

Spring 1990

# Clark Memorandum: Spring 1990

J. Reuben Clark Law Society

J. Reuben Clark Law School

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# CLARK

MEMORANDUM

SPRING  
1990

ERRATUM

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**I**N OUR ENTHUSIASM

*to amend the table of contents page to reflect Reese Hansen's appointment as dean (from acting dean), we accidentally changed his name as well as his title. We extend our congratulations to Dean Hansen on his appointment and our apologies for this error.*

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*Editor*

Charles D. Cranney  
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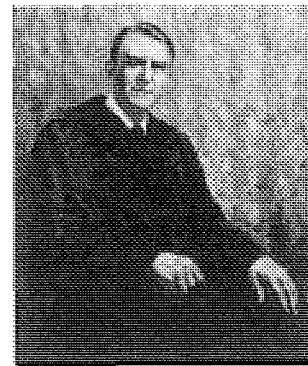
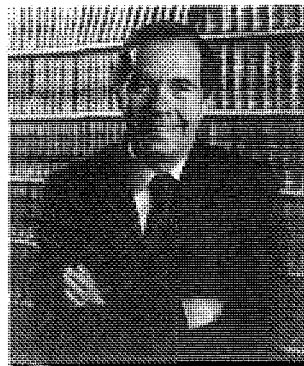
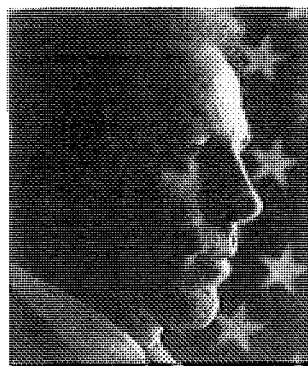
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# LEGAL OLYMPIANS

**KATHY D. PULLINS**

*As the world watched the events unfold at the 1988 Summer Olympics in Seoul, Korea, alumni, students, and friends of the J. Reuben Clark Law School were taking particular note of three of their own: Karl Tilleman and Dave Turcotte, members of the Canadian basketball team, and Henry Marsh, a steeple-chaser on the U.S. track and field team. Shortly after their return from Seoul, these legal Olympians were interviewed at the law school, each discussing the personal link between an Olympic dream and a professional goal.*

**HENRY MARSH** *Tell me about the beginnings of your Olympic dream.*

Everything began for me with the 1976 Olympic games. I came off a mission from Brazil, the Rio de Janeiro Mission, in August 1975, and I was a walk-on on the BYU cross-country and track team. I hadn't lettered my freshman year in either sport. In one year, I went from an out-of-shape missionary who was a walk-on and a 9:25 steeple-chaser to a participant in the Olympic finals who was less than a second off the American record at 8:23.

*Was it about that time you started making definite plans to go to law school?*

I'd always planned on being an attorney—even when I was in grade school. My father was a Harvard law graduate, and I guess he instilled that in me.

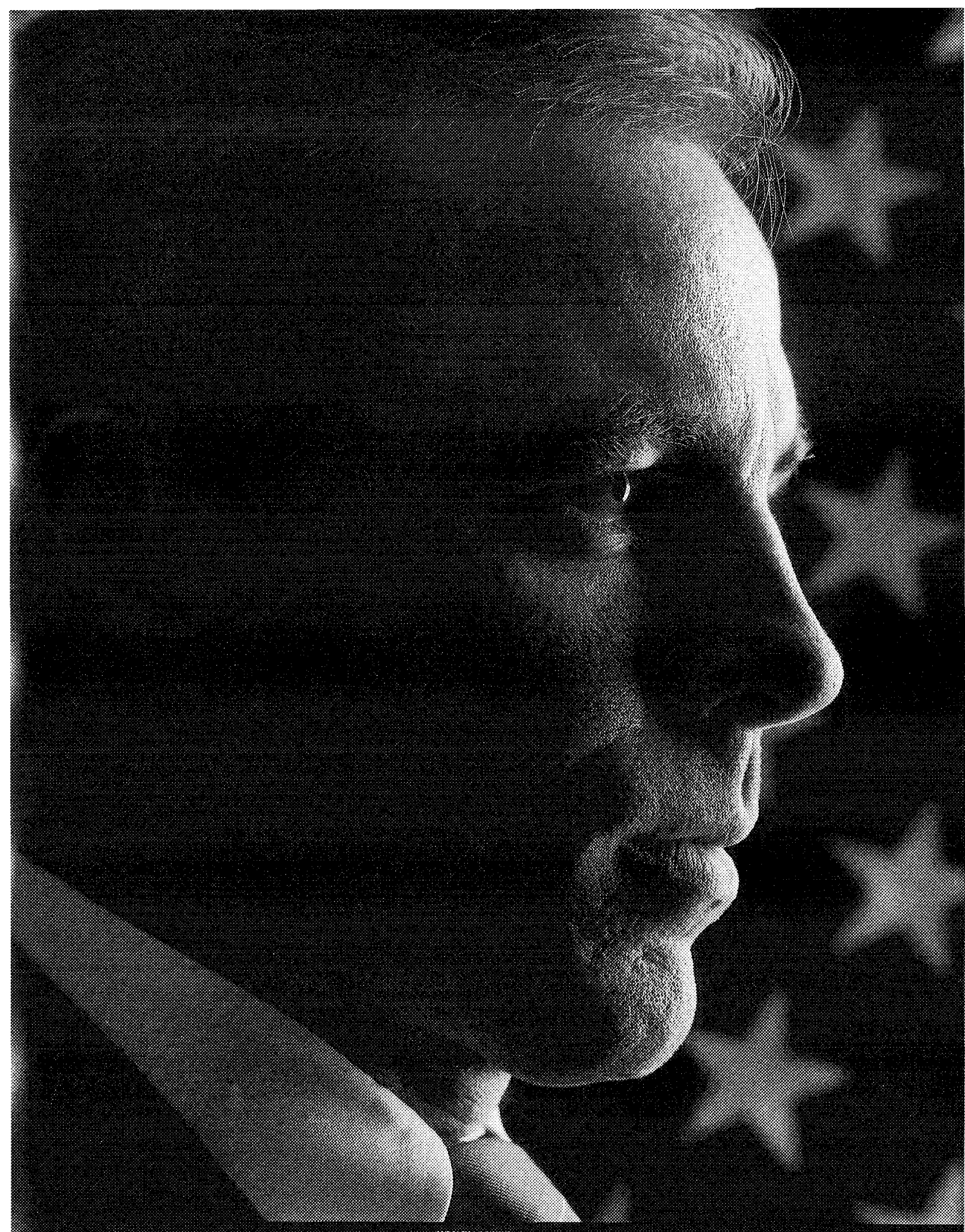
My plans to go to law school always came first. When I graduated from BYU with an undergraduate degree in economics, I was more dedicated to law school than I was to the track. I was ready and prepared to give up running. But about

that time Nike Shoe Company formed a club called Athletics West and said, in essence, that they would subsidize my law school if I continued training. Their one stipulation was that I had to live in Eugene, Oregon, the club headquarters. We all trained together and lived in the same city and, fortunately, there was a law school there, so I enrolled at the University of Oregon Law School.

Nike subsidized my schooling while I continued to train. While I was in my second year, I made the 1980 Olympic team. Although the U.S. boycotted the games, I won the Olympic trials and set a new American record during my second year in law school.

*When did your association with BYU Law School begin?*

After my second year, Nike dropped the requirement for living in Eugene, so I became a visiting student at the Law School. The credits I earned were applied toward my degree at University of Oregon. Although I officially got my law degree from the University of Oregon, I was a BYU law student my third year. That year I was ranked number one in the world



HENRY MARSH



## Henry Marsh

*Did you find that combining the daily physical training and the rigors of study in law school were almost impossible at times? Or were the two endeavors more compatible than an outsider might think?*

Law school's really pretty easy. It's running that's hard.

*Wait a minute!*

That will go over big with a lot of law students. What I'm really trying to say is that it's a question of balancing. I knew when I started law school and I was still training for the Olympic games that I would have to constantly remember my goals. I wanted to pass my courses, and I wanted to make the Olympic team. And so I didn't have the time other students did, but still I didn't have the time for training that I normally would have had either—because law school does take a lot of time. So I cut back in some peripheral areas of running that are a big time drain and have marginal athletic benefits. I cut back in both areas yet completed law school in three years and excelled in running.

*Did you take the bar soon after your graduation?*

Yes, in July 1981. That was an interesting time in my life. I remember it distinctly. I passed my courses and then went off to Europe to compete. I had all the bar review materials with me, and between my races I'd be studying for the bar exam. I came back, took and passed the bar exam, and then went back over to Europe for the World Cup in Rome—all this in the summer of 1981.

*And then?*

I started working for Parsons, Behle & Latimer in Salt Lake City.

*How did your family life fit into all this?*

I got married right after I completed my undergraduate degree, and we had our first child between my first and second year of law school. So I had time pressures that I had to be continually balancing.

*I understand that 1988's competition was your grand finale. Could you share with us your reflections about the 1988 Olympics and those that preceded it?*

I think I have a unique perspective of the Olympics since I've been on the



inside observing several of them. In 1980 we boycotted; I think 1984 was really the pinnacle for me both physiologically and emotionally. The emotion in Los Angeles was unbelievable for an American athlete. Korea was almost a letdown emotionally by comparison. The Korean people are very polite and reserved, and they obviously didn't cheer wildly for the Americans. I know it required a lot more internal motivation for our athletes to excel there.

Personally, I had a lot of motivation since I knew that this would be the last competition of my career. I wanted to go out on a positive note. I think I did that. I ran the fastest semifinal and final back-to-back races that I'd ever run in my life, 8:18 and 8:14 (the last time being one of the fastest times I've run in my life). A week before the games, I ran the second sub four-minute mile of my life. My finish was the fastest sixth-place time in history. So, I feel that I went out strong. I didn't win a medal but I fought hard until the end of my career, and I finished my last year as the number-one American steeplechaser.

Obviously the Olympics have been a big part of my life. I'm one of only three American male runners who have made four Olympic teams, so I'm really proud of my longevity record. During that time, every year for the past 13 years, I've been

in the top 10 in the world. That's unparalleled in track history. And that's been while I've been going through law school and working at a law firm.

*I would suspect that you've had some people help you achieve these incredible goals.*

I'm fortunate that Nike came in and subsidized me, that I had a lot of cooperation from those around me, and that I had Rex Lee to run with when I was in my third year at BYU.

After law school, my luck held out when I got an opportunity with the law firm Parsons, Behle & Latimer. I worked there for about three-and-a-half years, and they gave me time off to train. I had an arrangement where they would just pay me by the number of hours that I worked and let me train as I saw fit. So I've had cooperative employers and school administrators throughout my career that have really helped me maintain this longevity in competing.

*And your family has been there cheering you on?*

Definitely—although my training and competing has been very difficult on the family. I had to have their cooperation because of the unique pressures. Yet I think that in some ways it's helped my family a great deal. With a very flexible work and training schedule, particularly since 1984, I think I've spent more time with the family than the typical law graduate could who starts working long hours at a law firm. I would work only 20 or 30 hours a week, train, and then spend the evenings at home.

*Tell me of your current professional involvements.*

I work for the Franklin Institute. I came on as director of the corporate-wellness division. I teach time-management seminars to major corporations throughout the country.

*Your career today would be classified as an alternative to the traditional practice of law. How does your legal training fit in?*

I find that my legal background has meant a lot to me in many ways, even though I may never formally work in a law firm again. In my current profession, if I have to draw up a contract I know how to do it. And so I think I'll always use my legal background.



One main benefit of legal training has to be credibility. Someone who's a member of the bar has instant credibility that opens doors for them. For instance, I started out on the legislative committee of the Olympic committee because of my legal background. Currently, for the U.S. Olympic Committee, I'm president of the Athletes Advisory Council, and I'm on the executive board and the administrative committee. I've done a lot of work with the Utah amateur effort in the summer and winter games, and I serve on the governor's task force working to bring the winter Olympic games to Utah. I feel that most of these opportunities have been direct results of my legal background.

*Any concluding thoughts?*

In thinking about the correlation between the legal profession and running and athletics, I would have to conclude that there are some interesting parallels. The type of person who wants to become an attorney is usually one who is methodical and analytical. Those same traits are applicable to athletic training and competing.

**KARL TILLEMANN**

*When did your connection with your Olympic sport begin?*

► Even in grade school, I loved playing basketball. I was born in Ogden, Utah, where I caught the Mormon fever for basketball. When we moved to Wisconsin, it was a big sport there, too. But when I was 12 our family moved to Canada. At first I was distraught because I didn't think that they played much basketball there. Fortunately, I was wrong.

*So when did you start thinking about trying out for the Olympic team?*

When I was in high school, I saw the Canadians play the Americans in the Montreal Olympics in 1976, and I started to dream about playing with the Canadian Olympic team.

*How did you make that dream a reality?*

I didn't waste much time. I simply phoned the coach of the team, Jack Donahue, and asked if I could try out. My first year I got cut from the "A" team,

*Henry Marsh*



but I did make what they call the "B" team. They kept 18 players and 12 of those were on the "A" team and the other six of us went to tournaments with the bottom half of the "A" team.

It was in 1982 that I made the "A" team as the 12th man. In 1983 I moved up and played a more important role on the team, and in 1984 I wound up being sixth man. I came right off the bench early in the games.

*Can you play on the team if you are not a Canadian citizen?*

I have dual citizenship. The U.S. law now states that an adult can't apply for Canadian citizenship and retain U.S. citizenship. The original law assumed that all countries had their age of adulthood set at 21, but in Canada it's 18, so the law didn't cover it. I went to the U.S. Consulate General in Canada, and she said that there wouldn't be a problem, so I went ahead with the application. They subsequently changed the law. I was fortunate that it all worked out because I really wanted to try out for the Canadian team.

*How did your team do in the 1984 Olympics?*

We finished fourth and just missed winning the bronze medal by three points in a loss to Yugoslavia.

*Were you in college during this time? And did you play basketball there?*

Yes, I was attending the University of Calgary, where I received my undergraduate degree. I was a guard on the university team, and we were always competitive in the Canadian University League.

*What did you do between the 1984 and the 1988 Olympics?*

Because of my Olympic dream I had put off my mission until the 1984 Olympics. Denver drafted me and I went down and tried out, making it to the final cuts before they released me. They encouraged me to go to Europe and to come back and try out again. I told them that I'd think about it, but I went back home and decided to go on my mission. It seemed like the perfect time.

*Where did you serve your mission?*

In the California Arcadia Mission. I didn't play basketball at all while I was on my mission, but I did run and I also shot a few early morning baskets.

*How did you get involved with the Olympic team again?*

About the time my mission was ending, I received a phone call from Coach Donahue inviting me to come back.

*How difficult was it getting back in the swing?*

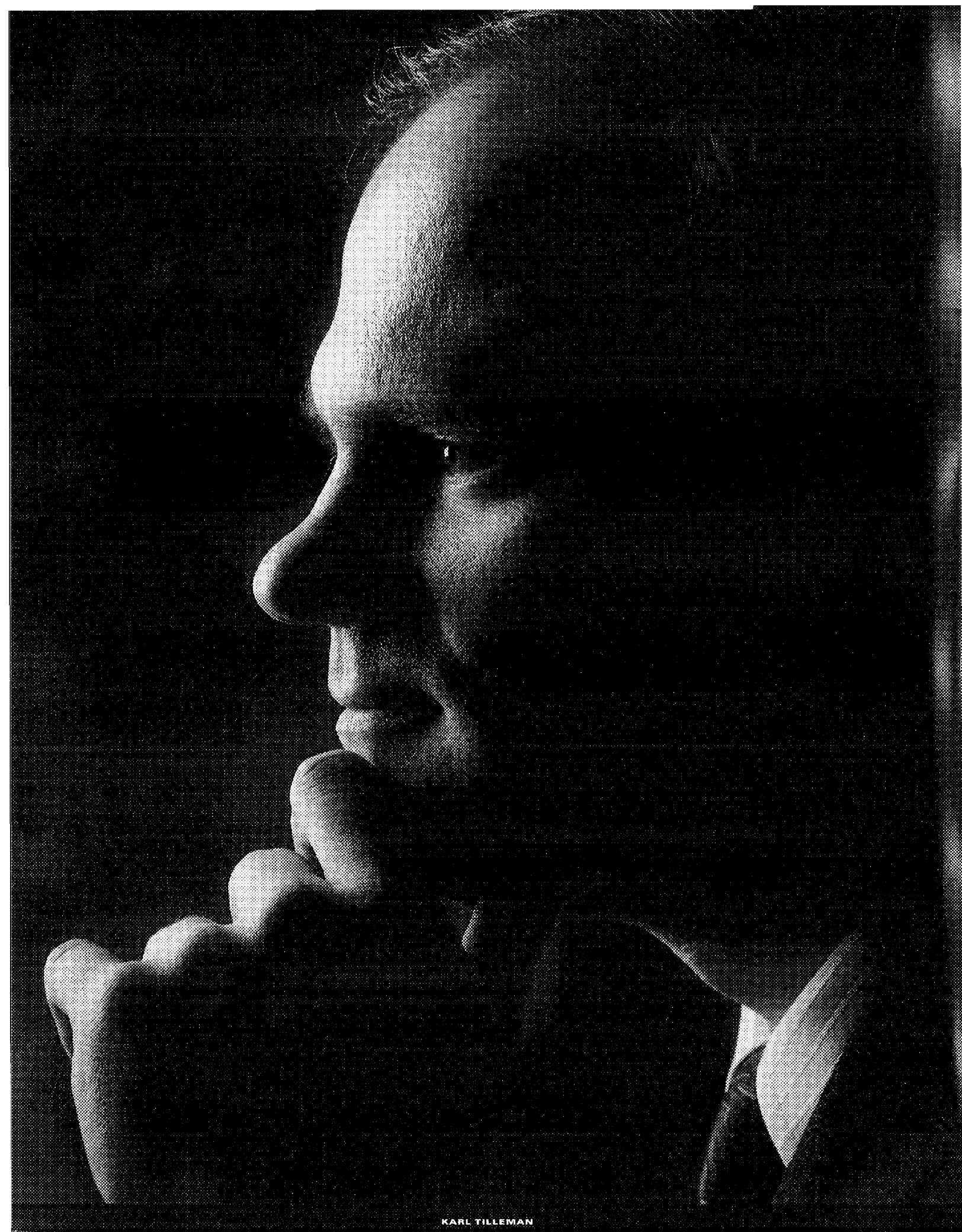
Somewhat difficult. I came right back and went on a couple of trips with the team over to China and Korea. I wasn't in condition to play, but at least I was respectable.

*When did your wife, Holly, enter the picture?*

We met before my mission and corresponded while I was away. After I returned we planned to get married within a year. That's about the time I decided to apply for law school. My future father-in-law had told me that if I wanted to marry his daughter, I needed to have a future. I don't think that he considered a future in basketball to be enough.

*And so you applied to law schools.*

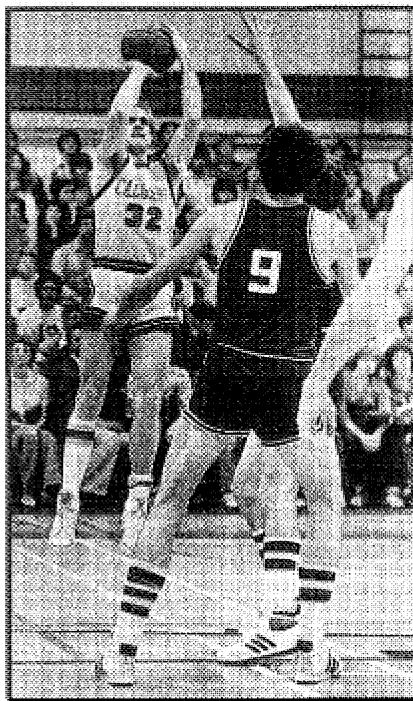
Yes—that was 1986. Also my plans to get married in a year turned into a six-month plan. Holly was attending BYU, so



KARL TILLEMANN



## Karl Tilleman



I moved down here and worked full-time at the MTC during the spring and winter of 1987. That summer I traveled with the Canadian national program to the World Student Games in Yugoslavia and to the Pan American Games.

