Lake City hired me as a young prosecutor, wondering whether a woman prosecutor would work out. In my office I hung my diplomas, my bar admission, and other lawyer emblems on the wall behind my desk. Still people would see the display and say, "You must be the secretary. You're the secretary, aren't you?" Of course I would explain that really I was the lawyer.

Then when I became a judge, a defendant came in front of me on the bench, stood five feet from me, looked up, and said, "Are you a real judge?" To which I replied, "Yes, and I'm sending you to a real jail."

I mention these things not only to describe how it used to be but also because I believe that each of us endures similar experiences in life. I think we all also make sense of life by putting people and things into categories or classifications. Whether based upon race, religion, economic status, education, appearance, gender, or whatever the classification is, categorizing is a tool we use to be able to manage the world. It brings a certain order to things. The problem is that sometimes it results in mistreatment, exclusion, or worse.

I had the great blessing of having wonderful parents, particularly a father who was wise. In elementary school I read about Florence Nightingale and Madame Curie, and I liked them both. In eighth grade I liked medicine. I thought I might be a nurse, because at that time girls were nurses and boys were doctors. But my father said, "You know, you might think about being a doctor if you like. You're smart enough to do that." What a great dad! He wanted me to be everything I could potentially be. As a result, I never really thought in terms of limitations; I always thought in terms of possibilities.

While things happen to each of us as a result of categorization from time to time, I believe that it is a lot easier to recognize the injustice that we get than it is to recognize the injustice that we give. And we all get, and we all give. I hope that perhaps the things I have mentioned will be helpful to you as you proceed in your careers and as you proceed in your lives and that we can be thoughtful about how we treat one another.

Really, I was not at all interested in going to law school. I thought lawyers were technicians, and I wasn't too excited about the law. My heart and my mind changed when I heard Tom Reed from Duke University talk about *Brown v. Board of Education*¹ and the line of cases that followed. Then, of course, I talked to Bruce Hafen and Dean Rex Lee, who portrayed what a great adventure the Law School was going to be. I came. And it was a great adventure—not one that I expected at all. Honestly, I didn't like it much. In fact, I used to say I really hated law school. But I am so grateful for the career and the life that it gave me. There is no question that God's hand was in that decision and in my life, and I really need to acknowledge that.

I will say that on the bench there were times when I saw the inhumanity, the dishonesty, the depravity, and the violence that we commit upon each other, and I thought, "If there were a God in heaven and a Savior of the earth, why would They bother? Really, why would They bother?" Fortunately, I live in a little haven of a ward, and seeing those people who are trying to live the gospel, who are faithful and good, always uplifts me and reminds me of the truth.

ESTABLISHING BYU LAW SCHOOL

Over the years I have attended and listened to a few of the talks at these dinners, and I recently reread some of them. What stood out to me about them is what some of the founders said about the Law School. The five I mention all believed that the Law School was, well, a bad idea.

Last year Elder Dallin H. Oaks talked about having the temerity—when he was asked what he thought about creating a law school at BYU—to tell President Harold B. Lee that it was a bad idea.² Dean Rex Lee also talked about how he thought that establishing a law school was a bad idea. He was worried that the school would be associated with a particular political view that would be limiting. In fact, when the board of trustees asked him about selecting a dean, he advised them to get someone who was an academic rather than a practitioner. He famously said, “They took me instead of my advice.”³

Bruce Hafen had always wanted to teach at BYU Law School, but he never thought there would be a BYU Law School—and he certainly didn’t want to do anything in administration. As it turned out, he did both. He left his law practice to help establish the Law School. When he was interviewed by President Marion G. Romney for a faculty position, he voiced his own apprehension about the question of politics. President Romney simply asked him, “Are you either a Socialist or a John Bircher?” He replied that he was neither, and that was all President Romney asked about that.⁴

Dale Kimball, who also was worried about political extremism and how it might hurt the Church and the school, “did not feel good about” establishing a law school either.⁵ And of course, the story about Carl Hawkins is that President Oaks asked Professor Hawkins, who was renowned in the academic world and a stake president back in Michigan, to join the faculty. The Law School needed a top-notch academic anchor. Carl Hawkins repeatedly refused and then finally said yes. That’s when President Oaks said, “[T]he Lord must really want this law school. . . . Carl is coming.”⁶

The founders of the Law School weren’t like the Founding Fathers of this country. They didn’t risk their lives as the Founders of the country did. But the Law School founders sacrificed their jobs, risked their reputations, and uprooted their families in order to establish the Law School. There must have been no small amount of stress on them to create a law school that would meet with the board of trustees’ expectations. The board wanted a law school that would be well regarded and would produce competent lawyers who would be good people.

