

Spring 1995

Clark Memorandum: Spring 1995

J. Reuben Clark Law Society

J. Reuben Clark Law School

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

CLARK

MEMORANDUM

BRIGHAM
YOUNG
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J. REUBEN
CLARK LAW
SCHOOL

SPRING
1995



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Cover Photograph
John Snyder





THE
Church
AND THE
Common
Good

Thomas Shaffer

Angela Morris is

a 14-year-old baby-sitter in

Pittsburgh who saved the lives

of four abandoned children.

Her story was prominent

in the newspapers¹ and on

radio and television, maybe

because reporters are on the

lookout for good news.

This address was given at the J. Reuben Clark Law School

BILL OF RIGHTS SYMPOSIUM,

October 28, 1994.

THOMAS SHAFFER

is the Robert and Marion Short

Professor of Law,

University of Notre Dame,

and Supervising Attorney,

Notre Dame Legal Aid Clinic.

ILLUSTRATIONS BY

RAFAL OLBINSKI

There were four children, ages two to 10. Angela was employed to watch them while their parents went away for the weekend. The parents did not come back, and it took two weeks for public authorities to notice the situation.

The children are now in public custody; their parents were arrested; and Angela is back in high school, full-time.

some of the daytime baby-sitting so that Angela could go to some of her high-school classes. Then the two girls turned to Roxanne's sister, who is a year older. Then the three of them turned to three older boys—men, really, ages 18 and 19—who are high-school dropouts. This scruffy group of young people took turns watching the children, cooking for

"But the home tie is the blood tie. And had it meant nothing to us, any other place thereafter would have meant less, and we would carry no compass inside ourselves to find home ever, anywhere at all." — Eudora Welty

There was no heat in the house. For 16 days Angela heated water for baths in an electric coffee pot. She put the children in bed together so that they could keep one another warm. When two of the children got colds anyway, Angela was their nurse. She was very busy and sometimes felt overwhelmed. "One night," she said, "I broke down and started crying."

"I felt just like a mom," Angela said. When Angela is not away baby-sitting, she lives with her mother, in a single-parent home. Her mother works in a video store. Angela has been keeping house and baby-sitting younger children since she was 10 years old.

What interests me is that first, Angela somehow knew that she had to care for those children. And then she somehow knew what she had to do. Angela saw what the BYU Symposium called the *common* good. That is the good that is common for a community—in two senses: (1) This was for her an ordinary good, and (2) it was a good held in common—no person's access to this good is diminished because others have access to it. And Angela knew what to do because she had learned from her family and her neighborhood. Because of these other people, she had the virtues of compassion and courage (which are moral skills) and the knowledge it takes to care for children.

When Angela needed help, she turned first to her classmate and friend Roxanne Magrino, also 14, who took over

them, and entertaining them; the girls got to school often enough that their absence did not attract attention.

But they had no money and the house was soon without food. Angela then turned to her mother, who turned to Angela's grandmother. The two older women spent \$180 for food for the abandoned children. When the neighbors called the police and the police finally came, they found in the kitchen three dozen eggs, a gallon of milk, two loaves of bread (which Angela had put in the freezer), and three packages of frozen vegetables. The police found evidence of pizza, but the inhabitants had eaten all of the pizza. This was, after all, a household of children looking after children, and children prefer pizza.

The neighbors, not the teenagers, called the police. The teenagers did not want the children to be turned over to public authorities—because, they said, that would mean that the children would be divided up and parceled out to foster-parent homes. "In the end," Angela said later, "that's what happened anyway."

"I feel relieved that it's all over," she said. "But I feel like crying, too."

The theme in the BYU Symposium was the *notion* of the common good.² I can't tell what Angela Morris's notions are, but her story is about the common good in the most elementary way she and you and I know about it—need meeting need with other people's children, neighborhood, family, friends.