*Were you wondering how to fit law school into this busy schedule?*

I was so busy that I didn't have much time to think about law school. I got back and started school about a week late. I walked into this building and everyone was on page 150 in criminal law—and I hadn't even started reading in any of my classes. I didn't have any of the orientation and didn't even know what a library quiz was. Not having any idea what was going on, I was just blown right out of the water.

*But you seem to have managed.*

I just jumped into my classes. I didn't play any basketball for my first month at law school. I didn't even look at a gym. I was just going full speed in my classes. My brother had graduated from this law school, and so he helped me out with the pressures. He talked me through it all and was a calming influence.

*When you were able to begin training again, what was your schedule?*

Before I left Canada, my coach gave me a training program. As I mentioned, I didn't follow it for the first six weeks that I was back at school. In November I started worrying that I needed to be ready to play over the Christmas break when the team traveled to Holland. At that point, I began going down to the Richards Building and training.

It was a tough time for me, and I found the physical workouts a good release for the depression and anxiety I struggled with at times. Ironically, I probably could have benefited from that kind of outlet earlier in the semester. On top of everything else, our first child was due sometime in November. My wife went to Canada early in the month, and then I flew up to join her over the Thanksgiving holidays. We just prayed that the baby would cooperate and be born during that four-day period. He did and was born on November 21.

*And then you returned to face your first round of finals. How were they?*

I just took them one at a time. I felt fortunate that I was a part of good study groups; I felt prepared. I tried to apply the same basic philosophy that I do in athletics: you have one opportunity; sometimes you fail and sometimes you win, but you should always give it your best shot.

*Was the trip to Holland a nice break for you?*

It was. It was a tournament with Australia, Canada, Germany, Israel, and two or three Dutch teams. I've always enjoyed traveling and playing in these exhibition games, but I also decided to spend as much time there on school work as I could. After my slow start the first semester, I was determined to do everything I could to be on top of things when school started again in January. So, I took a casebook and a hornbook for property and torts with me and read about 150 pages in each. That extra study was very helpful. I got a handle on some concepts and that allowed me to concentrate on some others I was having trouble with. I was determined that I was going to be able to smile during that next semester.

*I understand that you went full-time your first year, but with the Olympics going well into the fall 1988 semester you needed to make some arrangements with the school.*

When we received our training schedule for the Summer Olympics, I realized that our trial camp was smack dab in the middle of my winter-semester exams. I phoned my coach and asked if there was any way we could work around my exam schedule. He told me that he didn't see one because he couldn't let me be a member of the team without trying out.

Next I went and discussed my predicament with Deans Hansen, Fleming, and Zobell. They were very helpful. I had to get permission from each of my professors to take the exams at times other than those scheduled. The deans and the professors arranged to give me the same amount of time the other students had had before their exams.

*What was your mixed Olympics and law school exams schedule?*

I took my civil procedure and contracts exams, got on a plane and flew to Canada for the tryouts. After a week and a half, they gave us a week off before training started. That was the week that I came down and took my property and torts exams. A tough couple of weeks. Exams and the team required so much intensity, and they were both very important to me.

I had thought that maybe I could study during the trials, but I wasn't able to. It was a 10-hour-a-day ordeal, and I was physically and mentally exhausted.

*Obviously the tryouts went well for you.*

Yes, I made the team, and then we had a big round-robin qualification tournament at the end of May in South America. Only three teams from North and South America can qualify to go to the Olympics.

*Did Canada have any difficulty qualifying this year?*

I don't remember it as easy. The crucial game was against Uruguay in Uruguay. They had beaten us previously, so we had our work cut out for us—though I felt that we were a more talented team. In their gym the spectators get out of control. They throw coins at you and jump the referees if they don't



like a call. I kept telling the police in Spanish to help us out. When the final game was over and we had won, we had to grab our warm-up jackets, put them over our heads and race to the tunnel!

*Did you get a chance to play quite a bit during those qualifying rounds?*

Yes, I did, though I don't think I played my best during that tournament.

*Was your entire summer devoted to training for the Olympics or did you mix in some law?*

My training schedule was consuming, but we did come down to Provo for a month in June, and I did some research for Professor Backman. I wound up playing in the Utah Summer Games during that time. I think I needed that slowed-down pace to recharge a bit. After that month, until the Olympics, my training was like a full-time job. We trained in Calgary for a couple of weeks and then made another trip over to China and Korea to get used to the conditions. After that we trained in eastern Canada and then went down to New York City in August and played against some professional summer-league teams. We wound up in Vancouver for about a week and a half and then left for Seoul on September 10.

*What were your initial impressions of the Olympics?*

I would say that participating in the Olympics is the most exciting thing that can happen to an amateur athlete. All the great athletes in the world are there, and it seems like the whole focus of the world is there. It was very exciting.

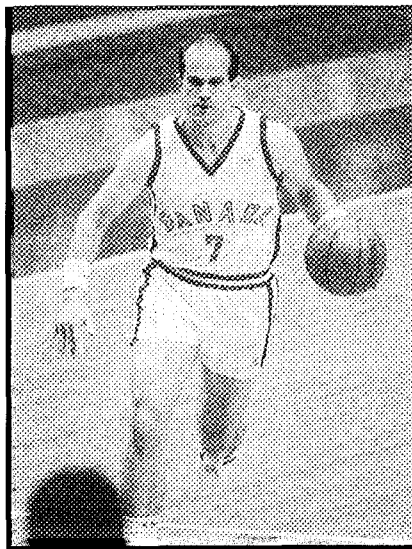
*Did you receive a warm reception from the people?*

Yes, the Korean people were really great to us. One of the most enjoyable times was when several LDS athletes spoke at a regional fireside for the Korean Young Adults.

The chapel was packed full of missionaries and young adults. The stake president was translating our talks for us, and it was intriguing to watch the delayed reaction as our message came across.

*Any memories in particular that stand out for you?*

## Karl Tilleman



The city, my team . . . everything was a good experience for me. I was relaxed and performed well and that meant a great deal to me. After being in the Olympics once before, I wanted to play well and win. But I knew that despite the final score, life would go on.

*What are your plans now, Karl? Is there another Olympics in your future?*

I don't think so. I think it's time to stop traveling so much and concentrate on my family and the law. When you're an Olympic athlete in law school with a family, it has to be a family team effort. I really appreciate Holly, and she deserves to have me stick around and earn our living.

*How do you think your athletic training will enhance your ability to study and practice law?*

I've learned about setting goals, committing myself to those goals, and then seeing them through to completion. My training has taught me about discipline, resilience, and perseverance. I hope now I can apply what I've learned to the law.

## DAVID TURCOTTE

*When did you begin playing basketball?*

► I started playing in ninth grade, prob-

ably several years later than most players do. Because of the late start, I knew from the beginning that I had to put extra time and effort into my game. I concentrated so much on it that I became consumed with playing. And I really learned to love the game.

It's exciting when something you enjoy gives you opportunities beyond what you would expect. I know that because of basketball I had options in college and certainly with the Olympic team that I couldn't have had otherwise. I feel very fortunate.

*When did you start to think about trying out for the Olympic team?*

I first saw the Canadian team play when I was in the 10th or 11th grade, and I remember being incredibly motivated to put everything I had into being good enough to play at that level. Though I think the Olympics became a goal of mine then, I had a hard time visualizing myself competing there.

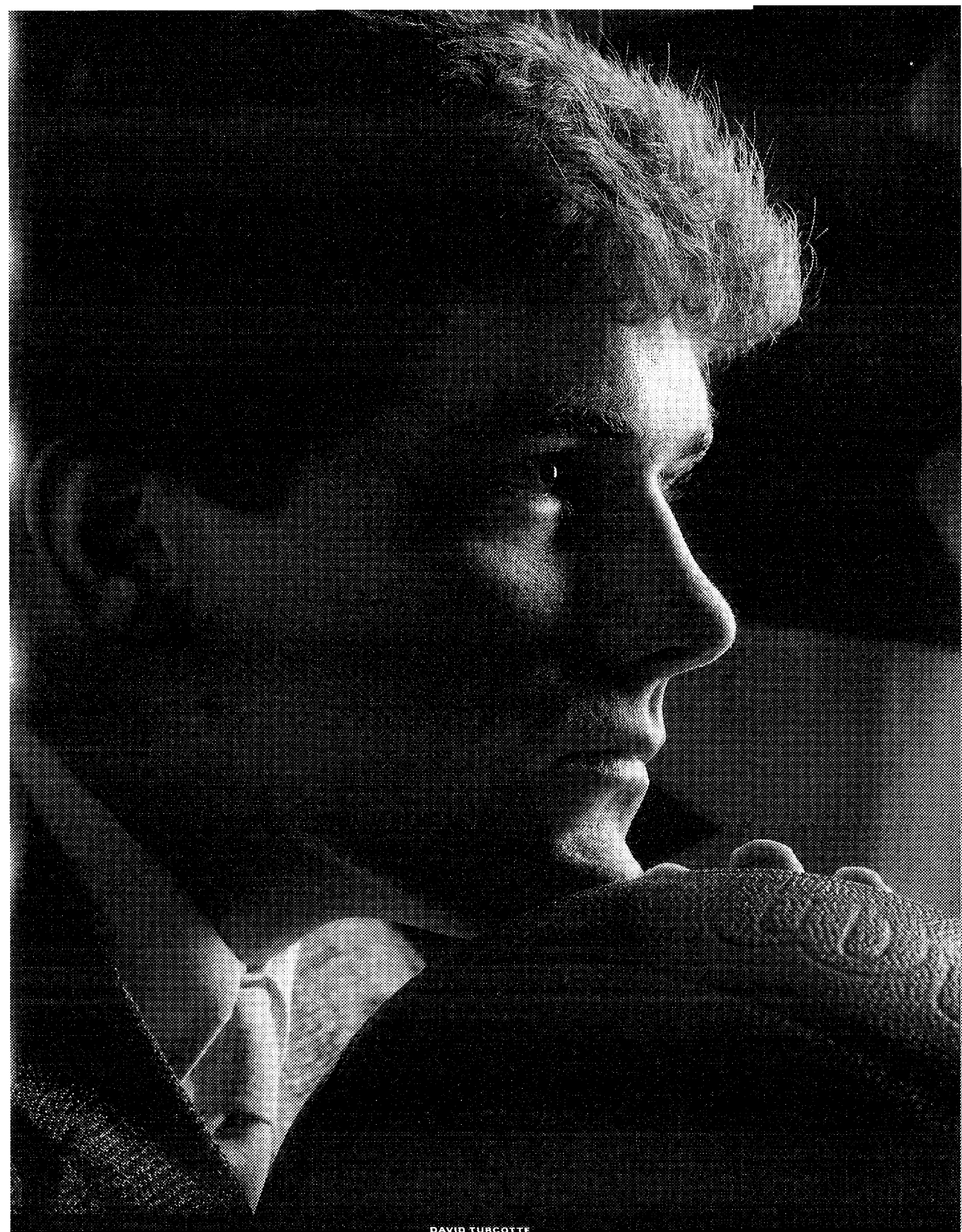
I did feel that if I put all my efforts into it I could make the national team, but I knew the timing had to be just right and I had to be ready to be a part of the Olympics. If I peaked and was the best that I could be in 1986, it wouldn't do me much good if my goal was to play in the 1988 games.

As I think about the timing, I'm even more convinced that the difference between being an Olympic athlete and not being one is very subtle. If a kid has a bad day when the coaches are there to see him play, that could be the end of it. So you have to be ready to perform at a peak repeatedly. I think that the secret to distinguishing yourself from other good players is to put more effort into practice and to strive for excellence consistently every day.

*And, as you applied that kind of effort, things began to fall into place.*

Yes. As a couple of years went by I could see that I was getting closer to my dream; I got a little bit hungry—I could start to taste the payoff that could come because of my efforts.

During my last year in high school I made it on Canada's national team. From then on, I feel that I was very fortunate. Most players have to wait until the latter part of their college careers to earn an Olympic tryout, but I was only



DAVID TURCOTTE



18 when I got a shot at it. The rest of the players were 24 or 25 years of age and most of them had already been through one Olympics.

*What year was that?*

That was 1985. As I look back, I remember it being a little awkward. I was definitely the rookie, which meant I got the privilege of carrying as many of the equipment bags through airports as I could manage.

But I was close enough to my goal of playing in the Olympics that the dream wasn't as intimidating to me as it had been when I was younger. There were still three years to go but I could focus on the reality of it.

*I would imagine that those three years went by quickly.*

They went by so fast that I don't even know if they existed! I played basketball year-round those three years: three months of the year for the national team and the rest of the time for my college team. I never had a summer job; I never had a vacation.

*Did you ever get tired of the game during those years?*

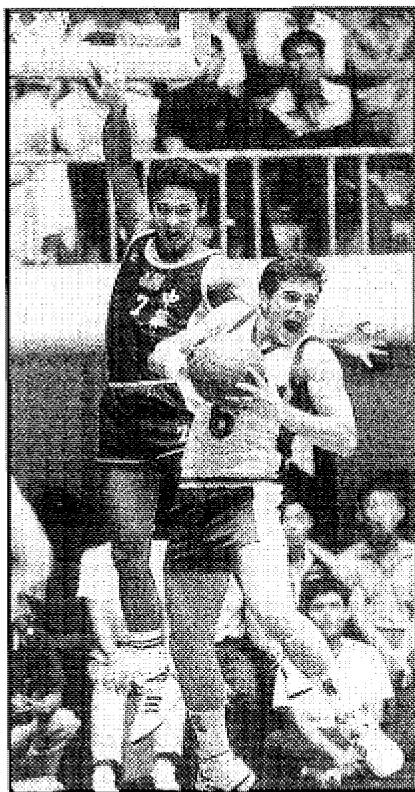
Amazingly, I didn't, probably because I love the game so much. Playing is recreation for me but it's also something that I've had specific goals for. My motivation is different from that of some players; I never played because of social or financial pressures. I play because I love to play.

*After the initial adjustment, how did you get along with your teammates?*

Very well. The twelve of us were a mixed group. We came from different economic and cultural backgrounds and our association with one another enriched us all. The common denominators of the group were skill, talent, and discipline. It's unique to be counted among the top twelve players in an entire nation.

We had a team that was very cohesive; we liked being together and, as a result, I think we played better. I'm glad we did enjoy each other's company; because for three solid months out of every year, we lived together, ate together, practiced together, and played together.

*David Turcotte*



*And one of your teammates was Karl Tillerman. Did you first meet him after you made the team?*

No, we had met a couple of years earlier. It's kind of a funny story. Karl and I are identical when it comes to our intense competitiveness, and we found that out on our first encounter. When I was in the 12th grade, my next to last year of high school, I was invited to come to a national camp to meet the players and to work out with the team a little bit. Karl was there, and the first thing I said to him wasn't "Hello" but, "Do you want to play a little one-on-one?"

*And what were the results of that matchup?*

Karl beat me decisively in the first game and then, in the second game, I think he relaxed a little and I came out on top. He didn't handle that too well, so we played a third game to break the tie.

*Interesting way to get to know someone*

No doubt. I think we both really enjoyed the encounter. Karl liked the fact that I was a young kid that was chal-

lenging him and making him play harder, and I loved the fact that he was a national team player who had a phenomenal reputation and was taking the time to make me a better player by challenging me.

*Did you keep in touch with Karl after that initial meeting?*

Not really. He went on and played in the 1984 Olympics, and I didn't see him for two years while he was on his mission. We had a reunion of sorts when, in 1986, we were paired up as roommates at the initial training camp. We had no trouble remembering each other and hit it off right away. Since we were together 24 hours a day, it could have been a difficult situation if Karl hadn't been such a terrific person. He is probably the best friend I have in the world today.

*Where did you attend college? And why did you select that school?*

Colorado State University. Since Colorado is so far away from my home, I'm sure that it was the recruiting efforts that got me there. I was recruited by several big, top-20 schools. Colorado State wasn't as prestigious as some of them, but I went to Colorado State with the understanding that I could pick the courses I wanted to take and graduate on time in four years.

*These factors were important because of your Olympic timetable?*

Absolutely. When I talked with the schools, I always brought it up. I wanted to study business to get a diverse background, and I was told by some of the schools that I could not take classes if they were going to interrupt my athletic schedule. In other words, I couldn't register for any classes between 10 a.m. and 1 p.m. Some required that classes would have to be before 8 a.m. or after 5 p.m.

*And Colorado State was willing to work with you?*

They were terrific. They made it possible for me to achieve all my athletic goals and all my academic goals. I ended up with a double major in economics and business management. My coach there, Boyd Grant, was always straight with me. He told me that he expected me to do my share and that they would help me do what I wanted to do.



*As you look back on your college career, what are some memories that stand out?*

I had a phenomenal college career; I had more fun than I think any person deserves to have! I had great academic success, in part because I enjoyed the courses that I was taking. I had excellent instructors in the classroom and in the gym. My diverse experiences at Colorado State considerably helped me develop personally.

The best thing that happened to me while I was in college was that I met my wife, Joanie. She has a business degree from CSU and is from Denver. We dated while we were both in school and then got married in March.

*How has she adjusted to the fast track that you have selected, athletically and academically?*

She keeps busy herself, working, and she's thinking about pursuing a master's degree. She's also an artist. The hardest part for us has been the travel that I have to do as part of training with the Olympic team. During the summer, I'm gone for six weeks with no visits on weekends. In spite of some of these demands, though, Joanie is supportive because she can see the benefits for us in the long run.

*When did you first decide that you would go to law school?*

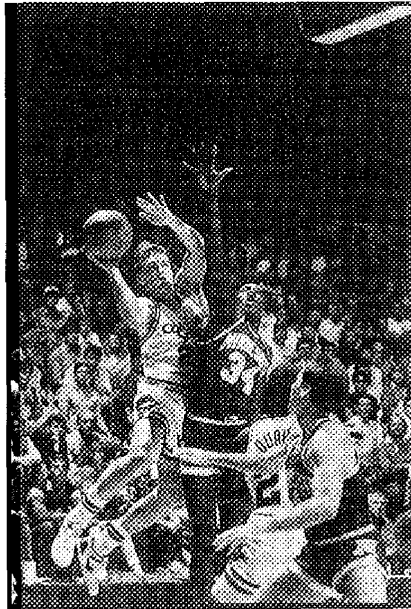
It's funny; somehow, I always felt that I should be a lawyer. Maybe it was because when I was in high school trying to persuade my teachers to adopt my point of view, they would comment, "Boy, Dave, you ought to be a lawyer."

But what attracted me most to this profession was my observation of lawyers. They seemed to be among the ones who were making a difference in the world. I don't think that I could ever be satisfied in a profession if I didn't believe that I was involved in accomplishing things that matter.

*When you started applying to law schools, did Karl persuade you to look closely at BYU?*

Yes and no. I was glad that Karl would be here for one year because he is a good friend and he's someone that can steer me clear of some problems. However, I was already convinced that I should go to law school in the West

*David Turcotte*



While attending school at Colorado State, I learned to love this part of the country. I love the mountains; this area is ideal for outdoor training.

So I really made up my own mind to come here. In fact, I wanted to surprise Karl that I had made this choice. When he asked me which law schools I was applying to, I told him that I was looking at University of Utah, Colorado University, University of Denver, Cornell, Yale, BYU, University of Toronto, and York University of Canada. He seemed pleased that BYU was one option, but I could tell he wanted it to be my decision.