Elder Oaks told us last year that founding the Law School 40 years ago was perfect timing.⁷ Despite the fact that most of the people who were asked to found it, create it, and participate in it were apprehensive about it, the founders sustained the board of trustees as prophets, seers, and revelators, and so they established the Law School.

Here are some results of what they did (comparing nearly 200 law schools):

U.S. NEWS AND WORLD REPORT’S BEST GRAD SCHOOLS

- 5th** for law degrees with most financial value at graduation
- 7th** in federal judicial clerkship placement
- 10th** for graduates with least debt
- 39th** in country overall

PRINCETON REVIEW’S “BEST LAW SCHOOL”

- 8th** in country overall
- 10th** for best academic experiences
- 16th** for best teaching faculty
- 21st** for most selective admissions

THE NEW YORKER

Malcom Gladwell listed BYU Law School as **no. 2** in the United States in 2011.⁸

NATIONAL JURIST

2nd in the 2010 Best Value Law Schools ranking (weighs school’s bar pass rate, nine-month employment rate, average income versus cost of attendance, and average indebtedness after graduation)
20th overall in 2013 national rankings (based on postgraduate success, quality of teaching, and cost efficiency)

That’s pretty good in terms of meeting expectations for the Law School.

THE EXPECTATIONS THAT WERE SET

In terms of meeting expectations for competent lawyers who are good people, there are over 5,000 graduates of the Law School who would qualify, but I chose five from my class as examples.

Monte Stewart was a federal law clerk for Clifford Wallace and for Chief Justice Warren Burger, an associate with a large Nevada firm, and the U.S. attorney for Nevada. He founded the Marriage and Law Foundation for Traditional Marriage Values and is now in an Idaho firm.

Larry Corbridge was a partner in his own firm. He was a bishop, high councilor, stake president, and president of the Chile Santiago North Mission, and he is now in the First Quorum of the Seventy.

Lew Cramer practiced law in Los Angeles and San Francisco, taught at USC and Georgetown, and was a White House Fellow. He represented U.S. West in Washington, DC, was the founding president and CEO of World Trade Center Utah, and is now a stake president.

Margaret Nelson, who passed away in September 1992, had a private practice, was a deputy county attorney, and was an assistant U.S. attorney for the District of Utah. She was on the Utah State Board of Education for two terms, was active in stake and ward callings, and was a Daughter of Utah Pioneers.

Jim Parkinson, a personal injury lawyer in national high profile cases, reached the Tobacco Masters Settlement Agreement, which was worth over \$200 billion. He has represented the Bataan Death March survivors, who were slave laborers in World War II; he wrote a book and created a DVD; and he is a speaker who educates students around the country about World War II heroes.

Expectations met. But where does that leave us?

I think creating a law school was not about an increase in tithing or about graduates' careers or about the places the graduates would go or see—or even about the high regard that the Law School would enjoy. I think it was about more than that.

When Dean Rasband asked me to consider the memories that I have of the Law School, I thought of the founding-day meeting in the de Jong Concert Hall at the Harris Fine Arts Center. I sat in the audience along with nine other women among 157 men of the first class. The dignitaries—then President Oaks, Dean Lee, Neal A. Maxwell, who was then commissioner of Church education, Elder Marion D. Hanks, and others—were on the stage. I remember feeling like I was starting first grade. On my first day of elementary school, some boys in the second grade, who said they were sixth-graders, told some stories that were overwhelming to me as a little first grader. Similarly, in that meeting on the first day of law school I overheard a student talking to the people around him about how he came from a family of lawyers, so he knew all the ropes of law school. I thought, “What am I doing here?” I remember that feeling, and, frankly, I don't remember what was said by anybody on that founding day.