Angela and her friends and family know, as the African saying puts it, that it takes an entire village to raise a child.³

Family comes first in this story, I think, both as a notion and as a story: "[T]here may come to be new places in our lives that are second spiritual homes," Eudora Welty says. "But the home tie is the blood tie. And had it meant nothing

There is one last point to this story, and I want to cover it before I turn academic. These places of resort for Angela were not like the American family in Louisa May Alcott stories. Angela's family was fatherless, as millions of American families now are. Although she loved her mother enough to turn to her for help, she apparently spends most of her time with her friends—and she turned first to her friends.

This group of friends is not like the kids-in-high-school groups I learned about from Andy Hardy and the Archie comics when I was a teenager. "They hang out, drifting from house to pizza parlor to train tracks," the *New York Times* said. The three young men should have had jobs, or have been in school, or both. (Of course, God has a sense of humor: If they had been good citizens, they would not have been around to help Angela and Roxanne.) Angela and Roxanne, who should not be running around with young men four or five years older than they are, obviously are not earning perfect attendance records in high school. They kept those four children well and fairly happy, but they were not good housekeepers. When the police came in, they



to us, any other place thereafter would have meant less, and we would carry no compass inside ourselves to find home ever, anywhere at all."⁴

Ann Landers reflected this sort of understanding when she replied to a young woman about an unreasonable husband. "To straighten this guy out," Ann said, "you'd have to start with his grandmother."⁵

Angela and her friends knew how to make a home and, for a while, a family, for the children, because they knew what home was, and knew what family was.

When Angela needed help, she turned first to a rather odd personal community where she trusted and was trusted. But she knew how to trust in *that* community because she learned something about trust at home. The children and her friends were her neighborhood, but she could be that way in a neighborhood because she came from a family. A neighborhood is a family of families.

When the teenagers had to come to terms with the brutal economic facts of caring for children in modern America, they turned to Angela's family. It's a nice twist on our middle-class jokes about the daughter or son in college who holds up a sign for the television cameras to catch at the football game: "Hi, Mom. Send money."

found a filthy house: Cleanliness was not next to godliness in this odd, Anne Tyler sort of family.⁶

The importance here is that much of our current political talk about "family values" is pie-in-the-sky at best and self-deceptive at worst. None of the political talk is of any value unless we find ways to locate values in families like the one Angela comes from and the one she and her friends made with each other, and, for a while, with those four abandoned children. The important "values"—the ones we seem to encompass when we talk about "the common good"—are in the story. We just have to be careful to be serious when we use the adjective "family" for them. I suggest that the way for a Jew or a Christian to be serious is to notice that God put us in families and that, as Karl Barth said: God will find us where he has put us.⁷

Believers mean something distinct when they say "family." It might be better to use a modifier that points to that deeper meaning. How about "Hebraic⁸ values"? Then we could talk about what it means to be a family within the

community of faith, and then about what it means to be a person in such a family. How about “Christian values”? or even “LDS values” and “Catholic values”?

People who read and listen and watch television responded to the Angela Morris story, I think, because our popular culture is in the process of taking a second look at its fling with radical individualism. We are in the process of remembering elements of the common good and deciding that some of our familiar political commitments are harmful—harmful to children, as the warnings on the pill bottles say.

Alexis de Tocqueville warned us in the 1830s that America would come to this situation: “Not only does democracy make every man forget his ancestors, but it hides his descendants and separates his contemporaries from him; it turns him back forever upon himself alone and threatens in the end to confine him entirely within the solitude of his own heart.”⁹ Ours was not then the culture of the sovereign self but now it has become so—a society of strangers.

At least our political notions have taken that turn. The

ideology of “enlightenment” was obsessed with bills of rights. Fortin sets up, in opposition to that obsession, ancient Greek and biblical emphases—not on rights but on duties.

A right, in the biblical way of thinking, is what you have to have in order to do your duty. The ways of thinking that Fortin contrasts with individualism can explain why an old man would plant a tree, or why a teenager in Pittsburgh knows and lives “a shared notion of the good life.”

“The ‘we’ of modern thought is not a community,” Fortin says. We modern Americans do not know what a true community is like. He means we modern American *thinkers*. Angela Morris knew, even if she didn’t have a theory for it.