*What made you select BYU over the other schools in the West?*

After checking around, I decided that BYU was the best law school in the West. It has high academic qualifications and great facilities. Probably most important to me was that BYU has a reputation for turning out graduates that are top-rate in terms of their ethics. I'm not LDS, but I subscribe to the professional standards that I knew would be taught here. So, when I thought about all the factors most important to me, I could see that BYU had all of the ingredients—academically, personally, and geographically; so it was the logical choice.

*Are you able to combine the rigors of law school with your training schedule?*

I think so. Yet sometimes I do get nervous about what I've taken on. I feel like I'm living a dual life. I want to do well in my classes so that I don't limit my opportunities while I'm in school and after I graduate.

One price I've had to pay to keep everything in motion is that I have to function on less sleep. I simply run out of hours in the day because of classes, studying, and three to four hours of training. I can only hope that I'm spending quality time on my studies and that the physical exercise allows me to come back to the casebooks refreshed.

*With these challenges in mind, have you started to formulate a game plan for law school?*

I'm working on putting one together; and, in the process, I'm finding all kinds of parallels with physical training. I believe that you need to set a series of intermediate, smaller goals to help you arrive at major one. One minor goal I have is to always be prepared for class. If I do this, I find the whole process to be less intimidating. I also try to concentrate on my efforts rather than worrying about what my classmates are doing. I can only control what I'm doing, so I try to keep my focus there. Karl also helps me by encouraging me to avoid the distractions and dead ends that can be very time consuming.

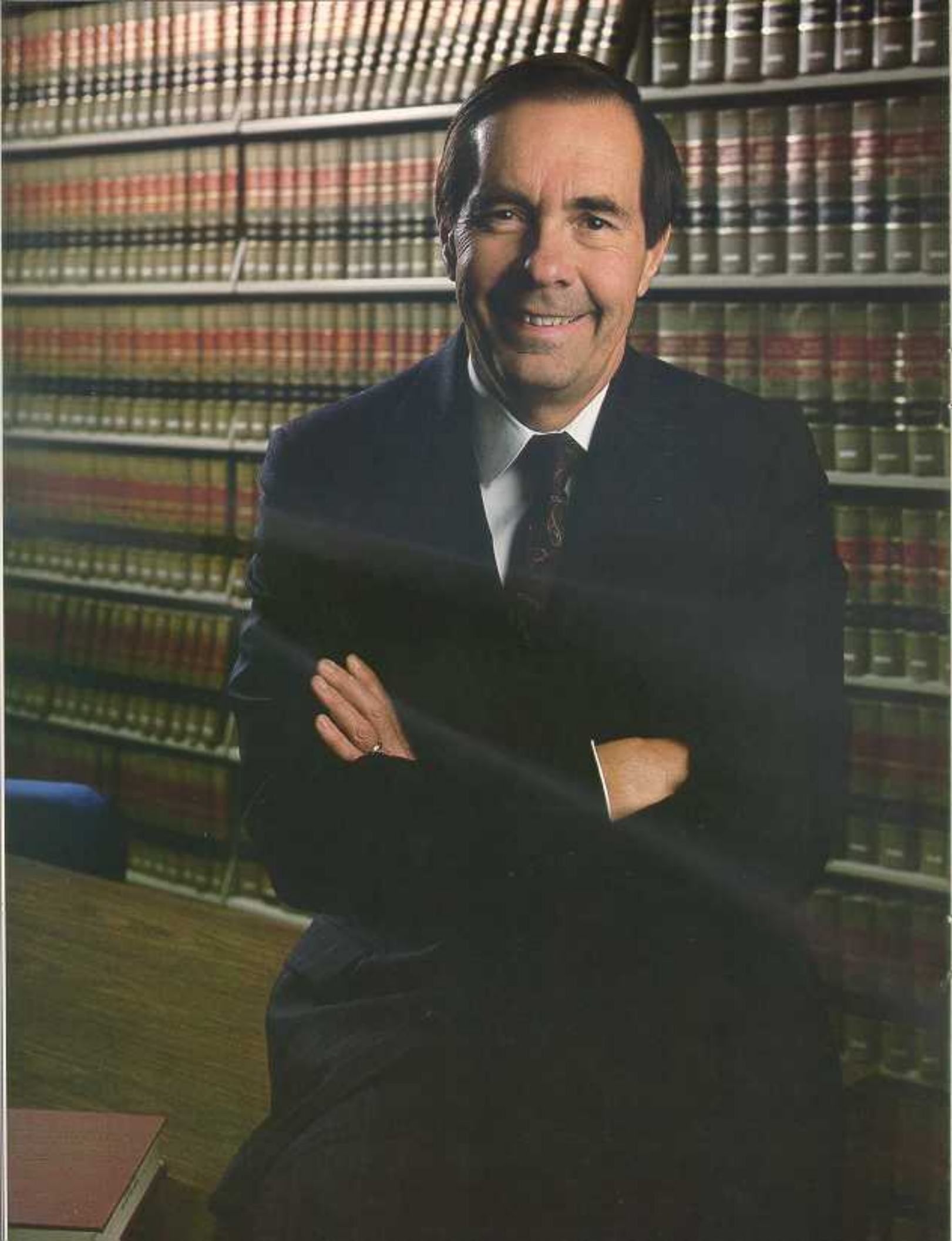
I also try to remember that proper pacing is essential. Law school is a three-year process; I can't burn out in the first semester and expect to succeed. I've got to be committed and disciplined day in and day out. I'm new to this setting so I'll have to let you know how my plan works out.

*And after law school?*

I'll graduate in April 1992, participate in the Olympics, and then study for the bar exam. I know that this kind of approach won't be easy, but I anticipate combining both law and athletics throughout my life.

*What about the 1996 Olympics?*

If my hometown, Toronto, gets the bid for '96, I couldn't resist giving it a shot. I might be too old then for that level of competition, but I'd have to try.



# THOUGHTS. AFTER 15 YEARS

REX E. LEE

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*On October 7, 1988, the BYU Law School Alumni Association held its first dinner in Salt Lake City. Rex E. Lee, the founding dean of the Law School and current president of Brigham Young University, was the honored guest and featured speaker.*

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**IT** really doesn't seem like 15 years. In some ways it seems longer, because for most of us the period from 1973 to 1988 has been one in which so much has happened. For me, it has been a time when I have had the experiences of dean, professor, assistant attorney general, solicitor general, father, grandfather, and cancer victim. And in those 15 years, I've argued 45 cases in the United States Supreme Court.

If you will reflect back on your experience, it has also been a time of many important events and memories as you have built your careers and families and have begun to move into the highly productive and satisfying middle phase of your professional life.

For most of us, therefore, these have literally been the best years of our lives. Because much has happened, it may seem like more than 15 years.

And yet in other ways it seems like a short time since that memorable August 27, 1973, when we all met together in the Jesse Knight Building. Let me help you put it in perspective. Could I see by show of hands how many of you are 36 years or older? That means that you are now as old or older than I was when I was appointed the dean of this Law School. I'll give you another one. The average age of our graduates—from

the first class to those who graduated just last April—is about the same as the average age that Bruce Hafen, Dale Whitman, Keith Rooker, and Gerry Williams were when we started the school. And one final perspective is this: We have now admitted, in the entering class of 1988, the child of one of our own graduates. Her name is Cay Lynn Carr Reed, whose father, Chuck Carr, was a member of our charter class.

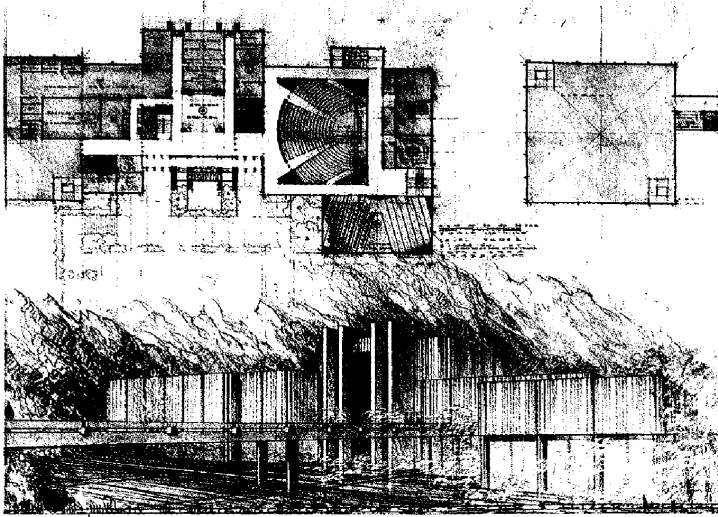
I would like to consider with you this evening three phases of the J. Reuben Clark Law School's progress: first a look at the past, then an assessment of the Law School today, and then finally, just a brief word about what the future may hold.

The first part is, in a sense, the most pleasant, because you will find that when you get old, you enjoy reminiscing. If you've already started enjoying it, maybe that tells you something about your age.

The starting point, of course, was not that day we first met in the Jesse Knight Building. It began two years earlier. My first real exposure came when President Ernest L. Wilkinson visited me in Phoenix, where I was practicing; told me about the plans for the new school; and explained that he was traveling around the country getting the views of some Mormon lawyers

in different parts of the country. He also told me that I might be interviewed by a search committee that had been set up to pick the first dean, and that interview soon took place.

It was an interesting committee. President Marion G. Romney was the chairman, and the members were Elder Boyd K. Packer; Elder Marion D. Hanks; Neal A. Maxwell (in his then capacity as commissioner of Church Education); my friend Dallin Oaks, who had just been named president of BYU; and Ernest Wilkinson. I was really very pleased that such an



There was a raging debate about whether the exterior of the new building would be cast stone or brick. Fortunately, the cast stone won.

....

impressive group would want to interview me, but I didn't have much to say because I knew nothing about starting a new law school (or even maintaining an existing one). I thought the idea of a law school at BYU was an exciting idea, but a bad one. I remember only two specific things that I told the search committee. First, there was an expectation among Church members that the school would become a forum for right-wing ideology—and that must be avoided—and, second, the dean should come from the ranks of established law professors. The second observation, incidentally, came in the context of my comments about my friend Terry Crapo. I told them I thought that he had one of the finest legal minds in the Church, and President Romney asked if they should make him the dean. I told them unequivocally no. It was important that the founding dean know something about how to run a law school (which a practitioner would not), and it was also important that the dean be someone other legal educators would recognize.

They took me instead of my advice.

That first eight months, from about October 1971 through June 1972, was without any doubt the most stressful and anxiety-laden period of my life. It was exciting, and it was heady. There was a thread of

exhilaration as I realized that for the first and only time two of my three major interests in life—my Church and my profession—would directly coalesce. And I was part of it!

There was much to be done—a new building to design, arrangements to be made for a temporary building, an initial public relations effort to launch with members of the bar, other schools, and the rest of BYU. There was a raging debate about whether the exterior material on our new building would be the beautiful cast stone that you see there now, or the yellow brick that is on so many other buildings on campus. But if you put all those issues together on a worry scale of ten, they would all add up to a collective four or five.

There was one item that, all by itself, measured a constant 10 during that entire first eight months—the faculty. Everything hinged on the kind of people making up the team on that opening day. They would be important not only for that year; they would also affect the quality of faculty and students we would have for years to come. They were *the* key to our success.

I was particularly concerned about getting some experienced academics. In the first place, we needed some people around who knew how a law school was supposed to work, and I certainly couldn't supply that. And again, if we were going to be accepted within the law school world, we needed to have some people the law school world would recognize.

Obviously, people of the quality we wanted who would be willing to run the risk of leaving their exiting teaching positions and throw their lot in with an unaccredited and unproved school at BYU would be members of the LDS Church. And it was at this point that I discovered a sobering—even terrifying—reality. I listed all LDS law professors who were teaching at decent law schools and had the kinds of qualifications we wanted. This will surprise you, and it certainly did me, but in those days there were only about 15 people I could even put on that list. I also had another list of names I knew quite a bit better; they were highly competent practitioners who I thought would make good teachers. But I also knew that if we were going to succeed we had to attract a critical mass from that very skimpy universe of existing LDS law professors.

President Oaks kept assuring me that everything was going to be all right. I remember so well his standard line: We all knew that the Law School didn't make sense from a rational standpoint, that the Lord had decided there would be a Law School here, and that the Lord wasn't going to let us fail. Deep down I could follow his reasoning, but I kept asking Dallin and the Lord, why, if that were so, did the months keep going by, and I couldn't hire anyone but Bruce Hafen and myself? Everywhere I went, people kept asking me, "Who else do you have?" It was a perfectly logical question, because a most important consideration for a law professor is who his or her colleagues are going to be. And all I could say was, "Well, if you come, there

will be you and me.” For some reason, that didn’t seem to persuade very many. My friend Willard Pedrick, who had been the first dean at the Arizona State University Law School in Tempe where I was living at the time, told me that the most influential single development in the pre-opening days of their school was Professor Ed Cleary’s commitment to join them, and that my most important task was to get just one faculty member of national stature.

About March 1972 I had a personal confirmation of what President Oaks had been telling me. I still hadn’t hired anyone. I had all kinds of people who were not on my list who were very anxious to be hired, and I concluded even if it meant that Bruce Hafen and I would have to do all the teaching ourselves for that first year, I wasn’t going to compromise our standards. But I was really getting nervous. While I was still talking to some good people, no one had told me yes, and I had been trying for months. I was sitting in fast and testimony meeting in Tempe one day that spring, with my insides churning over what was going to happen, when an inner peace came over my soul, and left me with two impressions—one general and one more specific. The general impression was that Dallin was right: Just be patient and everything would turn out okay. More specifically, I had the impression that Carl Hawkins was going to be involved. I didn’t credit the more specific impression very much, because it just didn’t make sense. I had talked to Carl three times, twice in Michigan and once in Provo. Each time he was helpful and encouraging in a general way, but he made it clear that we shouldn’t count on him. And though he was too gracious to explain the details, they were obvious to me. He was a full professor at one of the nation’s most prestigious schools; his family was settled; and he was serving as a stake president.

I was not above trying whatever would work. Three times I asked President Romney to make just one exception to the Church’s usual policy and break the ice by calling just one person to serve on our faculty. I even did the work for him. I gave him the name, Carl Hawkins, and I wrote out what he was supposed to say. Three times he gently reminded me that we don’t do things that way.

By May 1972 things began to happen quickly. I think I remember Carl as the first to accept, but he and Ed Kimball both came on board about the same time. And once he and others began to say yes, that gave us the momentum we needed. The nightmare was over, never to be repeated. By late fall 1972 we had not only the nine people we needed for our first-year faculty, but also a three-man head start toward the increment for the second year. The nine who made up that original faculty were Ed Kimball, Keith Rooker, Dale Whitman, Gerry Williams, Woody Deem, Carl Hawkins, Bruce Hafen, Dave Lloyd, and the barefoot boy from St. Johns. The additional three for the second year were Monroe McKay, Dale Kimball, and Doug Parker.

The quality of the first class was number two on my priority list during those early months. The quality of our first students would not have as lasting an impact as the quality of our first faculty, but I concluded that it would last for several years. Moreover, the members of the first class were necessarily taking more of a risk than any future classes, and, consequently, during the school year 1972–73 Bruce and I spent a large share of our time recruiting our charter class. Frankly, money helped. We developed some very fine speeches about sharing the one-time experience of creating something really significant, but I will tell you that once the university committed some scholarship money to us, we started talking to an entirely different group of people. But money wasn’t the whole story. You did take a risk. You were participants in the creation, as were all those earlier classes. And I think it fair to say that your risk paid off.

The single event I remember most prominently about recruiting that first class was a special reception that we held in the Wilkinson Center in January 1973. We had assembled all the members of the faculty for our first faculty meetings, which we held in the canyon, and then after that two-day session, we held a special reception for the students. The room was full of anticipation and good feelings, and we took full advantage of both. Carl Hawkins gave a short talk, and in his low sonorous tones he simply assured everyone that this really was going to be a legitimate law school; that the faculty was going to be populated with some of the profession’s best; and that students should not hesitate to come and join us, as he and others had, in this exciting new endeavor. You could feel the anxieties melting away. And they were replaced by relief.



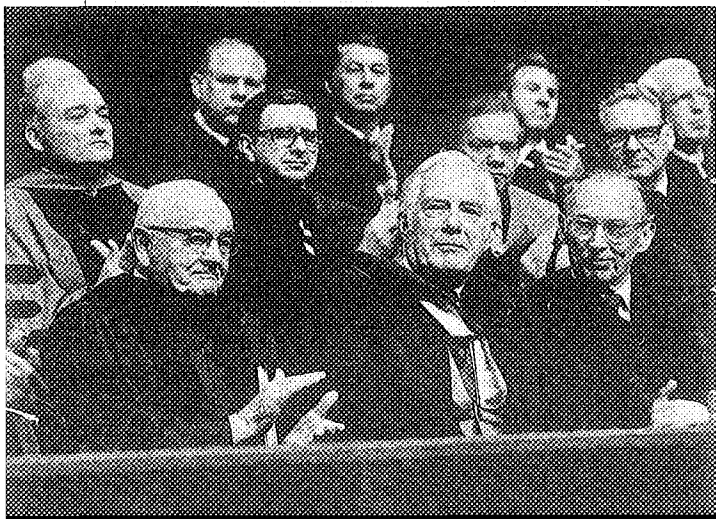
On May 1, 1973, administration and Church officials gathered for ground-breaking ceremonies. The building was completed in 1975.

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Throughout that initial student recruitment, I was conscious of some other advice from my friend Willard Pedrick. He told me that one of the unfortunate facts about life is that every new law school has to have a first class. The only way to deal with that, he said, was just to get rid of them as soon as you could, and then fumigate the building. There were times during those days down at St. Francis that I thought I caught glimpses of what he was talking about, but generally our experience was the opposite. I have never felt closer to any class than I have that first one.

So much for 15 years ago. What about the BYU Law School of 1988? My first observation is that it was a good law school 15 years ago, and it is still a good law school today. Those two facts are not unrelated. In large respects, the quality of the school today was influenced by the quality of the faculty and students of 15 years ago.

But there are some differences. Some of that young faculty of yesteryear are now the veterans, and we have some outstanding new people, including two of our own graduates. Two of our very best, Terry Crapo and



President Spencer W. Kimball, Chief Justice Warren E. Burger, and Justice Lewis Powell attended the September 5, 1975, dedication ceremonies

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Woody Deem, are no longer with us. We've also lost some of our students and graduates: Glen Gritts, Tom Echohawk, Gregg Alford, David Sylvester, Michelle Neilsen, Max Jensen, Danny Phillips, and Peter Christensen.

I suppose the largest single difference I detect is a recognition that the Law School is legitimate and probably here to stay. Our students no longer worry about whether we are really teaching law so that they can practice once they graduate. The delicate problems of accreditation that occupied such a large share of our resources for most of a decade are behind us. And beyond accreditation, we are accepted by the law school world, and frequently used as an example of how it

ought to be done when a new law school is brought into existence. Recruiters come from all over the country, and I do not know any major city in which we do not have some of our graduates with major firms. We have an excellent reputation with the most discriminating law-graduate employers, the federal judges. And I doubt whether any other school in history has had five United State Supreme Court law clerks out of its first 13 graduating classes.

In short, I feel good about where we are. What about where we are going? In 1971, when the Law School's creation was first announced, my reaction, and that of most knowledgeable, objective outside observers was that it was not a good idea. The reasons were very practical. You couldn't get enough good faculty members nor enough good students to have a good law school at BYU. You wonder what I worried about from November 1971 through June 1972? The image that kept coming back to haunt me was of an opening day late in August 1973 where about 20 students were being taught by Bruce Hafen and me.

