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*This address
was given at the 2014
Conference of
Religiously Affiliated
Law Schools at
the University of
St. Thomas School
of Law on September
18–19. The conference
was titled “Religious
Identity in a
Time of Challenge for
Law Schools.”*
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STUDYING

LAW

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IN THE

LEIGHT

BRETT G. SCHARFFS'

WHEN I was a student at Georgetown University, as one of two Latter-day Saint, or Mormon, undergraduates, I was invited to say the prayer at a university event honoring a Mormon businessman, Bill Marriott. I remember worrying acutely about how I should close my prayer. I was at a Catholic university—should I pray according to Catholic conventions? What would Bill Marriott think if I, the handpicked Mormon student, was not praying in a Mormon fashion? Finally I asked Father Timothy S. Healy, SJ, who was the president of the university and from whom I was taking a poetry class. Father Healy told me to pray in the usual Mormon way, which is to end a prayer by saying, “In the name of Jesus Christ, amen.”

PHOTOGRAPHY BY BRADLEY SLADE



Years later I was at a luncheon hosted by leaders of The Church of Jesus Christ of Latter-day Saints as part of one of our annual International Law and Religion Symposium at BYU Law School. Elder Henry B. Eyring, first counselor in the First Presidency of the Church, was speaking to a group of professors, religious leaders, and government officials from approximately 40 countries and a variety of religious traditions.

At the end of his remarks he left a blessing, and his choice of words made an impression on me. He said, “Let me conclude in my way—with respect for your ways—in the name of Jesus Christ.”

In a setting like this, a conference of religiously affiliated law schools, I hope you will forgive me as I speak quite personally in my way—with respect for your ways—about how we think about our vocations and stewardships as scholars of faith at BYU Law School.

Of course I must begin with a larger-than-usual disclaimer: I will be talking about our ideals, not necessarily our successes in measuring up to those ideals.

Our Mission to Study Law in the Light

The BYU Law School’s mission statement begins: “The mission of the J. Reuben Clark Law School is to teach the laws of men in the light of the laws of God.”

This statement can be traced to the charge given by another Church leader, President Marion G. Romney, a counselor in the First Presidency of the Church, during the opening ceremony on the first day of classes at BYU Law School on August 27, 1973. On that occasion President Romney said the board of trustees established BYU Law School “so that there may be an institution in which you, the members of this class, and all those who shall follow you, may ‘obtain a knowledge of . . . [the] laws of . . . man’ in the light of the ‘laws of God’ [D&C 93:53].”

We repeat this mission statement often, but it took me about five years to pick up on something important: President Romney did not charge us to study the laws of men “in light of” the laws of God. “In light of” would seem to suggest “as measured against,” or using the laws of God as a kind of yardstick. Rather, he challenged us to study the laws of men *in the light* of the laws of God. This articulation suggests that God’s laws serve

not as a yardstick but as a source of illumination. In shorthand fashion, we speak of studying “law in the light.”

God’s Light

What might it mean to study law in the light of God’s laws? To my mind, the most important doctrine common to the Abrahamic faiths—the Jewish, Christian, and Muslim religions—is that God created all of us, His children, in His image. In the first chapter of Genesis we read, “And God said, Let us make man in our image, after our likeness. . . . So God created man in his own image, in the image of God created he him; male and female created he them” (Genesis 1:26–27).

Reflecting upon this idea, the philosopher Jeremy Waldron helped me see something new in the New Testament story in which a group of Pharisees sought to entangle Jesus using a question about whether or not it is lawful to give tribute to Caesar. Jesus, sensing their motives, asked to see the tribute money and asked his interlocutors whose image was superscribed on the penny. When they answered that it was Caesar’s image, Jesus said, “Render therefore unto Caesar the things which are Caesar’s; and unto God the things that are God’s” (Matthew 22:21; see also verses 15–22).

I had thought of this scripture as providing a justification for obeying civil laws or as an awareness of two kingdoms—the kingdom of God, on the one hand, and the kingdom of man, on the other. But Waldron provocatively asked: What is it that we are to render unto God? What is it that bears a superscription of the image of God?

It is you and I, His children, who are created in His image.

I had missed the important part of the story—that we are to render unto God the things that are God’s, and that it is you and I who are stamped with God’s image and who are His.

When we strive to love and serve God we seek to have His image engraved upon our countenance. A Book of Mormon scripture written by the prophet Alma asks, “I say unto you, can ye look up to God . . . with a pure heart and clean hands? I say unto you, can you look up, having the image of God engraven upon your countenances?” (Alma 5:19).