The quibble I have with Fortin is that he is not clear enough about where we might learn what a true community is like—or, better, where we thinkers might, on a clear day, even *find* one. That is kind of odd, when you think about it. Fortin is a Roman Catholic priest, employed by a fine, old Catholic university to teach theology. And theology, his discipline, is the memory of the church. Does the

church know what a true community is like? Father Fortin doesn’t say.¹²

The answer he might give is that the church (I mean Christians in America) has not managed to preserve and teach what its scriptures and its memory have to teach about being a community. To a significant extent, the church in America has let the secular culture set the agenda. As I read the curious history of the matter, the church set out, more than a century ago, to make America work. The church did that instead of tending to its own agenda.

That has worked out to mean compromise after compromise with such historical and shameful facts as slavery, racism, imperialism, and the exploitation of children. It has worked out, this year, to mean a political situation in which our most prominent leaders are telling us that the way to see to children such as those Angela cared for in Pittsburgh is to deny public benefits to them—or, if not to the elder two, to the third and fourth.

The doctrine of the church, as well as the popular view of what American civility now requires, is that popular morals are secular and religious morals are private. It is impolite, in most of academic America, even in church-related schools, to teach religious reasons for public action.¹³ (That is less true at BYU than at Boston College or Notre Dame, and I applaud you Mormons for making it so.)

All of which means that I finally have an argument to make: Having concluded both that the morals of what Father Fortin calls “political hedonism” are inadequate and that real people in America don’t follow those morals much anyway, the place to turn to locate morals that might support the common good is the church.

I want to suggest that the highest compliment one could pay a lawyer or a law teacher is the compliment Robert Bellah recently paid to one of my favorite Christian thinkers, Stanley Hauerwas. Bellah said that Hauerwas is “an uncompromising Christian who thinks about matters of great

public concern.”¹⁴ (He might have added that Hauerwas insists on doing his thinking in the church.) I wish that focus—pray for it—for all of us American Christians.

Here are some ideas of what we might think about if we think in the church about a theological agenda that is devoted to the common good:

First: The church is going to have to catch up in its support for families. I grew up an evangelical Christian and then became a Roman Catholic; the church (churches) I know best has lost ground to secular culture during all of my adult life. You Mormons have done better for families than anybody else I know of, except possibly some Jews. The rest of us need to learn from you. I invite you to become our ever more strident teachers.

Second: The church has to devote itself to overcoming the glitter. Our children have to be drawn away from what Ronald Dworkin describes as putting all of our eggs into the choose-and-act basket.¹⁵

If children are taught that the good is what they chose—

that what makes it good is that they choose it (which is the moral heart of radical individualism)—they will grow up to choose glitter. Glitter not only leaves them with shallow morals; it also drives them away from their families, their homes, and their communities.

Third: The church should reclaim its place in popular and political argument. That does not mean so much teaching its people what they believe as teaching them that what they believe matters.

During the last decade the polls have shown, again and again, that *80 percent* of Americans are “God-fearing churchgoers who pray daily and hold traditional family values,” as a recent newspaper story puts it.¹⁶ What has happened to us believers is that we have been gulled by a small minority of opinion makers and spin doctors into believing that our worship, our prayer, and our religious ethics don’t matter—don’t have a *bearing* on the good we have in common.

That is a bad notion. False. Pernicious. Corrupt. Daniel Conkle, one of our lawyer-professor colleagues, says the notion was invented by the federal Supreme Court; the legal principle, he says, is that “religion does not matter . . . in the public domain.” It is “a private good that lacks public significance.”¹⁷ Abraham Lincoln and Thomas Jefferson did not know that; neither did Jesus.