The overriding questions in those days was: Since the practical, objective problems are so real, what is the Law School's purpose? There was a group of people who were anxious to supply an answer to that question. They felt that a law school at BYU, bearing the name of J. Reuben Clark, would right all the wrongs that had been inflicted upon the Constitution since the 1803 *Marbury v. Madison* decision. And if that sounds like too humble an objective, this group had all the right answers to what the Constitution really meant and was counting on us to carry them out. And when I say the "right answers," I use that word in two different senses. We were to become, in short, the academically legitimate spokespersons for one narrow, ideological point of view. The effort to put us into this mold, had it succeeded, would have deprived us of any serious stature and credibility in the academic and professional world at large. But it was a very serious effort, pursued on more than one front, and dealing with it consumed a substantial amount of our resources for several years after the school opened its doors.

But that's just a historical footnote. It was a very real problem, but it is now behind us. If our purpose was not to become the university-based legal voice for one ideological point of view, then what was it? And for that matter, what is it? Certainly the question is no less relevant today than it was 17 years ago. There was no official statement of mission or purpose for the Law School when it was created, and none has been issued since. I have always felt that the only effect of such a statement would be limiting.

Yet surely there has to be a purpose. And every one of us who has been involved in this school—whether in 1971 or 1981 or 1988—has been convinced that there is a purpose. Otherwise, why would people leave the very attractive positions that they had and come and join this effort? And part of the advantage of not having a formally stated purpose (besides the fact that no one

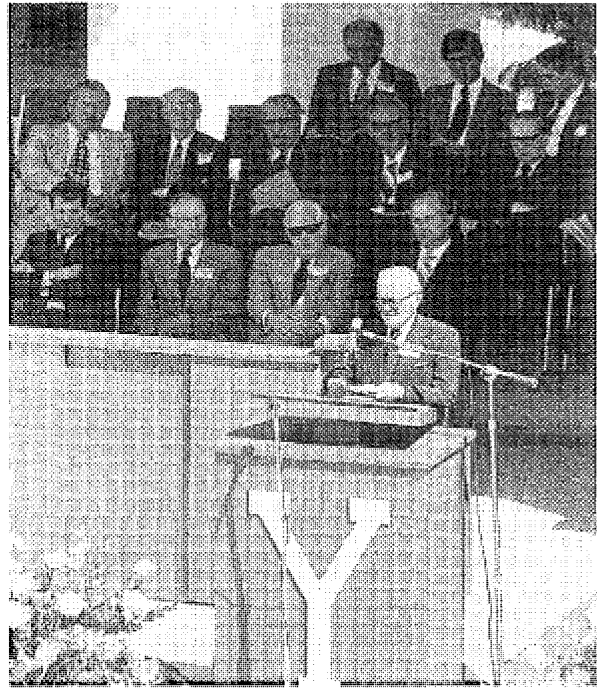
was really sure what it was) is that everyone involved was free to formulate his or her views.

So what is the mission of this Law School? I'm not sure. But I'm convinced of two things. The first is that it is multifaceted and probably can't be reduced to a few words, or even a single sentence. The second is that the amalgam of values that constitute the mission of this Law School will become more apparent to us over the years. I've always felt that way. In the early days, I used to respond to the frequent questions about the school's mission by saying, "Come back in 10 years and we'll see." One of our students solemnly announced to some of his friends and family that the mission of the school had been revealed to me, but that I'd been sworn to secrecy for 10 years.

What I really meant, of course, and what I still believe, is that the value of this institution—and therefore its mission—becomes more apparent as we see what has come from it. In very general terms, there has been a benefit to The Church of Jesus Christ of Latter-day Saints from having what is almost a generation of lawyers trained by some of the nation's best law teachers in a setting that not only accepts the legitimacy of restored truth, but affirmatively believes in it. To date, we have turned out about 1,800 graduates who have been educated in that singular environment. Helaman had his 2,000 stripling warriors; we have almost reached that. That kind of infusion into the ranks of Church leadership throughout the world has to have had, in my humble opinion, a positive effect. Turning to more specific considerations, the addition of a law school of our quality has upgraded the university, both in the intellectual dimension that it has added to the university's on-going activities, and also in the influence that its graduates have had as they have penetrated every major bar association in the country. I am also conceited enough to think that through our graduates we have added materially to leadership within the Church, within our communities, and certainly within the professional and business world. There's a temptation in this regard to point to a few very visible examples such as the owners of a steel mill, some law professors, a mission president, some judges, and some high officials in federal and state governments.

But the story really isn't told by a dozen or so individuals. The impact has been both broad and deep. And perhaps most important has been the effect the school has had on individuals. This school occupies a very large share of the total package of things that I consider important, and that is also true for many hundreds of people.

The word "mission" has a special meaning for most people who have attended this school. In my mind it conjures up very specific memories, most of them pleasant. It refers to a segment of our lives in which we gave of ourselves in larger measure than at any other time, and because we were willing to give, there were corresponding benefits to us. And this two-year experience to which we attach the label "mission" is



At the building dedication, President Marion G. Romney said that at BYU students could "obtain a knowledge of the laws of man in light of the laws of God."

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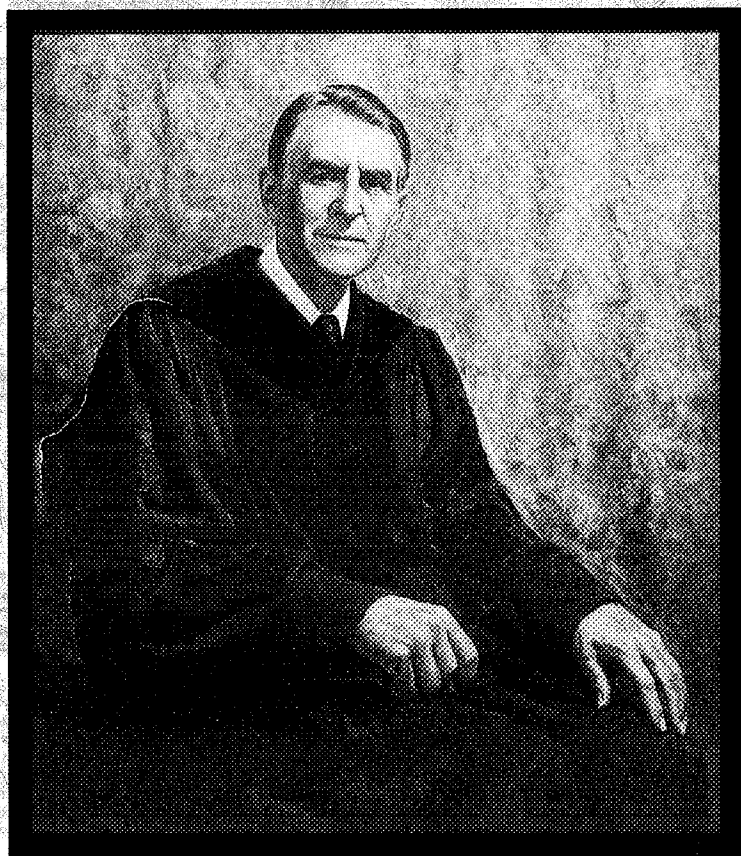
one for which the world at large has no counterpart

I think there are some apt comparisons between that conventional Mormon concept of "mission" and the mission of our Law School. We're here to teach and learn law just like any other school. And there can be no compromising of the objective. If we don't do that well, nothing else will matter much. But there is also a plus factor at work here. We are just a little different from other schools.

We are doing more than just turning out good lawyers. And it is in that "more" element that the mission of the Law School is to be found. What are its precise contours? I'm not sure that question should ever be precisely answered. Because one of our great strengths is in each of us supplying our own detailed answers.

That is not a task for the faculty alone. In the accomplishment of that task you are like Helaman's stripling warriors, and we need you. We need you in so many ways. We need your help in recruitment and placement. We need your help as public relations spokesmen. We need your help in seeing to it that among the present generation and future generations of law students, the memory and the ideals of people like Woody Deem and Terry Crapo will live on.

In short, this is not and never has been J. Reuben Clark's Law School, nor Bruce Hafen's Law School, nor Carl Hawkins' and Ed Kimball's and Gerry Williams' Law School. Each of us is an equal shareholder, and in our hands we hold the responsibility of seeing to it that the next 15 years—and the next and the next in perpetuity—will be just as good as the first 15.



# Woody Deem

## Colleague, Mentor, Friend

EDITOR'S NOTE: *Woody Deem was one of six charter faculty members of the J. Reuben Clark Law School. His decision to come to BYU meant the end of a successful career as prosecuting attorney for Ventura County, California, where he had also developed a widespread reputation for training exceptional trial lawyers. At the Law School he used those same training techniques to mold students. From the first day of his first-year criminal law course, Professor Deem required students not just to be prepared to recite the cases for the day but also to present them in proper courtroom style. To reinforce the learning experience, Woody's classes were videotaped. Each student who had recited during the day's lecture met with Woody that afternoon for a frank critique. Although this experience was uniformly considered by law students to be the most frightening of their law school careers, they also considered it to be most beneficial in developing the lawyering skills.*

♦ *Woody's zeal for the law, and for teaching the law, affected not only those who were fortunate enough to be his students, but his faculty colleagues as well. A few months before his death, the J. Reuben Clark Law Society and the faculty of the J. Reuben Clark Law School established the Woody Deem Professorship in Law. The fund-raising efforts for the professorship were augmented by an anonymous donation that matched other gifts up to \$150,000. Alumni and friends rallied to support this effort and set a record for any single fund-raising project at the Law School.* ♦ *To honor Woody's memory we provide here two tributes. The first, by Professor Edward Kimball, who with Woody was a charter member of the Law School faculty, reflects the feelings of Woody's Law School colleagues. The second, by Jim Parkinson, a member of the Law School's charter class, was delivered at the first annual Law School alumni dinner held October 1988 in Salt Lake City. Norrie Deem, Woody's wife, traveled from St. George to attend the dinner. Besides expressing his feelings about Woody Deem, Jim informed Norrie of the depth of affection that law students had for her husband.*



### A COLLEAGUE REMEMBERS

*by Professor Edward Kimball*

FOR the first 15 years Woody Deem was my closest professional associate. We both came to Brigham Young University the first year the law school opened its doors, and we jointly taught a course in criminal trial practice every semester after that first year until his retirement due to illness in 1983. In a sense he continues to teach with me, as many things I teach in the course are his ideas. I even play for students tape recordings of some Woody Deem anecdotes, because the stories themselves are great and because I want successive waves of law students to know at least a little about one of the great law teachers.

Born December 19, 1913, in Salt Lake City where

the Salt Palace convention center/sports arena now stands as an unknowing memorial, Woodruff Janus Deem brought a sunny disposition into a cold world. His grandfather insisted that his first grandson be named after Latter-day Saint Church President Wilford Woodruff. But the boy was always "Woody."

He lived most of his early life in North Ogden, Utah, the eldest of 10 children in a poor family. Of his school experience, Woody wrote:

*My first grade teacher made me want to be an attorney. When I was a discipline problem she kept me after school and lectured me that to get satisfaction out of life I must do things for others instead of getting attention only for myself. When she told me I could be another Abraham Lincoln, I made up my mind that I wanted to be a lawyer.*

Woody spent two years at Weber College in Utah and then two years at Occidental College in California, where his family had moved. When he graduated in 1936, in the midst of the Depression, there were no jobs so he took his Phi Beta Kappa key and went into the Civilian Conservation Corps. After a year a local church leader helped him get a patronage job in Washington, D.C., as a member of the United States Capitol police force, where he worked the four-to-midnight shift and attended Georgetown Law School during the day.

Woody had heard that Georgetown, a Jesuit school, would not give Mormons fair treatment, so in characteristic fashion he asked Father Lucey point blank whether a Mormon student would be at a disadvantage. Father Lucey pointed out that several recent top graduates at Georgetown were Mormons, and Woody proved him right by graduating at the top of his class in 1940. During his last year in law school, he worked as a law clerk for a congressional committee and then for the Reconstruction Finance Corporation, where he continued as a staff lawyer after he was admitted to the bar. The next year he moved to the legal staff of the National Association of Manufacturers. Then the army drafted him.

He started out as an army buck private in January 1943 and trained as a machine gunner at Camp Roberts. He was then shipped to Numea, New Caledonia, the staging area for the invasion of Bougainville. Men were sent out every few days, but week after week Woody's name was left off the list. Finally he confronted the clerk, who admitted, "The general we're sending troops to said, 'If you ever send me a buck private college graduate I'll kill him. They are nothing but trouble, stirring up discontent among the troops.'" After several months of waiting around Woody said to the clerk, "Ship me somewhere else—anywhere!" The clerk explained, "But that would require us to explain why you're still here, and we can't do that."

Finally Woody asked a law school friend who was a judge advocate in the area to help him. As a result Woody was shipped to the New Hebrides. When he arrived, to Woody's surprise, his new commander said, "Boy, am I happy to see you!" But after some conversation Woody understood what had happened when the commander said, disappointedly, "You're not a statistician, are you?" The commander, in order to requisition another "statistician" transferred Woody again. The next commander on Banika was surprised that his "traffic engineer" was a lawyer. But then the provost marshal saw Woody's file and got him a T3 rating and a job as an investigator. After a while on Banika, Woody applied for Officer Candidate School and was accepted. New second lieutenants had a short life expectancy, but he was willing to do anything to get off Banika.

After OCS, instead of combat duty Woody was sent to Chinese language school at Berkeley, with the

prospect of fighting with Chinese guerilla troops behind Japanese lines. However, the war ended before he finished his training.

Out of the service in 1946 and back in Washington, D.C., Woody returned to the National Association of Manufacturers for a while and in January of 1947 he joined the law firm of Ernest Wilkinson, who was later to become president of BYU. For two years he helped Wilkinson directly in Indian claims litigation that lasted for many years, ultimately resulting in an unprecedented recovery of damages totaling tens of millions.

At an LDS Church meeting in Washington, D.C., in September 1946, Woody heard pretty red-haired Norrie Dolvin speak on the subject of love. Her face looked familiar. He had first seen her as he came into San Francisco harbor from duty in the Pacific. Her picture was to be seen three stories high on Telegraph Hill on a Marine recruiting billboard that said: "Be a Marine, Free a Marine for Combat." After seeing her face again and again on posters, he finally met this Marine sergeant, who was serving as secretary to the Marine Commandant. Their friends correctly thought they would make a good couple, both (as he said) "over age in grade."

When they flew to Salt Lake City in February 1947 to be married in the temple there, Woody telegraphed a friend, "Am marrying a Marine sergeant. Meet me in SL airport." When Woody and Norrie arrived, his friend nearly collapsed when a burly male Marine sergeant in uniform happened to step off the plane just ahead of Woody.

In 1949 Woody decided that the 18-hour days he was putting in with Ernest Wilkinson were good experience but he couldn't take it for life. He and Norrie decided to move to California, and Woody got a job in the district attorney's office in Ventura County, where he soon became chief criminal prosecutor. After five years an opportunity arose to be a part-time justice of the peace in Ojai and also engage in private practice. A year later he found himself working 18-hour days again and looked for a change. This time Woody went to Hawaii as part of the original faculty of the Church College of Hawaii (CCH) in Laie. Norrie and the children thought it would be a great adventure.

For two years at CCH (later BYU—Hawaii Campus) Woody taught English, Mandarin Chinese, speech, and drama. (He had been in a lot of amateur plays growing up in North Ogden.) It was a great life for the parents, but Woody and Norrie finally concluded that the family would be better off back in California. In 1957 Woody wrote to the district attorney in Ventura and was offered his old job back.

In 1962 he was appointed to replace the district attorney, and he was elected and reelected to that position unopposed until he resigned in 1973. He was known statewide as an unusually able trial attorney with a flair for the dramatic. He had the kind of courtroom presence that allowed him to leap up on

counsel table to demonstrate a stabbing without seeming affected. He was known as a tough but fair prosecutor. He served as president of the statewide prosecutor association and involved himself in numerous law reform projects.

While he was D.A. his office achieved a nearly incredible 98 percent conviction rate. When a young attorney asked if the rate was due to plea bargaining, Woody frowned and said, with hyperbole, "Boy, in this office we don't negotiate, we litigate."

A consummate advocate himself, he was also remarkably effective as a trainer of deputies. He often got the best new law graduates because of the training he offered. New deputies met during lunch hours for months to learn the skills they would need in court. They dreaded, but valued, the days when the D.A. would sit in the courtroom while they tried cases, filling his yellow pad with notations—"suit wrinkled, colored shirt, slurs address to jury, meaningless hand movement, echoes witness answers." But it wasn't only new attorneys he trained. He also offered in-depth critiques of the performances of experienced deputies. Many of the best trial attorneys in the area were trained by Woody Deem.

While these professional activities were going on, Woody and Norrie achieved recognition for their family. After seven years without children they began adopting through the Children's Home Society and ended up with eight, more than any other couple in Southern California. After the Deems adopted Paul in 1953, the agency was quick to arrange the adoption of Barbara, so that Paul would not have to be an only child. When they applied for a third child they were told to go away, but persistence brought them Noi Lani. When mothers giving up their children specified that they wished their babies to be reared in the LDS Church, the Deems were prime candidates. Through the years, David, Laura, John, Maria, and finally Matthew joined the family. The agency then said it would no longer accept applications from them. Of Woody, Norrie once said, "Before we married I watched him in church. He had every lady's baby on his lap and surrounded himself with children. He seemed to have an aura about him that calmed babies and children. He was always that way." The Deems were appreciated by more children than just their own. When they would run a flag up the pole in their yard the neighborhood children knew that they were welcome to come swim in the Deem pool.

The family was always active in the LDS Church, with both parents serving in many capacities. Woody served as bishop of the Ojai Ward for four years and in the Santa Barbara Stake presidency for nine years. He taught many youth classes and for six years he was scoutmaster. He loved the outdoors and his scouts looked forward to a 32-mile survival hike in the desert and a 50-mile hike in the mountains nearly every year.

When a new law school was planned at BYU, its president, Ernest Wilkinson, the former Washington

lawyer for whom Woody had worked early in his career, appealed to him to come help with the creation of the new school. It would mean giving up a satisfying career, some retirement benefits he had built up in California, a marvelous home with a swimming pool, acres of grounds, a horse, and balmy weather—and he was not much interested. But he did accept an invitation to give a talk at BYU. While he was there Dallin Oaks, the new president who had just succeeded Wilkinson, also urged him to join the law faculty that was being formed. Woody said, "I think I had better stay where I am. I've got a winning shop of 25 competent lawyers and a wonderful place to live." As Woody was finishing his talk, a secretary slipped a note on the lecturn, indicated that Marion G. Romney, the Second Counselor to the President of the LDS Church, would like to meet with him. In that meeting Mr. Romney said, "Tell me about this good life you have in California." He also said, "We are not making calls to professors for the new law school, but we do want to make you aware of the opportunity. I would like you to go back to California and make two lists, one list of reasons you should stay in California and another list of reasons you should come to BYU." Woody did and decided to move once more.

In Provo the Deems bought a home just a few hundred yards from the law school, across the street from a park, and the ten Deems filled it with people, activity, and love.

Woody's long experience in criminal law led him to teach courses at BYU concentrated in that area—always substantive criminal law, criminal procedure, and criminal trial practice, and in spring term sometimes post-conviction remedies or juvenile justice.

One of his innovations at BYU was the videotaping of students in their first-year classes as they would present cases and respond to questions. Despite the enormous commitment of time required, Woody would review each student's performance in his office after class. The evaluation of these performances became part of the course grade. The upper-class criminal trial practice course was also his idea, and he recruited me to join him in developing and teaching it. In that course each student performs approximately 25 times on videotape during the semester, each time being reviewed by a faculty member or a teaching assistant. I think no other such course in the country approaches that amount of on-camera, individually reviewed time. Woody also developed his own teaching materials in Criminal Law and Criminal Procedure. He was the one member of the faculty who most strongly fostered and best exemplified the forensic skills an effective trial lawyer needs. Law enforcement and prosecutor groups called on him often as a lecturer.