In response to the question What is the most important part of God’s law? Jesus said, “And thou shalt love the Lord thy God with all thy heart, and with all thy soul, and with all thy mind, and with all thy strength: this is the first commandment” (Mark 12:30). I believe that as scholars of faith our obligation is to strive to serve God with all our “heart, might, mind and strength” (D&C 4:2)—with an emphasis, given our chosen vocations, on serving Him with our minds.

Becoming a Graduate Program of Real Consequence

Brigham Young University’s mission statement also says something important with respect to our work as scholars of faith. BYU is primarily devoted to undergraduate teaching and education. The university has more than 30,000 students but a relatively small number of graduate programs. The idea, I think, is to prepare students to pursue graduate studies at other leading universities in the United States and around the world. Indeed, the Law School is the only graduate-only program at the university.

But the university’s mission statement promotes “scholarly research and creative endeavor among both faculty and students, including those in *selected graduate programs of real consequence*.” As a law faculty, when we gather together to reflect upon our work during retreats and in other settings, we often discuss whether we are meeting this charge of being a graduate program “of real consequence” and what that means.

Producing Influential and Enduring Legal Scholarship

As part of its mission statement, the Law School also articulates seven goals, including one that relates directly to becoming a graduate program of real consequence through our scholarship.

This goal is to “produce influential and enduring legal scholarship.”

In our reflective moments, we also think about the adjectives *influential* and *enduring*. *Influential* suggests something that is authoritative, forceful, weighty, significant, important, and crucial (according to the Merriam-Webster and the Oxford online thesauruses). And *enduring* carries the



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connotation of something being continuing or long lasting.

I am not sure what the precise recipe is for producing scholarship that is influential and enduring, but perhaps I can offer a few general suggestions.

Influential and enduring scholarship will

- focus on large as opposed to small questions;
- focus on lasting issues, not just those of contemporary interest or fashion;
- focus on theory and policy (yes, even morality) as opposed to just precedent or new needs;
- focus on important questions, not just pressing questions;
- subject itself to external standards and not just strive for internal coherence;
- seek to illuminate rather than to obscure or problematize; and
- seek truth, not just to persuade.

This last point is perhaps the most important. As scholars of faith, our scholarship should be not just about the production of scholarship—or even its publication in prestigious outlets or even citation counts—but rather, at its best, about the pursuit of truth.

In the Mormon tradition there is a broad understanding of what the sources of truth are and what it means to seek truth.

The Hebrew sage Maimonides said: “You must accept the truth from whatever source it comes.”

The first Latter-day Saint prophet, Joseph Smith, said something similar: “The first and fundamental principle of our holy religion is, that we believe that we have a right to embrace all, and every item of truth, without limitation or without being circumscribed” (“Copy of a Letter from Joseph Smith Jun. to Mr. Isaac Galland,” March 22, 1839, in *Millennial Star* 7, no. 4 (February 15, 1846): 51). This explains Joseph Smith’s skepticism of the various religious creeds of his day, which he viewed as limiting. “I cannot believe in any of the creeds of the different denominations,” he said, “because they all have some things in them I cannot subscribe to, though all of them have some truth. I want to come up into the presence of God, and learn all things” (*History of The Church of Jesus Christ of Latter-day Saints*, ed.

B. H. Roberts [Salt Lake City: The Church of Jesus Christ of Latter-day Saints, 2nd ed. revised, 1950], 6:57).

Joseph Smith’s nephew, President Joseph F. Smith, who also became a prophet, expressed this idea as follows: “We believe in all truth, no matter to what subject it may refer. No sect or religious denomination in the world possesses a single principle of truth that we do not accept or that we will reject. We are willing to receive all truth, from whatever source it may come; for truth will stand; truth will endure” (“Devotion to the Cause of Zion,” Editor’s Table, *Improvement Era*, June 1909, 673).

Mormons, of course, including me, a Mormon scholar of faith, are not always so courageous or open minded. But this is the standard against which we are encouraged to measure ourselves and the ideal to which we are encouraged to aspire. This is the light in which we are encouraged to study the law. Another Mormon scripture says, “The glory of God is intelligence, or, in other words, light and truth” (D&C 93:36).

To Strive to Study Law in the Light

I will end where I began: by repeating the opening sentence of our mission statement: “The mission of the J. Reuben Clark Law School is to teach the laws of men in the light of the laws of God.”

I like to think of different faith traditions as well as nonreligious perspectives and each of our efforts to understand and find meaning within those traditions as sources of illumination. We can each learn the law in the light of each other, for each of us is not just a collection of positions, with which others of us may agree or disagree. Each of us is a source of illumination.

Perhaps, then, this is an ambition that can be shared by all scholars of faith—to strive, even as we fall short in our striving, to study law in the light. [cm](#)

NOTES

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