Fourth: I suggest that this theological agenda, in public, should begin and end with what Jesus called the least of his brethren. Leaders in my denomination have talked about this as *preferring the poor*, evaluating every public decision in terms, first, of its impact on the people Angela Morris and her friends and her mother and her grandmother reached out to help.¹⁸

This means, according to Penelope Leach’s recent book on the way we treat children, two things: (1) Seeing to the basic needs of children, as Angela and her helpers in Pittsburgh did, and then (2) supporting the family rather than inventing new obstacles for the family to overcome.¹⁹

I doubt that those two policies, which, I suggest, should be the policies of the church, would lead us to say that our greatest public need today is the abolition of aid to dependent children. But a big part of this policy—and I think Leach tends to neglect this—is that it not get too far away from what Angela and her helpers knew in their bones: They knew how to prefer those children to themselves.²⁰ That is the essence, as Coach Paterno taught Father Fortin, of what the common good is: Victory belongs to the team.²¹

Fifth: The church has to figure out what it has to say and how it is to say what it has to say. The place to start here is to recognize, as Michael Baxter puts it, that politics is “the art of achieving the common good through participation in the divine life of God. . . . The primary political setting in which this ordering occurs is the church. . . . Christianity is *always already* political.”²²

Baxter admits that this will probably involve the church becoming troublesome. You Mormons and we Catholics try too hard not to be troublesome. In both cases, our not being

troublesome rests on vivid memory. The memory of the church, so far as you are concerned, includes the martyrdom of Joseph Smith and the struggles of the 19th-century Saints in the West. The memory of the church, so far as we Catholics are concerned, includes the persecuted immigrants who came here as Catholics in the 19th century and who have had a long, tough time trying to be part of Protestant America.²³

Still, I suppose the memory of the church also includes the fact that Jesus of Nazareth did not flinch from stirring up trouble—nor from the political and legal consequences of stirring up trouble. You could even say that the gospel memory of the church tells us the test for whether we are *being* the church in the world is whether we are being troublesome.²⁴

Protest is the word for that. Neither your tradition nor mine has been high on protest. Neither have most American Protestants, despite their historical name. If we want to learn about what it might mean for Christians to protest we probably have to turn to modern Christian troublemakers like Martin Luther King, Jr., and to historical models like the 16th-century Anabaptists.²⁵

Protest is not insular. Protest and common good fit together. Protest contemplates the good of people who are not protesting; it has to do with the good that people in a society share. Free speech is an interesting example. My colleague John Howard Yoder has shown how the origin of free speech in our law goes all the way back to John Milton and the English Bill of Rights of 1689, which was a demand by Christians for the freedom necessary to preach the word of God. That bit of church history shows how “the faith community does not accept the dismissive accusation that its commitments apply ‘only to believers,’” Yoder says. “The transcendent leverage of God’s revelation includes staking claims on the wider world rather than withdrawing from it,” Yoder says. Everyone shares in the good of freedom of expression—even if the inventors of

F I R S T : T h e c h u r c h i s g o i n g t o h a v e t o c a t c h u p i n i t s s u p p o r t f o r f a m i l i e s I i n v i t e y o u t o b e c o m e o u r e v e r m o r e s t r i d e n t t e a c h e r s .

party line that people hear from us lawyers, us professors, and us *thinkers*, has taken that turn. Angela and Roxanne knew what to do when they found themselves, at the age of 14, with a family of six. But our rights-saturated rhetoric cannot explain what they did or explain why anybody would want to do something like that.

American families could have used a better party line, but they have not been taken in as much as we academics think they have. Contrast the picture Tocqueville saw in his crystal ball with what happened to those children in Pittsburgh. Or with the way Rabbi Harold Kushner describes what happens in Jewish families at the time of the Jewish New Year:

*The Torah readings . . . tell the story of Abraham and Sarah, of their longing to have a child to carry on their family traditions, of the birth of Isaac when his parents were old. . . . I have always believed that those readings were chosen to make the point that human history is the story of what happens to husbands and wives, to parents and children, and not what happens to kings and armies. When the entire congregation gathers for worship on Rosh HaShanah, the message they hear stresses the importance of passing on a tradition from generation to generation, from parent to child.*¹⁰

Our theories need work. That, at least, is a relevant suggestion to make to a group of lawyers, at a university, most of you associated with a religious tradition that values the family in deep, consistent practice as well as in theory.