Woody had other interests. He was coauthor of Ernest Wilkinson's biography, and in retirement he pursued work on a biography of the great Ute Indian Chief Ouray, though he was unable to complete that project before his death.

As the bishop of a ward organized specifically for

unmarried young adults, he was capable, concerned, and loving—the same characteristics he showed in the Law School and at home.

No faculty member was more eager to help students find employment. He made phone calls, wrote letters, even conducted interviews on videotape to send to prospective employers of his students. He was a great booster of individuals and institutions and ideas in which he had confidence.

Woody enjoyed playing the role of straight man to others' comedy, allowing himself to be teased for his interest in health foods and for his crime-fighter image, but the twinkle in his eye let everyone know who was really in charge. Fierce eyebrows shaded his eyes. He looked tough, but underneath there beat a marshmallow heart.

I remember what may have been the last time he was introduced to the entering class. The faculty sat in the front row, back to the students. When Woody's name was called he stood, turned very deliberately to face the students, scowled menacingly, and sat down. It was pure Woody Deem.

Woody was 17 years older than I, with much more experience in practice, but he never condescended. He treated me as his equal, as I believe he did everyone. He was a hardworking, effective teacher in the law school and with law enforcement and prosecutor groups, but I never saw a touch of vanity. I greatly admire and desire the traits of character he exemplified.

Woody had Parkinson's disease. He talked about retiring. I said, "Woody, you'll always teach here. When you're gone we'll have you stuffed and play recordings of your lectures." One day in the fall of 1983 his doctor said, "You've taught your last class," and I finished his classes that semester. In some sense I am a poor recording of many of his ideas. There will never be another quite like him, and we who have known the one and only Woody Deem will never be quite the same. BYU Law School has honored his name by creating the Woodruff J. Deem Professorship. Whoever takes that seat becomes heir to a great tradition.

*Reprinted from Brigham Young University Law Review, Volume 1989, Number 1.*

## A STUDENT REMEMBERS

*by Jim Parkinson*

IN the fall of 1973, 150 students and six faculty members met at the St. Francis of Assisi School, and the J. Reuben Clark Law School began. Among those six pioneering professors was Woody Deem. Tonight we officially announce the Woody Deem endowed professorship. An anonymous donor has pledged up to \$150,000 of matching funds for everything that we raise as an alumni group. Tonight when I talked to Reese Hansen, he informed me that we have had an

overwhelming response to solicitations for donations to honor Woody. We now have commitments of over \$75,000.

In the last 12 years there have been numerous solicitations for money for the Law School. Some of them have been successful, and others of them have not been quite as successful. But, Sister Deem, when I tell you that we have raised \$75,000—that eclipses by triple any single fund-raising effort of the Law School has ever done before. That result is not a tribute to Bruce Hafen's fund-raising ability; it is not a tribute to mine; it is a tribute to your husband, who was our professor. Woody Deem added something to the Law School that no other person in the legal community could have. Woody Deem was a father, grandfather, husband, Church leader, valedictorian of his law school class, attorney in private practice, prosecutor in Ventura County with a 98 percent conviction rate, and professor of law at BYU.

I remember him best as teacher. Woody Deem cared about what the students learned. He cared about how we thought. He cared about how we stood up and presented ourselves, how we spoke, how we dressed, how we gestured. And if we didn't do it right, Woody would take as much time as necessary to correct us.

I intentionally asked to be the only person on the professorship fund-raising committee from the class of 1976. I wanted to call all of my classmates individually, and I wanted to talk to them about Woody Deem. Over the last two months I have contacted 60 of them. Every classmate expressed not only a willingness to contribute, but they all had a story they wanted to share with me about Woody and why they felt good about him—many incidents underscoring his "all criminals are stupid" philosophy. I'll never forget the story he told about the criminals down in Southern California—how they might commit their first felony in Ventura county, but for the second one they go over to L.A.

Dean Hafen and I have been working together for the last year or so on different projects for the Law School. He called me up one afternoon and said, "Jim, I think we have what we have been looking for. We are going to have an endowed professorship in honor of Woody Deem. How do you think the students will react to that?" I was taken back by the emotions that flooded into my mind as I thought about Woody's great contributions that have made the Law School what it is today.

I remember the sacrifices that Woody and his family made. Woody Deem had a successful career in Ventura County; he had a home; he had a team of 25 lawyers working for him. He gave up retirement benefits to come to BYU. And why? Because Woody Deem wanted to give. He wanted to share his talents; he wanted to instruct; he wanted us on videotapes. (I get the feeling that he is going to critique this tonight.) He wanted to and had so much to give. I am so thankful that Bruce Hafen called me and said, "Now all of you who came to BYU to take, take from great men like Woody Deem,

have a vehicle to give back."

When I called those 60 people in my class, I started the conversation with, "Do you remember Woody Deem?" And then I said, "Woody is dying." I told them that in October we were going to have a banquet, and it was our hope and prayer that Woody would be with us, because those of us who learned from him, those of us who sat with the videotapes learning to become trial lawyers, wanted to honor him. And everybody was thrilled.

Early in September I learned that Woody Deem had passed away, and he would not be with us here tonight. It broke my heart. I think it is a tragedy that people who give so much to so many are not recognized and appreciated publicly during their lifetimes.

Woody Deem passed away, but his influence did not pass with him. When I start a trial, and when I answer "ready," when I select a jury through *voir dire*, when I take witnesses on direct and cross, and when I argue my case and give rebuttal, the principles of Woody Deem—not just what he taught me about technique but what he taught me about the spirit of trial advocacy—rise with me. Sister Deem, it is this generation of lawyers that your husband trained. And we love him for it.

Before Woody Deem passed away, he learned what we were doing for him. He wrote a letter dated April 26, 1988, to Dean Bruce Hafen.

*Dear Bruce*

*Your letter of April 11 announcing the creation of the Woody J. Deem Professorship in Law at the BYU Law*

*School came as a most pleasant surprise. It is difficult for me to put my enthusiasm into words. I am extremely honored to have my name connected with this valuable endowment. There is no end to its far-reaching benefits. Even law students not yet born will be able to benefit from its existence. We would like to have you keep in touch if there is anything we can do to help in this regard. Norrie is compiling a list of a few attorney friends in California and Hawaii as well as Utah who may be able to spread the word even if they can't contribute large amounts of money. It is most gratifying to be honored by one's peers for contributions made in life.*

*Thanks again, you have made my day, my year, and my decade.*

*As ever,  
Woody*

Woody was gratified to be honored by his peers. For me, Woody Deem has no peers. Tonight I would just like to tell you that people all over the country, and in particular Southern California, are raising money to honor your husband, Norrie. The Honorable John Hunter has done tremendous work for us in Southern California. We have committee members all over the country. And we just hope in this small way you can feel what we felt about your husband.

As I close, let me simply say, God bless Woody Deem, and God bless all of you.

*From a tribute delivered at the First Annual Law School Alumni Dinner in Salt Lake City, Utah, October 7, 1988.*

*To express appreciation for the outpouring of support of the Woody Deem and Terry Crapo professorships by alumni of the Law School, the faculty passed unanimously the following resolution of February 16, 1989.*

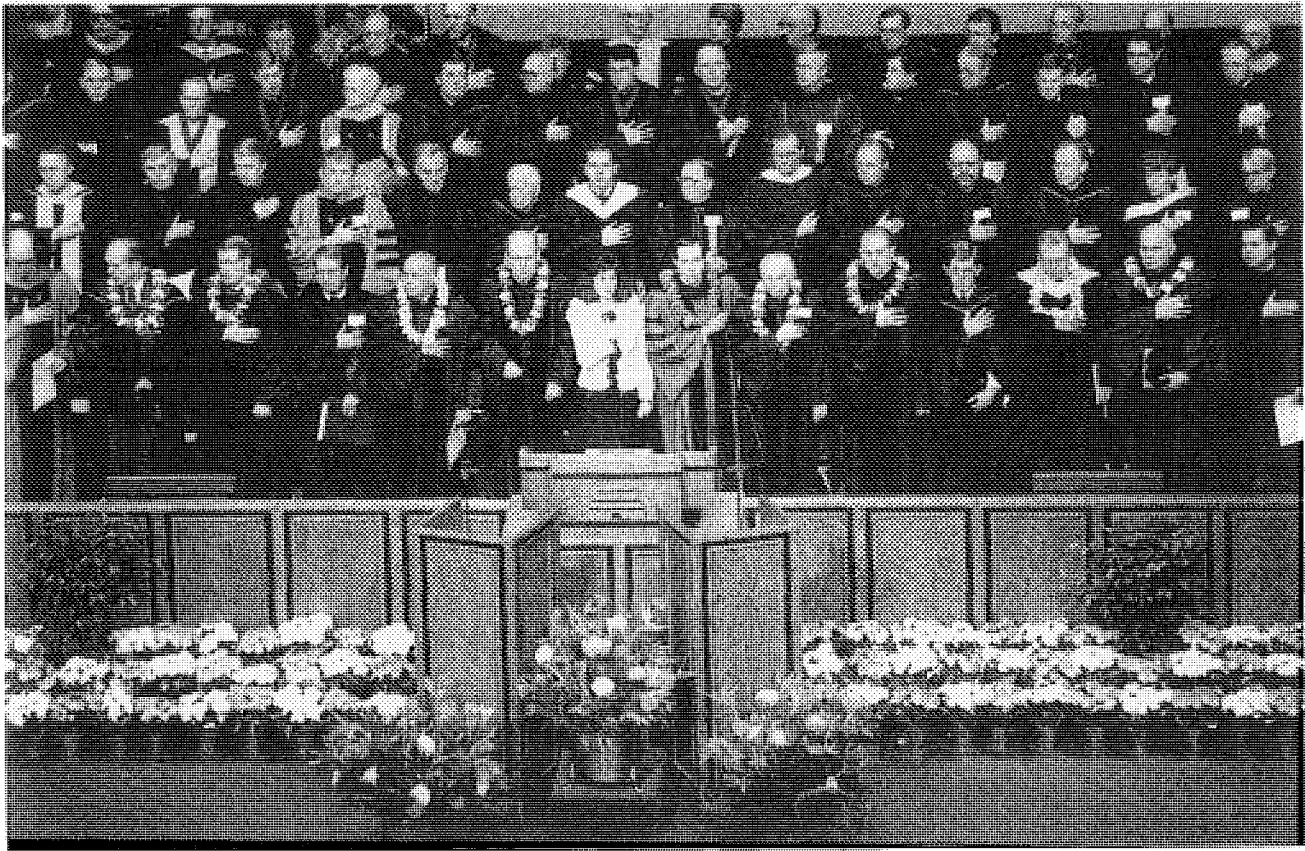
## **Resolution**

**Whereas**, the endowed professorships previously authorized by the faculty of the Law School in honor of Woodruff J. Deem and Terry L. Crapo have been approved by Brigham Young University and enthusiastically accepted by the alumni and friends of the J. Reuben Clark Law School; and

**Whereas**, the alumni of the Law School have pledged and contributed to both professorships within the last few months with an outpouring of support and generosity that exceeds any alumni drive we have experienced in the Law School's history; and

**Whereas**, the leaders and committees of the entire alumni organization and within each graduating class have been especially diligent and effective in achieving this unprecedented success;

**Now, Therefore**, the faculty of the Law School does hereby unanimously and with great appreciation commend all of the Law School's alumni and alumni leaders, in recognition of their remarkable response to our request for assistance in funding new professorships honoring our deceased colleagues, Woody Deem and Terry Crapo.



## Law School Administration Changes As Lee/Hafen Take the University Helm

**T**he Law School has recently experienced a rapid, extensive shift of people and positions. There is a new dean, Reese Hansen, a new associate dean, Constance Lundberg, and two new assistant deans, Scott Cameron and Hal Visick. The founding dean, Rex E. Lee, has crossed the "bridge" to the other side of campus, with the Law School's former dean, Bruce C. Hafen, to become the president and provost of the university, respectively.

### *Rex E. Lee*

Founding Dean Rex E. Lee has remained a constant force in the shaping of the Law School, and that treasured influence is not lost completely with his new position. Now the Law School must learn to share President Rex Lee with an even larger group than before. In a recent talk delivered to the BYU faculty and staff, Rex offered some insight into the changes being president of the university has created in his life and some contributions he wishes to make to the university.

President Lee found the best method for conveying his views was a question and answer format. He posed the question and then offered an illuminative

answer. President Lee said the responsibility of choosing individuals to help usher BYU into the decade of the 1990s has been his most important challenge. He stated that "my success as your president over the next few years will depend on having the right organization and the right people to fill the appropriate positions." His organizational method can be found in Jethro's advice to Moses about establishing order in exilic Israel. The outline is simple. There should be leaders of thousands, hundreds, fifties, and tens. The vice-presidents, deans, faculty, and departmental heads are those leaders.

The Lee administration has made two major structural changes, creating

positions for a provost and a vice-president for development and university relations. There was also some redistribution of responsibilities among the former three vice-president positions. The changes and reassignments do not reflect a dissatisfaction with the prior administration but are a response to the developing and evolving character of BYU as an institution. President Lee sees a need for a provost, for two individuals with university-wide responsibility.

Rex's response to the question, "Why a provost?" is that he did not find the metaphors of "being chewed up by the job" or "going under in a sea of detail" appealing. He heard

those metaphors frequently during his conversations with knowledgeable people. Lee feared that one individual being swamped with details would crowd out the attention needed for long-range issues and plans. He anticipates that sharing those responsibilities with Bruce Hafen will have a synergistic and positive effect. On his selection of Bruce as provost, Rex commented that "I picked him, very simply, because he is Bruce Hafen, and all of his experience, his understanding of undergraduate and graduate education and the stature he enjoys with the Board of Trustees, led me to the conclusion that these strengths far outweigh the fact that he and I share the same academic home base."

Rex felt it was important to discuss the other new position, vice-president of development and university relations. The issues that led to the creation of the position are relevant to the Law School community, too. Rex explains, "The creation of this position represents some matters of judgment that are important to all of us. With a dynamically expanding Church and with most of the new members coming from parts of the world where the need for funds significantly exceeds tithing and other contributions, it is obvious that if we are to continue and augment the momentum that we now have and become a 'great church university,' we must find additional resources." Church support will not disappear, but with additional funds for the university and Law School, the Church will be able to meet its many other demands.

On a more personal

note, the new president is often asked about what he has had to give up to be president. Despite the demands and constraints his new job imposes, Rex will still be making appearances before the United States Supreme Court. The arrangement with his former firm is that "they will write the briefs and I will do some of the oral arguments." There are many lawyers who would love such an arrangement.

Calming fears that this avocation will detract from his presidential duties, Rex said, "[P]reparing for oral arguments will be for me the most enjoyable possible use of my leisure time, and that is where the time will come from. The most appropriate analogy is this: If I were a violin player, I would surely not stop playing the violin once I became your president. And if once or twice a year I was told that by spending a few Saturdays and evenings practicing a particular concerto instead of playing golf or tennis I could perform at Carnegie Hall, I would surely do so."

President Lee also responded to queries about his health. He is in good physical health. He admits that his measuring rod for health may be different from most people. But by any standard his health is very good. He still makes quarterly cancer check visits back East and remarks that his energy level is not what it was two years ago, but then he has given up running in the Olympics anyway. His emotional health is excellent. This excellence is attributable to his wonderful family, the renewed zest for living, and the fact he likes his

new job. He gives it the "as interesting and attractive a job as I have ever had" rating. Considering his varied career, that is not a bad rating.

In summing up his views of the university's future, Rex made it apparent that the quest for excellence begun by the preceding administration will not be hindered, halted, or hampered. It is his desire to see BYU continue that quest and achieve new and remarkable heights. He cautions that the only brake on BYU's ascent will be if some lose sight of BYU's unique mission.

To illustrate his point Rex resorted to his famous circles diagram. Two circles, one blue circle representing all of BYU and one yellow circle representing all that other good universities do, are partially overlapped. The resulting green area is what BYU has in common with other good universities, that is, intellectual excellence and a superb program that educates students and prepares them for graduate and professional schools and employment. In this green area, while BYU is good, it can do better. President Lee contemplates no real barrier to our becoming the best.

BYU's uniqueness is in the yellow and blue areas, where BYU has nothing in common with other schools. The yellow represents what other good universities do that BYU has consciously chosen not to do—things not essential to any good university. Other universities do them because there is no particular incentive not to. On the other hand, the blue area represents what BYU does that

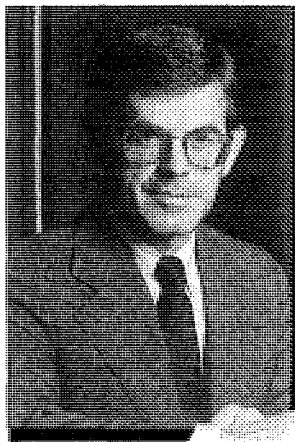
other good universities do not do, and this is where BYU's unique mission falls.

The key to understanding the diagram is realizing that BYU can only achieve its mission with the blue and green areas firmly melded into one. The faculty's continued quality teaching is essential. Also, the integration of gospel principles in teaching is not the responsibility of the people in the Joseph Smith Building alone. And the standard of technical or scholarly competence cannot be allowed to merely coast. Rex quoted his favorite philosopher, his son Michael, "Any time you want to start coasting, just remember that the only direction anyone has ever coasted is downhill."

Firm in his belief that the complexity of the universe itself can be explained in circles, Rex was content to leave his circle diagram and move to the challenges ahead. He will concentrate on cultivating an excellent faculty. Over the next ten years, approximately 33 percent of the faculty will retire, assuming retirement at age 65. Those faculty members must be replaced with people just as good or better. Rex views the faculty as the university. So, the selection of faculty in the coming decade will determine the quality of university there will be for years to come. Decisions on faculty will shape BYU's character, values, what will be taught and how, and the school's reputation. In addition, Rex wanted to acknowledge the support staff of the university and the non-LDS members of the faculty. The whole organization is required to produce the magic that is

BYU. Each individual contribution is valuable and helpful in accomplishing that effect.

In a wide appeal to faculty, staff, administration, students, and alumni, President Lee concluded, "A great future lies before us. I am not talking about 10 years from now. I am talking about right now. Will you join hands with me as we take this, our university, into the decade of the 90s, the gateway to the 21st century? We will do it just as it has always been done, the old-fashioned way, by working, living and doing, at this, the college that we love."



**Bruce C. Hafen**

Former Dean Bruce C. Hafen is excited, eager, and cautious about his new position as provost of the university. Apart from having to continually answer the question "What is a provost?" Bruce is busy learning about the varied and complex aspects of the job. A provost is not, contrary to popular belief, a position peculiar to universities located in Provo. Nor is a provost another vice-president of the university. Rather a provost coordinates the activities, duties, and responsibilities of all

the vice-presidents. Provost Hafen shares with President Lee the general responsibility for the smooth operation and constant progress of the university as a whole. Bruce finds his role more prominent within the BYU community than outside it.

In a way, the shared responsibility and teamwork between Rex and Bruce is reminiscent of the early days of the Law School. Then they were stepping into shoes they had never tried on before and figuring out ways to make a new institution work. Now he has moved to the university level, Bruce feels he is still learning new components of the university every day. One challenge he faces is rapidly gaining an accurate and useful perspective of the university's multitude operations. Other challenges include setting the wheels of the new administration running—two of the three vice-presidents are just as new to their assignments as the provost—and explaining why the university needs two lawyers in its first and second spots.

Bruce is still perplexed by the situation in which he finds himself. He first questioned the need for BYU to have a provost, and if there was a true need, he did not consider himself the one to fill it. He was very comfortable at the Law School and was satisfied with his life when the request for a change altered that serene life-style. He is a firm believer in the principle of rotation among leadership. He can see that this new opportunity will add scope and breadth to his experience and improve his abilities to teach and work with

administration when he returns to a nonadministrative position.