What I do remember is seeing President Marion G. Romney, who was a counselor in the First Presidency and a driving force in the creation of the Law School. I remember how I felt when I saw him. I remember how good he was and how touched I was by him. In preparing to speak tonight, I looked up what he said on that founding day and also what he said two years later when the law school building was dedicated.

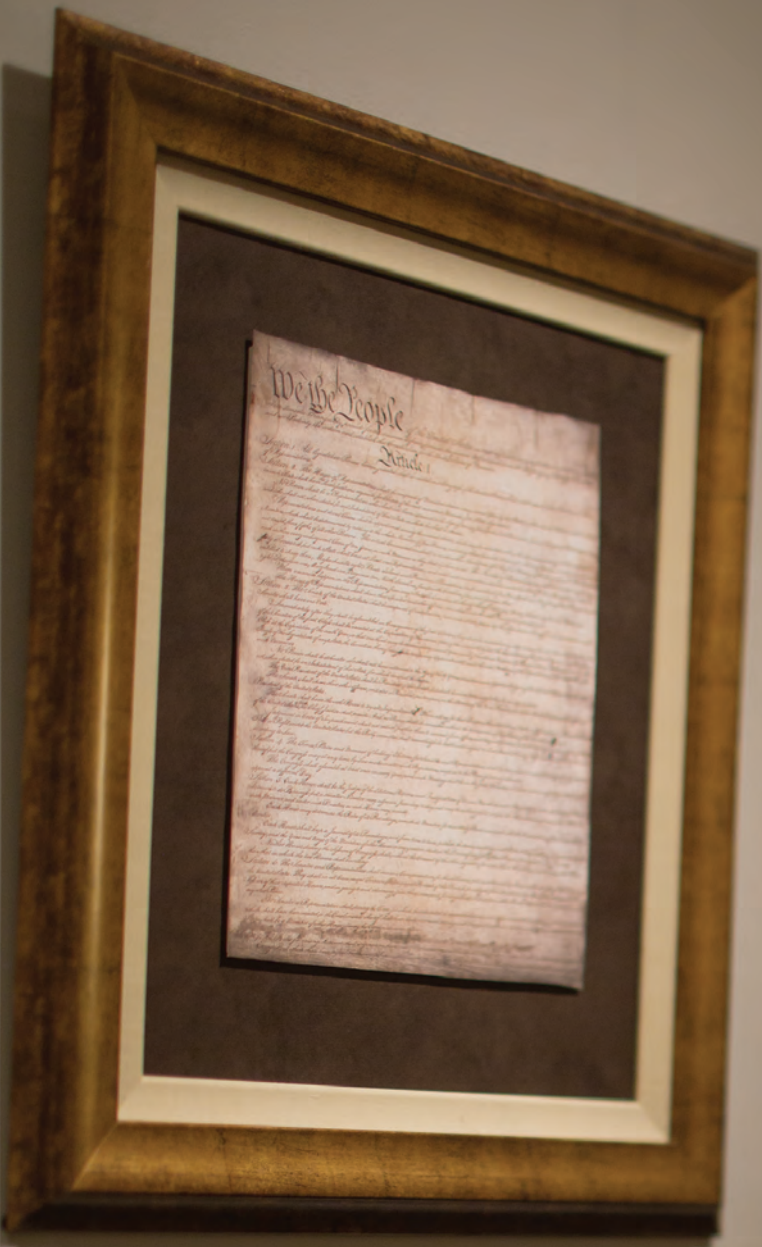
On that founding day President Romney addressed the question of the reason for the Law School. He didn't explicitly say the reason for the Law School. Instead, he talked about a few things that would prepare us to understand the reason. First, and I think most important, he began to outline gospel “verities,” as he termed them. One, we are children of God. Two, this life is about more than mortality. Mortality is an indispensable phase, but it isn't the only phase of life. Three, God's purposes for this life are our immortality and eternal life. Our Father in Heaven gives us the opportunity to choose to be with Him and helps us get there. Four, the only way back to our Father is through the gospel of Jesus Christ. Five, the Church is here to teach and administer to all the world—to *all the world*. Finally, six, we have been given the ability to choose our own destiny.⁹

President Marion G. Romney . . . wanted the Law School to . . . emulate President Clark's characteristics: faith, virtue, integrity, industry, scholarship, and patriotism.