Ernest L. Fortin, whose essay on the common good appears in the current Boston College alumni magazine,¹¹ attends to the theory with a quotation he has from Virgil by way of Joe Paterno: “You must be a man for others.” Garrison Keillor said it another way in September, in Lake Wobegone, Minnesota: We have got to help one another more. Fortin sees an alternative to the political ideology we Americans borrowed from the French and the Scots 200 years ago. That

free speech were not so much interested in human rights as they were interested in being the church.²⁶

A principal document of the Second Vatican Council, the pastoral constitution on the church in the modern world, begins with a similar sentiment: "The joys and the hopes, the griefs and the anxieties of the women and men of this age, especially those who are poor or in any way afflicted, these too are the joys and hopes, the griefs and anxieties of the followers of Christ."²⁷

This is not a matter of poking around and adopting politically popular movements. "The faith community" has to know what it is up to, and why it is up to what it is up to. And to do that, it has to have a politics of its own—"by letting one's life overlap with the lives of others on the same pilgrimage . . . by teaching one's children, even in Babylon, the songs of Zion, which the Babylonians cannot understand," Yoder says.

"A precondition for authentic protest is the accessible and in some sense objective criterion for calling into question the way things are . . . both to stand in judgment on where things have gone and to point the way of renewal."

Protesters from the church should notice that they can afford to be right. Yoder says that the memory of biblical Israel "experienced by the exiles and brought with them into Babylon provides a more whole and wholesome vision of family, work, community, and human flourishing than is provided by the cult of the imperial priests or the law of the imperial police, and does so with a psychic and cultural leverage that is effective 'from below' because it is authorized 'from beyond.'"²⁸

There are a couple of sad outcomes in Angela Morris's story. The sad consequence that made her want to cry is that those children are now in the custody of the Commonwealth of Pennsylvania—among strangers, split up, longing for their mother (or maybe for Angela Morris).

I spend much of my professional time now working on cases involving children, most of them in situations like that. I wish I could tell you how we could do better. My present point is that the question of how to do better is one the church should be talking about. It's not that we just automatically *know*. It is that we know, or should know, how to work it out. That and the fact that, if we have the courage to try, we can afford to be right.

Which only suggests to me the other sad thing in Angela's story: There is no evidence in the story that she turned to the church or that she would have found help there if she had.²⁹

NOTES

1. The newspaper sources I am using include the *New York Times*, Sept. 26, 1994, p. A-12, col. 4; the *New York Times*, Sept. 27, 1994, p. A-20, col. 4; the *New York Times*, Sept. 28, 1994, p. A-17, col. 1; the *South Bend Tribune*, Sept. 28, 1994, p. A-1, col. 1; and the *New York Times*, Mar. 13, 1994, sec. 13, p. 7, col. 4.

2. The notion of common good is often used to justify and instruct institutions and governments, but it has its roots in the claim that persons share in and support a good that is beyond their individual inter-

ests—"the antithesis of Bentham's claim that the interest of the community is simply 'the sum of the interests of the several members who compose it'" John Langan, S.J., "Common Good," in James F. Childress and John Macquarrie (eds.), *The Westminster Dictionary of Christian Ethics* 102 (1986), quoting Jeremy Bentham's *Principles of Morals and Legislation*.

3. Michael Ryan, "What Our Children Need Is Adults Who Care," *Parade Magazine*, Oct. 9, 1994, pp. 4, 6, quoting Marian Wright Edelman.

4. Quoted in Patrick H. Samway, "Walker Percy's Homeward Journey," *America*, May 14, 1994, p. 16. Henry Louis Gates, Jr., noticed a similar point with reference to African-American family life, in a context that is helpful for understanding Angela Morris. "Self-confidence," he said, "is bred in the home." C-Span, "Booknotes," Oct. 10, 1994, discussing his new book *Colored People* (1994).

5. In her column of Sept. 4, 1994.

6. All of Tyler's novels are family novels, and all of the families in them are odd and inclusive. The principal character in *The Clock Winder* (1972) is a young woman who is older but otherwise not unlike Angela Morris; a character in that novel speaks of events in family life as "scenes and quarrels and excitement . . . artificial stitches knitting us all together" (at 153-154).