While reflecting on his experience as dean, Provost Hafen was impressed with the sense of commitment to the Law School from its alumni and friends. The commitment is not *just* a feeling of gratitude, but it is also a desire to be a part of an evolving institution by returning value for value received. "The Law School as an institution becomes a reflection of its constituency," remarked Bruce Hafen. "I have been fortunate to witness the Law School and its constituency grow in maturity and attain national worth in the legal community."

He observed that certain foundations of American society have been shaken and destabilized by the events of the past two decades. There is reduced commitment to family, profession, civic duties, and religious values. As a result of this shifting and shaking, BYU, because of its unwavering stand on a variety of social questions, has become more respected in the eyes of the world. Others are beginning to seek out that intangible something that BYU possesses. Consequently, Bruce has two concerns: (1) that the world will not take BYU and its institutions seriously or (2) that the world will take BYU seriously.

On two levels BYU and its students, faculty, and alumni shoulder a heavy responsibility. If BYU is not taken seriously it is because we haven't achieved a necessary standard of professional and technical competence. Such a failure is inexcusable for any university.

Accordingly, the entire BYU community needs to strive to go beyond the requisite level of technical and educational competence. This "we can do the job" ability is the first level of responsibility.

The second concern is that once the world does take BYU seriously it becomes critical that we not let our moral standards deteriorate or slip. This moral component is a large part of BYU's intangible something that is in some ways worth more than mere technical skill alone. As BYU's ethical reputation and pronounced religious character become more widely recognized, every member of the BYU community will be challenged to maintain his or her high level of moral courage and ethical fortitude.

Shifting to the more personal impact of the new position, Provost Hafen noted how a provost's work diet is purely administrative, whereas while dean he could achieve a balance of teaching, research and writing, and administrative duties. Although he retains his position on the Law School faculty, it will not be possible now or in the near future for him to be provost and teach. Bruce will miss the opportunity to teach at the Law School; it provided valuable student contact and the sense of helping to shape exemplary lives.

While it is exciting to see members of the Law School continue and advance in their careers, it is also with reluctance that Bruce gives up the close associations of the past. We, as a Law School community, wish Bruce and Rex success in their new endeavors.



### *H. Reese Hansen*

In a conversation with the *Clark Memorandum*, Dean H. Reese Hansen expressed enthusiasm and excitement about his new role at the Law School. He has noticed distinct differences between his duties as dean and those of associate dean. As associate dean, Reese felt much of his time was spent dealing with distinctly Law School community issues. Now, as dean, there is a redistribution and much time is spent in an ambassadorial role to a wider pool of interests and demands. Dean Hansen is encountering many more demands for public appearances and public-relations activities.

He has also noted a more active involvement with the university adminis-

tration than he had as associate dean. The realization of how the Law School fits into and coordinates with the rest of the university has been underscored.

Because a dean faces natural pull away from the day-to-day events of the Law School, Reese is determined to maintain contact and involvement with the student body. One way he achieves this goal is by teaching. He teaches because he loves to teach. He enjoys the challenge of distilling some element of knowledge, and he also enjoys the interaction that comes in a classroom.

Concerned for the Law School's future development, Dean Hansen has identified several key projects and programs that will receive substantial

### *H. Reese Hansen*

attention: (1) procuring additional professorships, a key to maintaining faculty excellence, (2) updating and developing useful major collections in the Law Library, and (3) capitalizing on some of the Law School's unique international strengths.

Reese also feels it is necessary to maintain the administrative manageability of the faculty and the Law School. Responding to questions about growth and expansion, Reese has said the current faculty size is optimal. Yet faculty recruitment is still vital to the academic health of the Law School, and Reese is confident the Law School will enjoy faculty successes similar to

those of the past.

Overall, the deanship has brought positive challenges and a new vigor to Reese. And he still attempts to get his daily running in.

### *Constance Lundberg*

With her appointment as associate dean, Constance Lundberg adds another facet to her varied and colorful career. An immediate change that she has noticed is that the workload has increased. She also has less control of her schedule, because she feels it is important to maintain an open-door policy. On certain days the door to Constance's office is revolving. The structured environment she maintained as a professor is gone. The time she sets aside to accomplish "need-to-get-done" tasks is 5 to 9 a.m.

The seemingly hectic aspect of the job is what Constance likes best, however. The variety and thrill of not knowing for sure what is coming next is what gives the "kick" for her. She finds that her new duties are more varied than either her experiences in teaching or practice. Her husband, Boyd Erickson, no longer asks her what she is going to do that day. Constance remarked, "This is definitely not a job for someone who has to feel in control."

She does find that her teaching responsibilities help provide some balance and stability to her life. She is currently teaching Property I and is enjoying being back with the first-year students.

"Teaching first-years is refreshing because they do not have the jaded attitude that can develop. They are freer. There is also a feeling

of real contribution to their development," observed Constance. Her contact with first-year students automatically makes one-third of the Law School student body more real and less merely names. That contact helps her to fulfill her role as associate dean.

Constance sees several issues facing the Law School. First, she feels the need for a wider diversity. Diversity is crucial to effective perspective in legal education. A parallel concern with diversity is the comfort level of the Law School's minority students (minority includes categories of race, gender, age, national origin, and culture). The consciousness of the Law School must be raised to help involve minority students as an effective component of the Law School community.

Second, the Law Library needs to be upgraded. A current inability to make requisite acquisitions could prove extremely detrimental if left unchecked. And third, Constance has a personal goal of finding a way to encourage law students to be whole, well-rounded individuals. She believes that individuals learn better when they are happy and fulfilled. Constance hopes to help students feel that way. She is convinced that this human side is critical for successful legal education.

#### **Scott W. Cameron**

Following a nation-wide search that attracted 91 applicants, Scott Cameron has been selected to replace Claude E. Zobell, Jr., as assistant dean of the Law School. Before his return to the Law School,



*Constance Lundberg*

Scott was serving as assistant superintendent of public instruction for the State of Utah. His first official day as assistant dean was November 1, 1989.

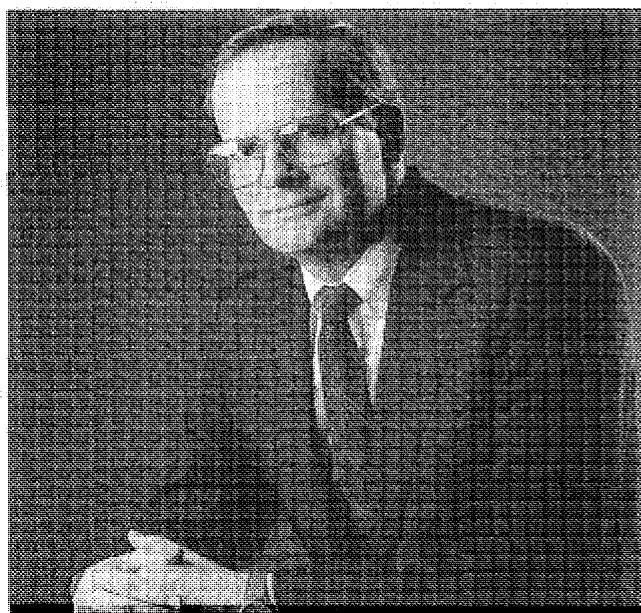
Scott is a charter class graduate of the BYU Law School (1976) and is enthusiastic about returning to help in student recruitment, development, and public relations. Before attending the Law School, Scott earned a bachelor's degree in English and a master's degree in education from Stanford University in Palo Alto, California. After receiving his master's, he spent two years teaching English at Ricks College in Rexburg, Idaho.

Following graduation from the Law School, Scott was associated with Backman, Clark, & Marsh in Salt Lake City, and in 1981 he became a partner of the firm. He continued the practice of law as a partner until 1987, when he entered public service with the Utah State Office of Education, where he was

jointly assistant superintendent of public instruction and federal liaison representative under Superintendent James R. Moss.

In 1976 Scott was admitted to the Utah State Bar and to practice before all United States District Courts of the Tenth Circuit. Active in community service, Scott has served as vice-president of the Utah Chapter of the National

*Scott W. Cameron*



Committee for the Prevention of Child Abuse, on the Advisory Committee of the Governor's Conference on Strengthening the Family (Utah), and on the board of directors of the American Cancer Society (Utah).

Scott is married to Christine Cannon Cameron, and they are the parents of six children.

#### **Hal Visick**

Hal Visick continues his long career of service at Brigham Young University with his appointment as assistant dean and director of the J. Reuben Clark Law Society. Hal recently returned from serving as mission president in the Illinois Peoria Mission, which includes Nauvoo. Before his mission Hal was general counsel and assistant to BYU Presidents Dallin Oaks and Jeffrey Holland.

After receiving his bachelor's degree from BYU in 1955, Hal attended George Washington University Law School, graduating with honors in 1963. He practiced law with the firm of Latham & Watkins in Los



*Hal Visick*

Angeles from 1963 to 1968 and as a senior attorney with the Ford Motor Company from 1968 to 1970. He was a partner in the law firm of Roberts, Carmack & Johnson for one year before coming to BYU as associate general counsel in 1971. He served as general counsel for 12 years before his mission. Hal was also affiliated with the Salt Lake City law firm of Ray, Quinney & Nebeker during his years as general counsel.

The Visick family connection with the Law School is not new. Hal and his wife, Else, have supported two of their eight children as students in the Law School: Jennifer (1983) and Christopher (1988). Hal has been working closely with the National Committee of the J. Reuben Clark Law Society in setting up new chapters and planning events. He commented that one of the most enjoyable aspects of his current position is being affiliated with the outstanding attorneys on the National Committee

## Howard W. Hunter Professorship Announced

**T**he Southern California Chapter of the J. Reuben Clark Law Society held its first gathering at the Los Angeles Hilton this past May 1989. The soir e fulfilled several functions. It was the kick-off social event for the chapter and an occasion to honor President Howard W. Hunter, President of the Quorum of the Twelve Apostles, and announce the Hunter Professorship established at the Law School.

The evening included an informal reception and dinner with the Hunter family. The master of ceremonies, John S. Welch, has been active in launching the Society in southern California. Mr. Welch serves as the chair for the Los Angeles Committee of the J. Reuben Clark Law Society. Also attending were the members of

the Orange County Committee, chaired by Stuart T. Waldrip.

After remarks by Dean Bruce C. Hafen and John S. Welch, Cree-L. Kofford and the Honorable J. Clifford Wallace paid tribute to and introduced Howard W. Hunter. The first meeting of the Southern California Chapter of the Society was an ideal setting for the tribute to President Hunter and the announcement of the Hunter Professorship. President Hunter practiced law and was a valued member of the bar in the Los Angeles-Orange County area before being called to serve as an apostle in The Church of Jesus Christ of Latter-day Saints.

Delivering the keynote address, President Hunter expressed gratitude to be "back home" in California and turned his remarks to the namesake of the Law Society:

"What a proud and fitting name this law school bears—J. Reuben Clark, Jr. He was a member of the First Presidency of the Church when I was called to be a member of the Council of the Twelve. President Clark will never be forgotten. He made a great impact on the Church with his wisdom, broad background, keen legal mind, and high achievements in law and diplomatic work. He was a prominent international lawyer, having served as solicitor for the U.S. State Department and as Undersecretary of State. In 1933, J. Reuben Clark was serving as United States ambassador to Mexico when he was called to be a member of the First Presidency.

"His life is a powerful example of what Jacob

meant when he said in the Book of Mormon, 'To be learned is good if they hearken unto the counsels of God' (2 Nephi 9:29). He was learned, both in the knowledge of the law and in the ways of government. Because he was a good man, his learning was a good thing. By therefore placing his learning and experience on the altar of unselfish service to the Church and to the spiritual welfare of other people, President Clark blessed us all."

Howard Hunter also focused on the role, image, and responsibilities of lawyers, a theme he has often addressed to Law School audiences. He stressed the value and need for attorneys with integrity "It seems to me that an organization of lawyers who believe in the view about freedom and law as expressed by J. Reuben Clark could be a great source of good for today's society, which seems increasingly racked with confusion and dissension. What a blessing it would be for the American people to be served by lawyers, both men and women, of whom it could be said, 'They are honest, good, and wise lawyers.' I believe that in these times, lawyers like this should be sought for diligently.

"Not only would lawyers of this kind bless the lives of their clients, but I also believe they would play an important indirect role by influencing our entire society to remember the conditional nature of the Lord's promise of freedom in this land."

President Hunter identified himself with John W. Davis' view:

"True, we build no

bridges. We raise no towers. We construct no engines. We paint no pictures—unless as amateurs for our own principal amusement. There is a little of all that we do which the eye of man can see. But we smooth out difficulties; we relieve stress; we correct mistakes; we take up other men's burdens, and by our efforts we make possible the peaceful life of men in a peaceful state." President Hunter encouraged Law Society members to fulfill the challenges and responsibilities that they had accepted.

He closed with a sincere wish that the Law Society everywhere could grow and meet with success—success of purpose, success of stature, and success of high ideals. He offered his commendation to those individuals so endeavored and his gratitude to those who had honored him.

## Justice White Addresses Students

Justice Byron R. White, associate justice of the United States Supreme Court, addressed an overflow crowd of law students in the moot court room on January 27, 1989. The justice had been invited to the Law School to preside over the final round of the annual second-year moot court competition.

Two members of the Law School's faculty—Rex E. Lee and Kevin Worthen—served as clerks to Justice White on the Supreme Court. The justice began his remarks with humorous tributes to both



men. He suggested that Professor Worthen was a markedly more proficient athlete than Professor Lee.

Reviewing the changes that have taken place on the Court since his appointment in the early 60s, Justice White commented that the major change has been in the personnel. Justice Brennan is the only justice still sitting on the court who was there

when Justice White was appointed and confirmed. "The arrival of a new justice on the court is a major event," he stated. "For the first year or two you know that this case or that case would have been decided differently if this replacement hadn't come along." These changes in personnel alter the outcome of the cases and also alter the approaches the Court takes

in making those decisions, according to Justice White.

Justices of the Court are often asked if they are too busy. Justice White answers no to that question. During his tenure on the court the number of signed opinions the court issues has grown by half. He believes that this increase in the number of opinions is attributable to the decrease in time allowed attorneys for oral

argument before the court. In the 60s each side was allowed an hour of argument before the Court. To expedite the easier cases, the court had instituted a summary calendar that allowed for only half an hour of argument per side. The experience with the summary calendar convinced the court that lawyers could do as well in half an hour as they were doing in an hour. The half-hour argument then became the rule. The time change allowed the court to hear twelve cases in a three-day period, rather than the eight cases per week they heard before the change.

Justice White is often asked if the Court is able to get the job done. When he began his service in the early 60s, the Court was receiving approximately 1,800 petitions for certiorari each year. The number of petitions the court receives each year is now closer to 4,500. Justice White is convinced that the Court is refusing to hear cases that would have been heard automatically in the 60s. Congress has the capacity to create additional appellate capacity, he said, but the issue is very divisive. The Court itself is split on the issue, as is the rest of the federal judiciary. Congress, according to Justice White, has taken the position that when the judiciary can get its act together, it will become involved.

According to Justice White, half the cases the Court hears each year are based on constitutional law issues. He commented that the framers of the Constitution intended this to be the result because they had not had a good

experience with the king or parliament. Although the idea of judicial review is not specifically mentioned in the Constitution, the extraneous writings of the framers leaves little doubt that they intended the judicial branch to exercise oversight authority over the other two branches of government. The justice discussed previous attempts to alter this system of judicial review, including President Roosevelt's attempt to pack the court in the 30s. According to Justice White, Roosevelt lost the battle, but he won the war. Over the years of his presidency, Roosevelt appointed enough justices to effect the most dramatic shift in decision making in the Court's history.

At the conclusion of his formal remarks, Justice White entertained questions from the audience. In response to a question on the appointment process of the federal judiciary, Justice White said that he would not make any changes. He felt that the process has worked well down through the years. "I can't imagine that there is anything wrong with the Senate concerning itself with how a judge is going to vote." According to the justice, judges make law all the time, the people have a right to participate in the process through their elected representatives in the Senate.

Another member of the audience asked, considering personnel changes that are always occurring on the court, what role *stare decisis* should play in its decision-making processes. Justice White responded simply, "A big role."

## Board of Visitors Comes to Campus

Since the J. Reuben Clark Law School opened more than 15 years ago, the winter semester has been highlighted by a three-day visit from the Board of Visitors. Board members include outstanding lawyers and legal educators from throughout the country who are invited to Provo to observe the Law School's educational efforts. Their visit helps the faculty and students measure their performance against the yardstick of an outside resource.

This past March the Law School Career Services Office arranged for several Board of Visitors members to participate in panel discussions and informal fireside talks. Topics included practicing law in the public sector, unique challenges faced by women in law practice, international law practice, and in-house corporate practice.

### *Practicing Law in the Public Sector*

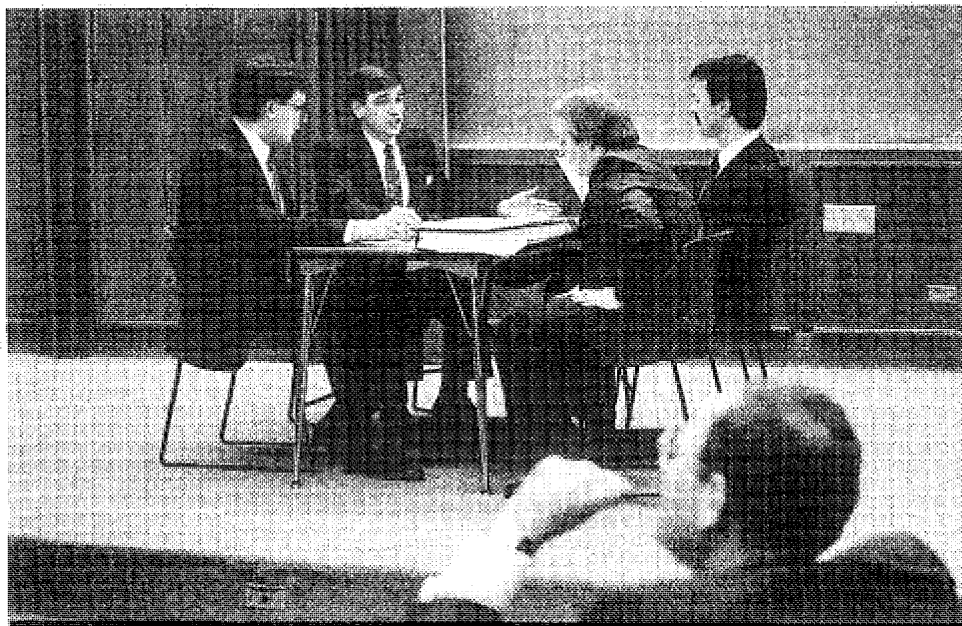
G. Kevin Jones, senior attorney/advisor at the Office of the Solicitor of the United States Department of the Interior and a 1977 graduate of the Law School, began the discussion on a philosophical note: "The practice of law in the public sector is a vital portion of this nation's development, and I believe that it helps to ensure the continuation of a free republic." He emphasized to the students that lawyers who enter this field must be "good people who will act as true servants to the public." Mr. Jones continued, "Although a public-

sector practice will never make you wealthy (a top salary after 30 years of experience will likely equal the starting salary of a new associate in a large law firm), this type of work offers intellectual challenge and diversity of practice."

Gay Taylor, general counsel to the Utah State Legislature and a 1980 graduate of the Law School, spoke of her decision to move from a traditional practice in a private firm to public sector work: "I appreciate trying to improve the law not just for one person, one client, but for a whole class of people." She also commented that she felt that she had more autonomy in controlling her personal and professional life. She explained that in her current position she can plan for her busy seasons (during and immediately after the legislative sessions). Ms. Taylor summarized her impressions about her career choice: "The salary is not great, but I feel that I am more than compensated by the personal satisfaction I gain from serving others and being in control of my life."