These six things in actuality explain the plan of salvation. We lived before this life, and we had an opportunity to come here because our Father loved us. We were introduced into mortality so that we could have opposition and, through the law, make choices about what we want and who we want to be—whether we want to be like our Father and learn to love others the way we are loved or not. The only way we can do that is by faith in the Savior and in our Father, because we are not capable of that kind of love alone.

So what was President Romney telling us? I believe he focused on gospel verities so that we would too. He also referred to education and law—the Constitution specifically, with scriptural support for it. He said that he wanted the Law School to have an aura of J. Reuben Clark, that we should emulate President Clark’s characteristics: faith, virtue, integrity, industry, scholarship, and patriotism. He concluded on that first day with, “You know why you are here, what your school, the Board of Trustees, your own loved ones, and yes, your Father in Heaven expect of you.”¹⁰



THE CONSTITUTION
OF THE UNITED STATES
OF AMERICA



TO BE GUARDIANS OF THE LAW

When he gave the dedicatory address and prayer two years later at the dedication of the Law School building, President Romney further explained what Father in Heaven expects of us. He said, “And Father, help the lawyers trained in this law school to remember that they are to be the guardians of the law Isaiah spoke of three thousand years ago, when he said, ‘Out of Zion shall go forth the law, and the word of the Lord from Jerusalem.’ (Isaiah 2:3.)”¹¹

What did he say? We are to be the guardians of the law that Isaiah spoke of 3,000 years ago. Do you see the big picture? It’s not just about mortality. It’s always about more than mortality. We are trained in the law to be the guardians of the law.

What was the law that Isaiah spoke of? President Harold B. Lee explained how George Albert Smith defined the law at the dedication of the Idaho Falls Temple:

I have often wondered what that expression meant, that out of Zion shall go forth the law. Years ago I went with the brethren to the Idaho Falls Temple, and I heard in that inspired prayer of the First Presidency a definition of the meaning of that term “out of Zion shall go forth the law.” Note what they said: “We thank thee that thou hast revealed to us that those who gave us our constitutional form of government were men wise in thy sight and that thou didst raise them up for the very purpose of putting forth that sacred document [the Constitution of the United States (see D&C 101:80)]. . . .

“We pray that kings and rulers of the peoples of all nations under heaven may be persuaded of the blessings enjoyed by the people of this land by reason of their freedom under thy guidance and be constrained to adopt similar governmental systems, thus to fulfill the ancient prophecy of Isaiah that ‘. . . out of Zion shall go forth the law and the word of the Lord from Jerusalem.’”¹²

A partial fulfillment of the law going forth was the establishment of our constitutional form of government and its influence throughout the world. In October 2009 Elder Oaks observed:

In 1833, when almost all people in the world were still ruled by kings or tyrants, few could see how the infant United States Constitution could be divinely designed “for the rights and protection of all flesh.” [D&C 101:77.] Today, 176 years [now 180] after that revelation, almost every nation in the world has adopted a written constitution, and the United States Constitution profoundly influenced all of them. Truly, this nation’s most important export is its constitution, whose great principles stand as a model “for the rights and protection of all flesh.”¹³

It is no wonder that J. Reuben Clark proclaimed: “[T]he Constitution of the United States is a great and treasured part of my religion. . . . The overturning, or the material changing, or the distortion of any fundamental principle of our constitutional government would thus do violence to my religion.”¹⁴

Why would he say that? Remember the plan? The plan was that we could come here, have opposition, and be able to make choices. That was the whole point of it: to be able to make choices as to whether we are going to live like our Heavenly Father or not. Of course the Constitution is part of our religion; it is part of the essence of our religion.

The purpose of the Constitution is, through the law, to allow us to choose our own destinies. That is the law that Isaiah spoke of. In other words, it is the law that enables and protects moral agency. In Doctrine and Covenants 101 we read:

That every man may act in doctrine and principle pertaining to futurity, according to the moral agency which I have given unto him, that every man may be accountable for his own sins in the day of judgment. . . .