7. Karl Barth, *Ethics* 193 (Dietrich Braun ed., Geoffrey W. Bromiley trans. 1981).

8. I use this term to describe the ethical tradition of Jews and Christians. I mean to invoke something particular and, in vital ways, unitary. I am not talking about sappy ecumenism; nor am I talking about "diversity" or "multiculturalism." Modern American efforts at diversity turn out to be something like the opposite of what they claim to be. They seem to me to be trendy, vacuous ways to talk about what was once called "the melting pot." See Louis Menand, "Being an American: How the United States is Becoming Less, Not More, Diverse," *Times Literary Supplement*, Oct. 30, 1962, p. 3. The same, I think, is true of the "multi" in "multiculturalism." See Martin E. Marty, "From the Centripetal to the Centrifugal in Culture and Religion: The Revolution Within This Half Century," 51 *Theology Today* 5 (April 1994).

9. Quoted in Thomas H. Clancy's review of Wilfred M. McClay, *The Masterless: Self and Society in Modern America* (1994), *America*, May 14, 1994, p. 29.



10. Harold S. Kushner, *To Life! A Celebration of Jewish Being and Thinking* 111–112 (1993).
11. “Recovery Movement,” *Boston College Magazine*, Summer 1994, p. 18; another version of the essay appears as “Human Rights and the Common Good,” *Catholic Commission on Intellectual and Cultural Affairs Annual* 1 (1994).
12. Compare Michael J. Himes and Kenneth R. Himes, O.F.M., *Fullness of Faith: The Significance of Public Theology* 17 (1993): “[P]ersonal does not mean ‘private.’ The person is constituted by the communities of which he or she is a member. A genuinely personal decision is also public, in that it is the act of one who emerges from various communal contexts and who affects others by his or her act.” Both of these authors are also Roman Catholic priests, and each of them is a teacher of theology—Michael Himes at Boston College. Their communitarian theology rests on the mainline Christian doctrine of the Trinity—the notion being that, if God is a person, and three persons in one, then God’s life is a shared life. The doctrine is “an essentially and radically political statement” in their view. “[E]xistence does not precede entry into relationship. It *is* relationship. Being *is* being related. Coming into communion with others is not subsequent to existence. Being at all is being with. So central is this to the Christian tradition that the principle is both derived and elevated into the meaning of ‘God’” (at 59).
13. See Thomas L. Shaffer, “Erastian and Sectarian Arguments in Religiously Affiliated American Law Schools,” 45 *Stanford Law Review* 1859 (1993).
14. On the book jacket of Hauerwas’s *Dispatches from the Front: Theological Engagements with the Secular* (1993).
15. “Medical Law and Ethics in the Post-Autonomy Age,” *Bill of Particulars* 21 (Spring 1993). Both this point about the church, and my first point, are reflected in a note written to me by my colleague Professor Eileen Doran (Oct. 19, 1994): “[T]he Catholic Church isn’t nearly as involved with the business of children as it once was. When I was a child [growing up on a farm near Pittsburgh], the Church had everything to do with my family. I went to school and the priests and sisters knew me, they knew about my family, what my family might need, when someone was sick. On the weekends, our priest came to the house every Sunday for dinner or dessert and he usually brought with him someone who needed some company—either an older person in the parish or a child who was temporarily living at the rectory because he had no where else to stay. I remember that the Church, in many ways, helped to raise my family. I know that when my brothers were going through difficult times, my parents went to our pastor, not therapists, for counsel. Although I believe the parish I live in now is more active than most in meeting the needs of its community, it isn’t the same church that helped my parents.”