### *Unique Challenges Faced by Women in Law Practice*

Luisa Lancetti of Wilkinson, Barker, Knauer & Quinn in Washington, D.C., initiated the women-in-practice panel discussion by describing her life-style choices. She recalled the changes that had occurred in her professional life since the birth of her daughter. "In the old days—prebaby—I used to work long hours, late nights, and Saturdays. Now I work 45 to 50 hours a week, and I try not to go into the office on



Saturdays." She admonished the women law students to carefully examine the quality of life they desire before deciding what type of practice to pursue.

Cheryl Preston, then in-house counsel at First Interstate Bank in Salt Lake City (and now a member of the Law School faculty), discussed her experience in a judicial clerkship, with two large private law firms and in the legal department of a bank. She said that she is pleased to see the number of women in law school and in the profession increasing each year. She commented that since she has most often been in the minority as a female attorney, she has frequently felt like a "lightning rod." She explained, "There are so few women in the environment where I've worked that my actions can never go unnoticed." She advised, "If you're going to be that visible, you had better be sure that you're good at what you are doing."

Ed Hunter, managing counsel for Toyota Motor Sales, USA, Inc., observed

that because of the homogeneous student body at the BYU Law School, the students here should "reach out to expand their horizons and their understandings." He further encouraged the women present to acknowledge the foundation that they are building while in law school and then to create opportunities in all aspects of the legal profession for themselves

#### ***International Law Practice***

William F. Atkin of Baker & McKenzie in San Francisco, California, explained to the students gathered in the Moot Court Room that he had stumbled into what he is currently doing in practice. After being encouraged by a law professor to consider opportunities in international law, he accepted a job with the U.S. government that involved international trade. From that point, he went with a private firm dealing in international law.

Mr. Atkin told the group that when someone comes to him and states that he or

she wants to be an international lawyer, he corrects them, "No, what you want to be is a good commercial lawyer with experience in international transactions." He encouraged the students to develop skills that will allow them to readily spot issues and solve problems for international clients. He concluded by stating that "there are opportunities in international law out there. Pursue your interest consistently, and don't expect your dream job to be waiting for you behind the first door that you knock on."

#### ***In-House Corporate Practice***

Ed Hunter, managing counsel for Toyota, began his presentation by explaining the basic structure of a corporate legal department. He noted that legal departments in corporations are growing and practice there is as diverse as it would be in private practice. Mr. Hunter observed that although big firm practitioners make more money dollar for dollar than in-

house counsel, large corporations keep pace with market salaries. When asked about the hiring practices of corporations, Mr. Hunter answered that "most corporations are not equipped to give you the kind of training that you need just coming out of law school, so they usually hire laterally from firms." He encouraged students, when the time comes that they are prepared to do corporate work, to make a conscientious effort to get informed about the inner workings of the company that they wish to approach.

## **Public Servants Visit Campus**

Two outstanding public service representatives visited the Law School during 1989 winter semester. Malcolm Wilkey, ambassador to Uruguay during the Reagan administration, spent several weeks at the Law School in January after completion of his ambassadorial assignment and before becoming chairman of President Bush's ethics commission. And in late March Senator Christopher Dodd (D-Connecticut) spent several hours with law students as part of a visit with three departments on campus.

In addition to team teaching the Public International Law Course, Ambassador Wilkey frequently discussed his decision to enter public life and what that decision has meant to him over the years. During his public career, he has received six presidential appointments, including serving as a

United States Circuit Court of Appeals Judge.

In an open-forum address, Senator Dodd explained why he had opposed military funding to the contras in Nicaragua. During most of the Reagan administration, Senator Dodd was a principal spokesman for the opposition to military funding. He also spoke about his efforts to provide federal funding for child care. In this effort he had joined forces with Senator Orrin Hatch (R-Utah).

*Malcolm Wilkey*



## BYU Sponsors Seventh Annual State and Local Government Conference

In March 1989 a large group of attorneys, state and local government officials, and students convened at the Excelsior Hotel in Provo to learn the latest trends in political, civil, and criminal law. The event was the Seventh Annual State and Local Government Conference, hosted by the Government and Politics Society of the J. Reuben Clark Law School.

Scott Matheson, former governor of the State of Utah, was the featured luncheon speaker. He provided pointers on how to protect the power of local governments. He also encouraged local leaders to join with city and county leaders to strengthen positions of common interest and thereby become an effective "lobby" at the state level.

The keynote speaker for the criminal law section was Justice Christine Durham of the Utah Supreme Court. Justice

Durham encouraged the criminal bar to employ the Utah Constitution in trial arguments and appellate briefs. Recounting the history of the "new federalism," she listed examples of where an argument might be made for materially different outcomes under the Utah Constitution. Justice Durham instructed counsel to research beyond the case law and present historical policy arguments for a state constitutional resolution of issues, especially in criminal-law areas. She lamented the lack of law school courses and continuing education courses designed to acquaint young lawyers with state constitutional analysis.

Ms. Joan Watt, chief appellate counsel for Salt Lake Legal Defenders, addressed the group on ineffective assistance of counsel claims. This topic was timely, as the first ever Utah case to successfully advance an ineffective assistance of counsel claim was decided the same week by the Utah Court of Appeals. The Honorable Judith Billings, a judge of the Utah Court of Appeals, gave no-nonsense directions on the operation of that Court. She also provided valuable brief-writing suggestions.

The final session was a stimulating panel discussion on investigatory stops. The panel included Judge Gregory Orme of the Utah Court of Appeals, Loni F. DeLand, former Treasury agent and noted defense counsel (representing the Utah ACLU), Attorney General Paul Van Dam of the State of Utah, prominent defense attorneys Edward Brass and Fred Metos, and prosecutors Keith Stoney and James Taylor. Each panelist had extensive experience in search and seizure law. The panel was moderated by Utah Circuit Court Judge Lynn Davis.

The civil law session of the conference began with an update on actions by the 1989 Utah Legislature that affect state and local government. Presented by deputy city attorneys Steven W. Allred, Allan J. Moll, and Karl Hendrickson, this discussion was especially interesting because it was one of the first such discussions after the legislature adjourned. Richard Dalebout, Provo municipal council attorney, followed with an update on 1988-89

cases affecting state and local government. Issues before the court this year ranged from First Amendment questions to liability of public officials to zoning. Eugene B. Jacobs, professor emeritus of law at BYU, presented his ideas on ethics in government, warning officials to use care and cite statutes aimed at enforcing ethical behavior by government officials.

In the afternoon session Dale A. Whitman and Walter Miller discussed the constitutionality and legality of impact and linkage fees, giving pointers on drafting ordinances that would survive judicial scrutiny. Mr. Whitman was a visiting professor of Law at the Law School, and Mr. Miller is Sandy City attorney Richard S. Fox, John M. Gardner, and Larry R. Denham examined Security and Exchange Commission disclosure guidelines for state and local bonds, highlighting underwriter responsibilities.

R. Bruce Johnson, Maxwell A. Miller, and Bill Thomas Peters concluded the civil-law portion of the conference with an update on property tax. Mr. Miller pointed out the prolific litigation of state taxation of oil and gas production on Indian reservations. Mr. Johnson cited recent developments in Utah tax procedure, accenting the Uniform Property Tax Assessment and Collection Levy. Mr. Peters discussed other recent developments in property tax.

The goal of this year's political-law section was to explore some practical factors in the political process. Bud Scruggs, chief of staff for Utah's governor

Norman Bangerter and a graduate of the Law School, opened the session by describing a lawyer's perspective of the transfer from politics to government. The next presentation, by David B. Magleby and Dan E. Jones, addressed the legal and ethical controversies in election polling. Mr. Magleby, professor of political science at BYU, reviewed the constitutionality of exit polls under the First Amendment. Mr. Jones explained developments using public-opinion surveys as evidence in court.

The section then moved to a panel discussion on political action committees under the new Utah statute. The diverse panel included David D. Hansen, Utah deputy lieutenant governor, Ed Mayne, president of the Utah AFL-CIO, Joseph A. Cannon, president of Geneva Steel, Betsy Wolf, president of Common Cause for Utah, and Pat Iannone of the Utah Realtors Association. The day's presentations concluded with an election-initiatives panel, with attorney James S. Jardine, Utah lieutenant governor Val Oveson, and Utah County Clerk William F. Huish.

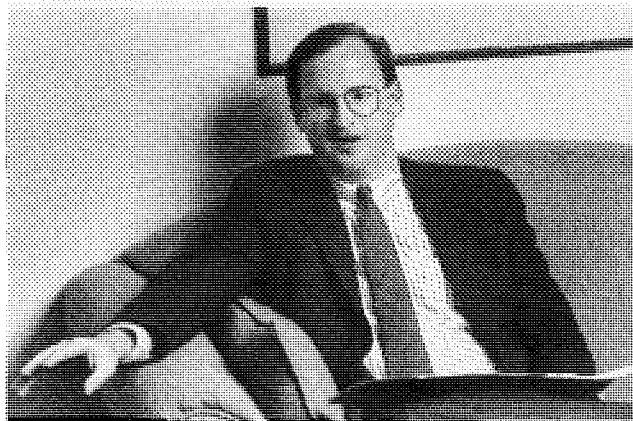
The annual conference is rapidly becoming one of the area's most popular conferences on government and politics. BYU Law Professor Eugene B. Jacobs is the advisor to the Government and Politics Society and is the founder of the annual seminar. The law firm of Ballard, Spahr, Andrews & Ingersoll and the Government Law Section of the Utah State Bar also sponsored this year's conference.

## Graduate Completes Term As Young Lawyers' President

**U**nder Jerry D. Fenn's recently completed tenure as president, the Young Lawyers' Section of the Utah State Bar has experienced tremendous growth in programs and public service projects. The section offers numerous opportunities for its nearly 2,000 members to participate in public service projects. New programs under Jerry's leadership included: the publishing of a legal information pamphlet for graduating high school students entitled "On Your Own"; the People's Law Program, a series of classes on the

The section also offers a program at public libraries entitled "Law School for Nonlawyers," distributes the "Utah Senior Citizens Handbook," and provides lectures in senior citizens' centers on legal topics of interest to the elderly. In addition, the section helps young lawyers develop professionally through continuing legal-education classes at the annual meeting of the state bar, brown-bag luncheons featuring judges and prominent practitioners as speakers, and an annual survey on lawyer compensation. Jerry will continue on the executive council of the section for another year.

Jerry Fenn, class of 1983, is a multifaceted individual in both his professional and personal life. He practices with Snow, Christensen, & Martineau, and



law offered through Salt Lake Community Education; law-day fairs, where people at six shopping malls across the state could obtain basic legal information; and the law for the clergy project, which included the publishing of an informational pamphlet on legal issues for clergy and the sponsoring of seminars for clergy on legal issues.

In addition to his recently completed service as young lawyer's president, he is vice-chairperson of the Utah Alcoholic Beverage Control Commission, and is on several committees of the Young Lawyers' Division of the American Bar Association. Jerry is also a lapidary and an amateur actor who recently played Harold Hill in a local production of *The Music Man*.

## Graduate Named Dean of Capital University Law School

**R**odney K. Smith, a 1977 graduate of the Law School, was appointed dean of the Capital University Law School in Columbus, Ohio.

A graduate of Western Colorado State College, Dean Smith obtained LL.M. and SJD degrees from the University of Pennsylvania Law School after receiving his juris doctor at BYU. He was serving as a visiting professor at the University of San Diego School of Law before the new appointment.

Capital University President Josiah Blackmore stated, "Rodney Smith brings to Capital an excellent record and strong commitment to legal education and scholarship. I am confident that Dean Smith will make a significant contribution to the continued growth of our law school and university."

Smith's appointment followed a nationwide search that began after Blackmore, the former Law School dean, was named president in 1988. Founded in 1966, Capital University's Law School serves almost 700 students each year through its day and evening programs.

Smith holds honorary memberships in the Order of the Coif and the Board of Barristers. His expertise is in constitutional law, sports law, and American legal history, and he has taught at the University of San Diego School of Law, Widener University, and the University of North Dakota. He has also written

three books and many articles and is currently working on two new books.

After graduation from BYU, Dean Smith began his legal career in Bishop, California, where he served as city attorney from 1979-81 and then as a partner in a small law firm

## Dominguez Joins Faculty

**D**avid Dominguez has joined the faculty of the Law School as an associate professor. He comes to legal education from being assistant to the provost at the University of California, Berkeley

A 1980 graduate of Boalt Hall School of Law, University of California, Berkeley, Professor Dominguez began his legal career as a trial attorney for the National Labor Relations Board. While working with the NLRB he litigated many unfair labor-practice charges and negotiated and settled several complex labor and management disputes. He also worked part-time as an instructor at UC-Berkeley, where he created and taught special noncredit courses that introduced minority pre-law students to legal reasoning and the study and practice of law.

In 1988 he left the NLRB to accept the position of assistant to the provost at Berkeley. His assignment included analysis of student retention strategies and design of the 1989 Chicano/Latino conference on educational empowerment. He established a student, staff, and faculty committee to inspire student

achievement and leadership, and he served as the advisor to the *Berkeley Undergraduate Journal* and to the Minority Pre-Law Coalition, which has more than 300 members.

Professor Dominguez graduated *cum laude* from Yale University in 1977 with a bachelor of arts degree in religious studies. At the Law School he is teaching Criminal Law I and II, and coteaching Negotiations and Labor Law.

Commenting on the addition of Professor Dominguez to the faculty, Dean Hansen stated: "Professor Dominguez represents an unusual combination of academic ability and professional experience. His years with the NLRB and his vast experience in minority issues will be beneficial to our students as we work to enhance the curriculum and diversity of the student body."

## BYU Team Repeats Win at Spong Moot Court Competition

**F**or the second time in three years a moot court team from the J. Reuben Clark Law School has won the William B. Spong, Jr., Moot Court Tournament sponsored by the Marshall-Wythe School of Law, College of William and Mary in Williamsburg, Virginia.

This year's winning team members were Eric Adair from San Jose, California; Charlotte Wightman from Pullman, Washington; and Steven Ellsworth from Provo, Utah. Other schools

participating in the annual competition included New York University, University of Southern California, University of Virginia, De Paul University, George Mason University, and the University of Maine.

The members of the team prepared a brief and presented oral arguments on a case involving limitations on federal government employees' First Amendment rights to petition and divulge information to Congress. The alleged violation of the constitutional right raised the question of the appropriateness of a Bivens-type remedy.

## Law Student Wins Writing Competition

**K**enneth R. Wallentine, a member of the class of 1990, recently won the American Bar Association's annual writing competition. His article was chosen over 47 other finalists.

Mr. Wallentine's paper was entitled: "Wilderness Water Rights: The Status of Reserved Right After the Tarr Opinion." The paper will be published in the Law School's *Journal of Public Law*, where Mr. Wallentine serves as editor-in-chief. The paper addressed problems surrounding water rights for federal wilderness areas and the impact of those rights by the Tarr opinion.

Following his selection Mr. Wallentine commented in the *Daily Universe*, BYU's student newspaper, that he had spent a semester writing the paper—around 220 hours.

Wallentine was also recognized by the American Bar Association last spring for other writing he has done, and he has published articles on employment law and constitutional law.

## Library Gift Honors Drew Hawkins

**T**he BYU Law Library recently received a gift of \$500 from Boyd J. (Class of '87) and Felicia Hawkins in memory of their son Drew, who passed away while Boyd was in law school.

Boyd and Felicia helped select the 18 titles that were purchased with the gift; each will bear a commemorative bookplate. The donation was Boyd and Felicia's way of thanking professors, staff, and fellow students who were so generous and thoughtful to them during their years in law school.

Drew was a law school baby, born during fall semester of Boyd's second year. At the time of his birth, law students donated ten to twelve units of blood to Felicia, who had experienced serious difficulties. Thirty-seven days before Boyd's graduation, Drew died of sudden infant death syndrome.

After graduation Boyd joined Davis, Graham & Stubbs in Salt Lake City. He then returned to Utah Valley where he was employed as corporate counsel for Murdock Health Care in Springville. He has since returned to Salt Lake City, where he works for Bonneville International. In February 1989 Felicia gave birth to a baby girl.

## Preston Receives Faculty Appointment

**C**heryl Bailey Preston, a 1979 graduate of the J. Reuben Clark Law School, has joined the faculty as an associate professor and resigned as vice-president and legal counsel for First Interstate Bank of Utah in Salt Lake City.

Her legal experience since graduation has been

Section 2041 to Testamentary Powers of Appointment Held by Incompetent Decedents." She was named a J. Reuben Clark Scholar, an honor that was bestowed on the top 10 percent of each graduating class. Also, for being the top student in her torts and criminal procedure classes, she received the Lawyer's Cooperative Publishing Company Book Award.

Using a presidential scholarship she obtained her prelegal education at BYU, graduating *summa*



geographically varied. She began her legal career as a law clerk to Judge Monroe G. McKay of the United States Court of Appeals for the Tenth Circuit. After completion of this prestigious clerkship, she joined the tax department of O'Melveny & Myers in Los Angeles, California, where she worked for three years before accepting a position with the Salt Lake City office of Holme, Roberts & Owen.

While in law school she served as note and comment editor of the *Law Review*, and wrote an article entitled "Federal Estate Tax: A Possible Exception in the Application of I.R.C.

*cum laude*. She also worked as a teaching assistant in the History Department.

Her civic interests include membership in Utah Lawyers for the Arts and Women Lawyers of Utah, Inc., and she is also a member of the Primary Children's Medical Center deferred gifts committee.

"We are truly grateful to have Ms. Preston return to the Law School," Dean Hansen commented. "She has been a great friend of the school since graduation and has substantially assisted us in an advisory capacity over the years. We look forward to using her talents full-time.

## Faculty Notes

### Jean W. Burns

Since her appointment as associate professor, Jean Burns has been busy teaching Commercial Law I, Commercial Law II, Antitrust, and Conflicts. During the summer of 1988 she taught consumer law at the University of Utah—proving that the Law School doesn't mind sharing talent. Last year she was selected outstanding teacher of the year by the second- and third-year students. Professor Burns has recently published the article "Standing and Mootness in Class Actions: A Search for Consistency," *University of California-Davis Law Review*, 1989. Another article, "Rethinking the 'Agreement' Element in Vertical Antitrust Restraints," will be published in the *Ohio State Law Journal* in 1990. She has also provided service and time in the American Inns of Court, extending her commitment to professionalism in the legal community beyond the walls of the classroom.

### W. Cole Durham, Jr.

Cole Durham continues to enjoy the variety of his teaching responsibilities and his contact with students. He teaches Criminal Law, Legal Writing, a first-year Professional Seminar, Introduction to Contemporary Legal Theory, Church-State Seminar, and team-teaches various comparative and international law seminars.

He is the author of numerous articles and

other publications, including "Religion and the Criminal Law: Types and Contexts of Interaction," in *The Weightier Matters of the Law. Essays on Law and Religion*, (J. Witte & F. Alexander, eds., 1988); "Reminiscence of Dialogue: Beyond the Papers of the Freiburg Conference," *2 Rechtfertigung und Entschuldigung: Rechtsvergleichende Perspektiven* (A. Eser & G. Fletcher, eds., 1988); "Comparative Law in a Rhetorical Key," appearing in the *Harvard Law Bulletin* in 1988; "Foreword: Comparative Law in the Late Twentieth Century," in the 1987 *BYU Law Review*; and "Indian Law in the Continental United States: An Overview," *2 Law and Anthropology Internationales Jahrbuch fur Rechtsanthropologie* 93 (1987).

As faculty advisor to the International and Comparative Law Society, Cole has organized some very successful symposia, covering topics such as trade with China and the new Trade Bill (H.R. 4848). He serves on the board of editors for the *American Journal of Comparative Law* and was recently elected secretary of the American Association for the Comparative Study of Law. He is also an executive board member for the Church/State Center at De Paul University and a member of the National Advisory Board for the Center for Constitutional Studies. In the BYU community Cole's impact is seen in the quality of forums brought to the campus. He is a member of the BYU Forum Committee, which is responsible for selecting and inviting Forum speakers.