And for this purpose have I established the Constitution of this land.¹⁵

President Romney prayed that we would remember that we are to be the guardians of the law Isaiah spoke of. We know that law. What is it that we guard?

The purpose of the Constitution is, through the law, to allow us to choose our own destinies. That is the law that Isaiah spoke of.

**Part of the mission
for each of us,
I believe, is to be a
guardian of the
law Isaiah spoke of.**

I've had guardians appear in front of me. Usually they are lawyers. Sometimes they are not, but usually they are lawyers in court. Not only are they advocates in an always adversarial court setting, but they are also protectors. They are protecting someone or something for someone.

As guardians of the law we guard the freedom to choose—not just for people in this country, not just for people whom we love and whom we know, but “for the protection of all flesh”—all of Heavenly Father’s children. We sing it when we sing “America the Beautiful”: “Confirm thy soul in self-control, Thy liberty in law.”¹⁶

Guardians often appear in a courtroom setting. What is the setting of our guardianship? Elder Oaks said:

We are living in the prophesied time “when peace shall be taken from the earth” (D&C 1:35), when “all things shall be in commotion” and “men’s hearts shall fail them” (D&C 88:91). . . .

Evil that used to be localized and covered like a boil is now legalized and paraded like a banner. The most fundamental roots and bulwarks of civilization are questioned or attacked. Nations disavow their religious heritage. Marriage and family responsibilities are discarded as impediments to personal indulgence. . . .

An increasing number of opinion leaders and followers deny the existence of the God of Abraham, Isaac, and Jacob and revere only the gods of secularism. Many in positions of power and influence deny the right and wrong defined by divine decree. Even among those who profess to believe in right and wrong, there are “them that call evil good, and good evil” (Isaiah 5:20; 2 Nephi 15:20). Many also deny individual responsibility and practice dependence on others, seeking, like the foolish virgins, to live on borrowed substance and borrowed light.”¹⁷

In Ephesians we read, “For we wrestle not against flesh and blood, but against principalities, against powers, against the rulers of the darkness of this world, against spiritual wickedness in high places.”¹⁸ This is the adversarial setting we face.

I hope that you will think of ways in which you are guardians of the law. I believe that you have done that, that you are doing that, or that you will do that—all of you. Part of the mission for each of us, I believe, is to be a guardian of the law Isaiah spoke of. I felt that about us in Law School without recognizing it. I still feel that to this day. Over 5,000 graduates may seem like a lot of people to guard the law, but, comparatively in the world, it is only salt for the savor, leaven for the lift.

WHAT WE ARE HERE FOR

In the big picture, important jobs and significant achievements are not just for this life—not just so that you can be in a prestigious law firm, wear nice suits or dresses, and dine at places with fine linen. Guardians of the law can move the kingdom forward and do the things that Heavenly Father expects us to do. Elder Oaks told us how:

First, we must speak with love, always showing patience, understanding, and compassion toward our adversaries. We are under command to love our neighbor (Luke 10:27), to forgive all men (Doctrine and Covenants 64:10), to do good to them who spitefully use us (Matthew 5:44), and to conduct our teaching in mildness and meekness (Doctrine and Covenants 38:41).¹⁹

He also said that we should follow Christ’s example in balancing truth and tolerance. We should operate by “kindness in communications but firmness in truth.”²⁰ We need to love the way in which the Savior loves us; we need to learn to love the way in which we are loved. And if we can do that, we can be the kind of guardians that our Heavenly Father expects.

This final quotation pertains to us in the same way that Marion G. Romney’s petition to Heavenly Father in the dedicatory prayer of the Law School pertains to us. President Lorenzo Snow explained:

A man's mind should be single to the glory of God in everything that he starts to accomplish. We should consider that of ourselves we can do nothing. We are the children of God. We are in darkness, [unless] God enlightens our understanding. We are powerless, [unless] God helps us. The work that we have to do here is of that nature that we cannot do it unless we have the assistance of the Almighty. . . . Here is the great trouble with men of the world, and too much so with the Elders of Israel; we forget that we are working for God; we forget that we are here in order to carry out certain purposes that we had promised the Lord that we would carry out. It is a glorious work that we are engaged in. It is the work of the Almighty; and He has selected the men and the women whom He knows from past experience will carry out His purposes.²¹

Just as President Romney asked Heavenly Father to help us remember, so also President Snow reminded us that we forget—we forget what we are here for.