- My colleague Professor Christine Venter grew up in Zimbabwe. In a note to me (Oct. 12, 1994), she wrote, “My father died while we five kids were all in school, and my mum was having problems with my brother (the youngest and only boy with four sisters). Christian Brothers College, where he attended school, contacted my mum and asked if they could participate in his upbringing, as kind of a father figure. They also told my mum not to worry about his school fees for the rest of his school career. That, on a small scale, is the kind of church that we need.”
16. Jill Lawrence, “Poll reveals disgruntled American mind-set,” the *South Bend Tribune*, Sept. 21, 1994, p. A-1, col. 2, reporting on a poll of 4,809 people by the Times-Mirror Center for the People and the Press.
17. “Different Religions, Different Politics: Evaluating the Role of Competing Religious Traditions in American Politics and Law,” 10 *Journal of Law and Religion* 1, 6–9 (1993–1994).
18. See Stephen J. Pope, “Proper and Improper Partiality and the Preferential Option for the Poor,” 54 *Theological Studies* 242 (1993).
19. See Lisbeth B. Schorr, “Stabilizing the Family Balancing Act,” *Washington Post Book World*, March 6, 1994, p. X3, reviewing Leach’s *What Our Society Must Do—And Is Not Doing—For Our Children Today* (1993); see also Deborah E. Lipstadt, “Pediatric and car-pool Judaism aren’t enough. Young people easily discern their parents’ priorities and quickly figure out that parents consider Judaism kids’ stuff,” *Moment*, Oct. 1994, p. 24.
20. Himes and Himes, note 12 *supra* 61: “The most fundamental human right is the right to exercise the power of self-giving. . . . All other rights are derivative. All consequent rights are claims to preconditions for community, the locus of self-giving.”
21. Guy Trebay, “Our Local Correspondents: The Giglio,” the *New Yorker*, June 4, 1990, pp. 78, 89, gives a curious and even humorous example of this from his childhood in the Italian American community of Greenpoint, New York. An annual custom there, at Our Lady of Mount Carmel Parish, is to move a giant statue of St. Paulinus, the *giglio*, in procession. It weighs tons; the men of the parish get under the statue (out of sight) and lift it up. The fraternity of “lifters” once had a rare Irish member who “had a slight heart attack under the giglio, [but] . . . he didn’t want them to stop and let him out.” The (Italian) parishioner who told Trebay the story said, “I get a very strong feeling from the giglio, although for me it’s not that much a connection to the Church or to the Saint. It’s a connection to my father.”
22. Michael J. Baxter, C.S.C., “Overall, the First Amendment Has Been Very Good for Christianity—NOT!: A Response to Dyson’s Rebuke,” 43 *DePaul Law Review* 425, 441 (1994).
23. See Thomas L. Shaffer and Mary M. Shaffer, *American Lawyers and Their Communities* ch. 5–7 (1991). One of the ways Italian Americans (and Jewish Americans as well) did this was stubborn attention to preservation of family traditions. Elizabeth Stone, “Stories Make a Family,” the *New York Times*, Jan. 24, 1989, sec. 6, p. 29, col. 1, provides charming examples from her own family. Gay Talese argues that the force of such family traditions are part of what makes it difficult for an Italian American to be a mainstream modern American writer. “Where Are the Italian-American Novelists?” *New York Times Book Review*, March 14, 1993, p. 1.
24. Such a set of propositions is developed carefully and with careful attention to scripture in two of John Howard Yoder’s books—*The Politics of Jesus* (1972) and *The Priestly Kingdom: Social Ethics as Gospel* (1984).
25. See Yoder’s “The Ambivalence of the Appeal to the Fathers,” in D. Neil Snarr and Daniel Smith-Christopher (eds.), *Practiced in the Presence: Essays in Honor of T. Canby Jones* (1994), at 245.
26. “Christianity and Protest,” 3 *Faith and Freedom* 8 (1994).
27. “Gaudium et Spes: Pastoral Constitution on the Church in the Modern World (Second Vatican Council, 1965),” in David J. O’Brien and Thomas A. Shannon (eds.), *Catholic Social Thought: The Documentary Heritage* (1992), at 164, 166, 18.
28. Note 26 *supra*.
29. I am grateful for the suggestions of Eileen Doran, Stanley Hauerwas, Nancy J. Shaffer, Christine Venter, and John Howard Yoder.



Finding Family HARMONY IN A Dissonant World

A N N . M A D S E N
THE MUSIC OF HOME

The music of home:
a subtle melody hard to improvise while far away.