**Larry C. Farmer**

Since his return from Harvard and his work there on the Computer-assisted Practice System (CAPS), Professor Farmer has been involved in instructing BYU students about the use of CAPS, teaching Legal Interviewing and Counseling with Constance Lundberg and presenting the seminar Law and Social Sciences. He has not abandoned the CAPS project he set up back in Massachusetts. Larry commuted to Harvard Law School during 1988 to teach a brief, intensive CAPS course there. One of his papers, "A Method for Studying the Interviewing and Counseling Function of Lawyers," was presented at the AALS Section on Clinical Education Conference at the University of New Mexico Law School in October of 1987. The paper was written with Constance Lundberg, who also attended the conference.

**J. Clifton Fleming, Jr.**

Mr. Fleming is the one dean who did not change his position this year. He remains the associate dean responsible for faculty development, teaching assignments, curriculum, academic counseling, and Board of Visitors. This year Dean Fleming is teaching Tax I and Combining and Reorganizing Corporate Businesses.

He recently published "Domestic Section 351 Transfers of Intellectual Property: The Law As It Is vs. The Law As The Commissioner Would Prefer It to Be," 16 *Journal of Corporate Taxation* 99 (1989) and the 1988 supplement to this Shephard's/McGraw Hill treatise "Tax Aspects of

Buying and Selling Corporate Businesses." He continues to work on a second Shephard's/McGraw Hill treatise dealing with the federal tax problems of closely held corporations.

Outside the Law School, Dean Fleming is actively involved in the ABA Tax Section, serving on the Corporate Reorganizations Subcommittee and the Committee on Teaching Taxation (vice-chair designate of the committee and chair of the Program Planning Subcommittee). He was recently appointed to the Tax Advisory Group of the American Law Institute.

**Michael Goldsmith**

Professor Goldsmith teaches Evidence (still giving exams that mentally challenged rhesus monkeys should be able to pass), Criminal Procedure, RICO, and Complex Crimes and Investigations. He has recently published several articles: "RICO and 'Pattern': The Search for Continuity Plus Relationship," 73 *Cornell Law Review* 971 (1988); "Civil RICO, Foreign Defendants, and 'ET,'" 73 *Minnesota Law Review* 1023 (1989) (Coauthored with Vicki Rinne); "RICO and Enterprise Criminality," 88 *Columbia Law Review* 774 (1988); and "Plea Bargaining Under the New Federal Sentencing Guidelines," 3 *Criminal Justice* 3 (1988). He functioned as the coordinator for the "ABA RICO Jury Instruction Project," 1987 *BYU Law Review* 1.

Professor Goldsmith has lectured to law enforcement officials in Colorado, Georgia, Hawaii, Louisiana, Kentucky, Utah, Pennsylvania, Mississippi,

**James D. Gordon III**

Florida, Arizona, California, and Washington, D.C., on RICO, asset forfeiture, and complex investigations. As part of his ABA duties, Goldsmith is a member of the Criminal Justice Section, the White Collar Crime Committee, vice-chair of the RICO Committee, and on the editorial board for the *Criminal Justice Magazine*. He also is on the advisory board for the *RICO Law Reporter*. Professor Goldsmith has testified on RICO reform before the House and Senate Judiciary Committees of the United States Congress.

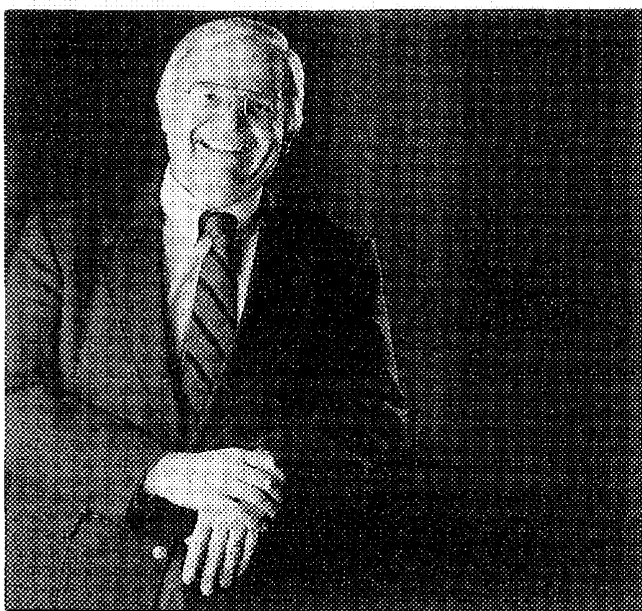
**James D. Gordon III**

Students continue to enjoy the fresh and creative teaching style of Professor Gordon. He is responsible for instilling wisdom in Contracts I, Contracts II, Legal Writing, Securities Regulation, and Professional Seminar. On the other hand, he says that wisdom is not all that it is cracked up to be.

Jim is the author of recent articles entitled "A Dialogue about the

Doctrine of Consideration," *Cornell Law Review* 1990 (in press); "Flying into Blue Sky: Aircraft Leasebacks As Securities," 35 *UCLA Law Review* 779 (1988); and "Common Enterprise and Multiple Investors: A Contractual Theory for Defining Investment Contracts and Notes," 1988 *Columbia Business Law Review* 635. He has also written educational pieces: "An Integrated First-Year Legal Writing Program," *Journal of Legal Education*, and "Teaching Parol Evidence," which has been submitted for publication. He has coauthored with David Magleby "Pre-Election Judicial Review of Initiatives and Referendums," 64 *Notre Dame Law Review* 298 (1989).

Professor Gordon served on the BYU Off-Campus Housing Arbitration Board, providing his even-handed sense of justice and his humor. The *Clark Memorandum* proudly hails the completion of his book, *How Not To Succeed in Law School*.



### Stanley D. Neeleman

Professor Neeleman has returned to the Law School and is currently teaching Business Associations, Tax II, Professional Seminar, and Tax Planning for Individuals. He spent last year with the Internal Revenue Service as professor-in-residence and assistant to the commissioner. More recently, he presented papers at the Philadelphia Tax Institute, the University of Denver Tax Institute, and the Salt Lake Estate Planning Council Fall Tax Institute.

Stan has served as chairman of the Utah Bar Tax Section and director of Utah Lawyers for the Arts. He is also a member of the Governor's Task Force on Individual Tax.

### Richard G. Wilkins

Richard Wilkins is teaching Civil Procedure I, Civil Procedure II, Constitutional Law II, and Civil Rights Actions. He is the author of recent publications: "The Takings Clause: A Modern Plot for an Old Constitutional Tale," 64 *Notre Dame Law Review*

### Stanley D. Neeleman

1 (1989); "An Officer and an Advocate: The Roles of the Solicitor General," 21 *Loyola Law Review* 1167 (1988); and "Search and Surveillance: Defining the Reasonable Expectancy of Privacy," 40 *Vanderbilt Law Review* 1077 (Oct. 1987). In 1988 the Criminal Practice Law Review republished his "Search and Surveillance" article.

Not limiting his work to solely the classroom or research, Richard, with Professor Lynn Wardle, drafted an amicus brief for the Missouri State Legislature for *Webster v. Reproductive Health Services*, \_\_\_\_\_ U.S. \_\_\_\_\_, 109 S.Ct. 3040 (1989). Professor Wilkins also participated in a moot-court program in Washington, D.C., sponsored by the National Association of State Attorneys General. He prepared and presented a mock oral argument about a state constitutional issue and then was part of a panel discussion on the same issue.

Richard also served on the BYU Off-Campus

Housing Committee. In the spirit of civic duty, he has presented various lectures on abortion and the U.S. Constitution to church and civic groups throughout northern Utah. He continues to be an active and talented actor, performing in many local productions.

### Gerald R. Williams

Professor Williams continues developing his interest in negotiations and dispute resolution by teaching Legal Negotiations and Settlement, Remedies, and Alternative Dispute Resolution. Besides teaching classes on the above subjects, Professor Williams is frequently invited to present papers or workshops to various groups of attorneys and judges on negotiation and dispute resolution.

Some presentations that he made during the past two years include "Negotiating Patterns: A Behavioral Perspective," presented to the Sloan School of Management, Massachusetts Institute of Technology; "The Role of Syncretical Thinking," also presented at MIT; "Creating Value in Negotiations," an interactive presentation to the CPR Legal Program Annual Meeting in Seabrook Island, South Carolina; and "Negotiating Development Projects on Behalf of Third World Countries" for the International Development Law Institute in Rome, Italy.

At the request of the American Arbitration Association and the Northwest Center for Professional Education, the paper "The ADR Dynamics of Lawyer-to-Lawyer Negotiation" was presented in Washington, D.C. Also in

Minneapolis, Minnesota, he presented to the American Society of Trial Consultants a paper entitled "Negotiation: Theory and Technique." Gerry is often invited to law firms and corporate law departments to give seminars on negotiations.

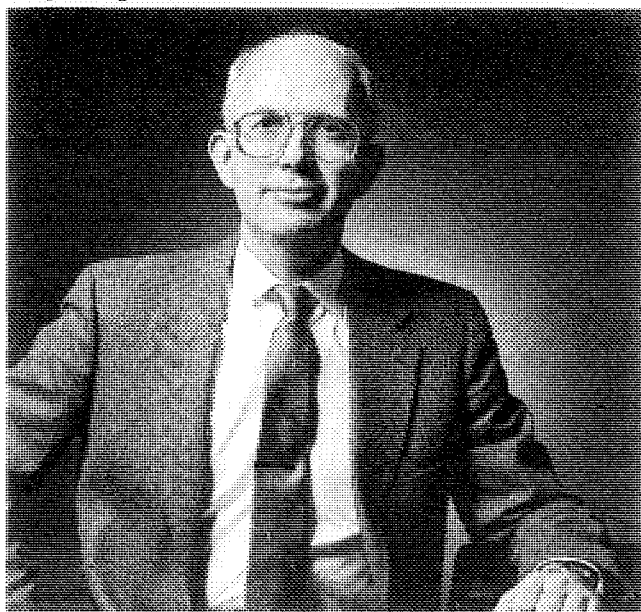
Professor Williams was recently appointed to the American Bar Association Standing Committee on Dispute Resolution. He is also the chair of the Alternative Dispute Resolution Programs and Policies Advisory Committee for the Utah Law and Justice Center. He is a member of Academic Advisory Board for the Center for Public Resources in New York City. For BYU Education Week in Provo on August 15, 1988, he taught a seminar titled "How to Negotiate with Russians, Lawyers, and Other Worthy Adversaries."

### Stephen G. Wood

Stephen Wood teaches courses in four different areas at the Law School: administrative law; comparative law; labor law, including collective bargaining, employment discrimination, and workplace safety and health; and international business transactions. He is professionally active in all four areas. In the American Bar Association's Section of Administrative Law and Regulatory Practice, Stephen is council member for state administrative law, a vice-chair of the Task Force on Federal/State Administrative Relations, and a vice-chair of the Task Force for a Center of State Administrative Law. He is immediate past-chair of the Administrative Practice Section, Utah State Bar.

Professor Wood and two of his former students, Don Fletcher and Richard Holley, recently published an article entitled "Regulation, Deregulation and Reregulation: An American Perspective" in the *BYU Law Review*. Professor Wood is a member of the board of directors of the American Association for the Comparative Study of Law. He is a regular participant in the Council on Education Management's Personnel Law Update, making presentations on "Expanding Issues of

entitled "Flexible Working Hours: A Preliminary Look at the Phenomenon of Flexibility in the American Workplace" that will be published in the *American Journal of Comparative Law*. Working with Chong Liu, a Chinese student attending the Law School, he has written an article that contains the first English translation of the recently enacted Law of Administrative Procedure of the People's Republic of China and a commentary on the provisions of that Law.



Privacy in Employment: Drug Policies, Personnel Relationships, Searches, and Beyond" in 1988 and "Age Discrimination and the Middle Management Squeeze" in 1989.

He is a consultant to the United States Department of Labor and recently was an arbitrator in a dispute involving the Granite School District in Salt Lake City. He enjoys the opportunity to work with law students on advanced projects. He and Alan Sevison, a third-year student, have just completed an article

*Steven G. Wood*

Professor Wood has been particularly active in the international arena. He played a key role in creating the interdisciplinary International Trade Policy course that the Law School offers jointly with the Kennedy Center for International Studies and the Marriott School of Management. He and professors Durham and Riggs are offering several Europe 1992 seminars this year. He was host for two visits from the People's Republic of

China, the first from a delegation of 10 deans and vice-deans from leading law schools; the second from Jia Changcun, senior official of the Bureau of Legislative Affairs of the State Council.

## Class Notes

### *Douglas A. Taggart '78*

Douglas is now with the Ogden, Utah, office of Vancott, Bagley, Cornwall & McCarthy. He practices in business, estate planning, taxation, real estate, and insurance. Before joining the firm, Douglas worked for Beneficial Life Insurance Company and in the office of the Legislative Research and General Counsel. He is on the editorial board of the Utah Bar Journal and serves as a member of the Legislative Affairs Committee of the Utah State Bar. He has, among other calls, served as a seminary teacher and in two bishoprics.

### *Michael Harrison '79*

After graduation from the Law School Michael joined Frandsen, Keller & Jensen, a small general-practice firm in Price, Utah, where he has remained. He served as a bishop from 1984 until 1989 and is currently a member of a stake presidency.

### *Darryl J. Lee '80*

Darryl joined the law firm of McKenna, Conner & Cuneo after graduation from law school and worked in both their California and D.C. offices. He left the firm to join Morton Thiokol, Inc. With Thiokol he was initially responsible for the legal matters for all

Utah-based divisions. He was recently promoted to the position of vice-president for legal affairs and group counsel for the entire aerospace group. He is headquartered in Ogden, Utah.

### *Bruce N. Lemons '80*

Following graduation, Bruce took flight to the then booming, and now stagnant, Denver area and began practicing with Holme, Roberts & Owen, where he is now a partner. Bruce's practice is principally in advising corporate clients about the federal income tax aspects of prospective transactions. In the last two years he has published nine articles relating to various tax subjects and is a coauthor of "S Corporations: Federal Income Taxation," published by Callaghan & Company. Bruce has spoken on tax topics to many groups, including the Independent Petroleum Association of America, the Rocky Mountain Energy Conference, the Tax Section of the American Bar Association, the Tax Section of the State Bar of Texas, and the Virginia Conference on Federal Taxation.

### *M. Patrice Tew '81*

Patrice began practice with Thomas R. Howard and Associates and practiced mainly in family, probate, and corporate areas and was involved in several interstate adoptions. She has done volunteer work for the Republican party, the American Heart Association, and the PTA. In the Church she served as a primary president, in the presidency of the Young Women, and as a teacher in

the Sunday School and the Primary. She is "temporarily retired" and living in Las Vegas, Nevada.

#### **H. Daniel Fuller '82**

Daniel started his own firm, Chapman, Fuller & Bollard, with two other attorneys in October 1987. The firm has since added three associates and is looking for more. His Irvine, California, firm specializes in business litigation. Before striking out on his own, Daniel worked for Paul, Hastings, Janofsky & Walker, and Call, Clayton & Jensen. He has served in the Church as a stake missionary, ward mission leader, and elders quorum president.

#### **Stephen Jerry Sturgill '82**

Jerry was recently elected to partnership in the Los Angeles-based Latham & Watkins law firm. He works in their New York office. Before joining Latham & Watkins, Jerry clerked for Judge Eugene Wright of the U.S. Court of Appeals for the Ninth Circuit. He has been a member of the Zoning Board of Appeals and the board of directors of Phillispe Manor Beach Club. Latham & Watkins specializes in corporate and business law, and Jerry specializes in banking and finance matters.

#### **Steve Barringer '83**

After graduation Steve worked for three years in Washington, D.C., with the solicitor's office of the Department of Interior, where he dealt with water and reclamation law and environmental law. In 1986 he moved to Denver and accepted a position with the Denver-based firm of Holland & Hart. Since

moving to private practice, Steve has specialized in environmental law, with emphasis in water quality, Superfund, and hazardous-waste management. In June 1989 Steve returned to Washington, D.C., to practice with Holland & Hart's office there.

#### **Connie Cutler Knowles '83**

Connie is currently teaching in the legal assistant program of Vincennes University in Vincennes, Indiana. After law school she moved to Wyoming and practiced in Cody and Casper with the firms of C. Edward Webster II and Murane & Bostwick.

#### **Gordon R. Muir '83**

Gordon joined the Reno, Nevada, firm Folsom & Clark after graduation from the Law School. In 1989 the firm name changed to Hawkins, Folsom, Clark, Salter & Muir. Also in 1989, Gordon obtained an LL.M. degree in taxation from the University of the Pacific, McGeorge School of Law. He practices in the corporate and business areas and in taxation and estate planning. His article "Using Your Personal Computer to Compute the Interrelated Interest Deduction on Estate Tax Deferrals" was accepted for publication by the January/February 1990 issue of *Estate Planning*. He has worked with the Boy Scouts of America and has served as Young Men president, elders quorum president, and second counselor in his ward's bishopric.

#### **Julie Vick Stevenson '83**

Julie has practiced with Ryan, Ryan & Kickey in Stamford, Connecticut, and

McPhillips, Fitzgerald, Meyer & McLenithan in Glen Falls, New York. She is now living in Columbia, Maryland, and plans to take the Maryland bar in the next few years. She passed the bar exams in Virginia, Connecticut, and New York. While in New York Julie served as Relief Society president and served in the presidency while living in Connecticut. In Virginia she served as secretary in the Young Women organization.

#### **Kirk Wickman '83**

Kirk continues to work with Kirkland & Ellis, a 350-lawyer firm based in Chicago, where Kirk's primary work is representing investment banks and corporate clients on stock and bond offerings. Kirk also works with Kirkland's leveraged buyout and venture capital clients. He was elected to partnership in the firm in October 1988. Kirk serves as a counselor in the bishopric of his ward in Homewood, Illinois.

#### **Kevin R. Murray '84**

Kevin recently left Jones, Day, Reavis & Poque to join Winstead, McGuire, Sechrest & Minick in Dallas. He is associated with the firm's public/administrative law section and primarily practices environmental law.

#### **Miriam A. Smith '85**

Miriam recently completed an Academy of Television Arts and Sciences internship at Warner Brothers Television in the Business Affairs Department. Following law school she clerked for the Honorable George E. Ballif of Utah's Fourth Judicial District

Court. She resigned her position as estate administrator in the United States Bankruptcy Court for the District of Utah to accept a scholarship at the Annenberg School of Communications of the University of Southern California.

#### **Kirtlan G. Naylor '86**

Kirt worked for the Ada County, Idaho, prosecuting attorney's office as a deputy prosecuting attorney for two years following graduation. He left public employment to join the Boise office of Imhoff & Lynch, a litigation firm. The law firm is known in Idaho for its innovative computer-assisted litigation system and has represented insurance companies in complex major-disaster litigation.

#### **Paul D. Rytting '86**

Paul has practiced with the Bellevue, Washington, firm Hanson, Baker, Ludlow & Drumheller since graduation, and he practices in real estate, banking, and adoptions. His law review article "Immigration Restraints on International Adoption" was reprinted in the 1988 *Immigration and Nationality Law Review*. He has been teaching early morning seminary for his stake.

#### **Darrell M. Harding '88**

Darrell is engaged in general practice with the Virginia Beach, Virginia, firm of Hayden I. DuBay, P.C. He is handling everything from divorce cases to wrongful death under the Federal Tort Claims Act. He was called as bishop of his ward one month after moving to Virginia Beach and just as he was preparing to take the Virginia bar.

J. Reuben Clark Law Society  
J. Reuben Clark Law School  
Brigham Young University