We are here to have faith—the same kind of faith that the founders of the Law School, who all thought it was a bad idea, had in trusting the board of trustees as prophets, seers, and revelators. We are here to learn to treat our enemies with love, to fight the fight with love, to be the guardians of the law with love in the way the Savior loves us and loves everyone. We are here because choice is not a political issue; it is part of our religion, and we need to protect that freedom. Let us not forget. Let us remember who we are and what we came here for. Most important, let us remember that it is always about more than mortality. Always.

In the name of Jesus Christ, amen.

Sheila McCleve is a member of the charter class of BYU Law School and was a judge for Utah's Third District Court. Prior, she was an assistant Salt Lake City prosecutor, a Salt Lake Deputy County attorney, and an administrative law judge for the Utah Public Service Commission. She recently retired after 25 years on the bench and currently teaches as an adjunct faculty member at the Law School.

NOTES

- 1 Brown v. Board of Education, 347 U.S. 483 (1954).
- 2 See Dallin H. Oaks, *Unfolding in Time*, CLARK MEMORANDUM, spring 2013, at 14, 16.
- 3 Rex E. Lee, *Thoughts After Fifteen Years*, CLARK MEMORANDUM, spring 1990, at 12, 14.
- 4 Bruce C. Hafen, *Glimpses of the Law School's Founding*, CLARK MEMORANDUM, spring 2002, at 14, 15–16.
- 5 Dale A. Kimball, *Stories That Defined Our Law School*, CLARK MEMORANDUM, spring 2010, at 10, 12.
- 6 Quoted in Hafen, *supra* note 4, at 16.
- 7 See Oaks, *supra* note 2, at 18.
- 8 According to Gladwell, BYU would be ranked no. 2 if cost of tuition were a larger factor in the national rankings. See Malcolm Gladwell, *The Order of Things: What College Rankings Really Tell Us*, THE NEW YORKER, February 14, 2011, at 5.
- 9 See Marion G. Romney, in ADDRESSES AT THE CEREMONY OPENING THE J. REUBEN CLARK LAW SCHOOL, August 27, 1973, 17.
- 10 *Id.* at 27.
- 11 Marion G. Romney, *Why the J. Reuben Clark Law School? Dedicatory Address and Prayer of the J. Reuben Clark Law Building*, September 5, 1975.

- 12 Harold B. Lee, *The Way to Eternal Life*, ENSIGN, November 1971, at 9, 15; quoting George Albert Smith, *Dedicatory Prayer*, IMPROVEMENT ERA, October 1945, at 562, 564.
- 13 Dallin H. Oaks, *Religious Freedom*, BYU-Idaho devotional address, October 13, 2009.
- 14 J. REUBEN CLARK JR., STAND FAST BY OUR CONSTITUTION 7 (1973); quoted in Romney, *supra* note 9, at 26.
- 15 D&C 101:78, 80.
- 16 Katherine Lee Bates and Samuel A. Ward, *America the Beautiful*, in HYMNS no. 338 (2nd ed. 2002).
- 17 Dallin H. Oaks, *Preparation for the Second Coming*, ENSIGN, April 2004, at 7, 9–10.
- 18 Ephesians 6:12.
- 19 Oaks, *supra* note 14.
- 20 Dallin H. Oaks, *Strengthening the Free Exercise of Religion*, address given at the Becket Fund for Religious Liberty Canterbury Medal Dinner in New York City on May 16, 2013, at 7 or part IV; see also Oaks, *Truth and Tolerance*, CES devotional address, September 11, 2011, printed as *Balancing Truth and Tolerance*, ENSIGN, February 2013, at 24, 28.
- 21 Lorenzo Snow, in DESERET WEEKLY, May 12, 1894, at 638; quoted in TEACHINGS OF PRESIDENTS OF THE CHURCH: LORENZO SNOW 180 (2012).