Now
as it crescendos
surrounding me,
sometimes
in simple silence
or cacophony
of busy
growing,
it seeps
into my heart,
familiar counterpoint
of children, parents
helping to perfect
each other's natures
in the close harmony
called home.

It takes
a time
away
to hear it
properly.
The singsong
day to day
sometimes
obscures
the melody,
and dissonance
seems dominant,
though we're so seldom
really out of tune.

Sometimes
we just don't sing aloud
the crowded chords
our hearts
compose.
We think that
each one
knows
how dear a part
his is
in our song.

Heard at a distance,
half a world
away
it sounds
so solid a thing,
not easy
to contrive
but so alive
with
heavenly strains
that
I must hurry home
to sing
with you!

This address was given at the Annual Law Society/
Alumni Association Dinner, October 28, 1994.

Illustrations by Brian Kershisnik

IN 1973 WHEN TRU AND I RETURNED FROM A THREE-WEEK TRIP ABROAD, I WROTE THOSE LINES FOR MY CHILDREN. • MY DAUGHTER EMILY SUGGESTED HARMONY AS A WAY TO TALK ABOUT BALANCE IN OUR LIVES. I LOVE THE WAY HER MIND WORKS. SHE SAID THAT HARMONY IMPLIES SEVERAL MELODIES COMING TOGETHER IN A PLEASING WAY. • I HAVE SELECTED FROM OUR 41 YEARS OF MARRIAGE SOME OF THE THINGS I KNOW BY HEART OF HOW HARMONY WORKS IN OUR FAMILY. IT WAS A SWEET JOURNEY FOR ME TO GATHER THESE IDEAS, AND I THANK YOU FOR INVITING ME HERE SO THAT I COULD DO THIS EXPLORING. I HAVE PRAYED THAT THERE MIGHT BE SOMETHING VALUABLE FOR YOU. OUR TESTIMONIES OF JESUS CHRIST AND THE REALITY OF HIS ATONEMENT ARE THE FOCUS OF OUR FAMILY.

1

THE FAMILY IS FIRST

I remember exactly where I was sitting in the Provo Tabernacle on a sunny, Sunday morning 26 years ago when Elder Bruce R. McConkie stood up at the pulpit, looked straight at each of us, and said as only he could, “The family is first!”

That moment for me was akin to Jeremiah’s when he wrote, “The word of the Lord was like fire in my bones” (see Jer. 20:9).

So I know, have always known, but understood for the first time at Elder McConkie’s feet that the family is first. Therefore concern for our family literally outweighs other priorities. A dear friend

puts it this way, “The family is the melody while everything else is the accompaniment.” But often the accompaniment requires our attention as well.

Someone must be primarily responsible for dividing the tasks that keep a home going—no matter how many machines we have to cut

down our work. We can’t all abdicate everything. Orderliness, cleanliness, music, social life, decor—the abundant life is far different from merely existing in a space together. Someone or ones must have these as priorities or it will never happen. Is home just a place to eat and sleep? Is there no lovely window seat to curl up in to

HARMONY
IMPLIES SEVERAL
MELODIES COMING
TOGETHER IN A
PLEASING WAY.

read a book? I love to design vistas in my homes—corners that look so inviting, corners that speak to the aesthetic sense in all of us. Sometimes spring is long in coming, and we need a new potted plant or hyacinths or a hanging, blooming thing to start spring indoors if it is lagging outdoors. Is there no pot of daisies or daffodils on

the table for dinner—not for company, just for spring? If family is first then shouldn’t there be flowers for family sometime? Or a special dessert or new recipe, “Just because I knew you’d like it”? When do we share?

Constructing a positive environment helps us furnish a virtuous home in which we can practice godliness. We can learn over time to respond in a godly manner. In the Old Testament, the high priest wore on his head a hammered gold crown on which was engraved “Holiness to the Lord.” Each of our modern temples has a similar sign above the eastern door. It is a promise to put that on a building. Couldn’t we, at least in our minds, have that kind of promise on our homes? “Nothing polluted will enter here.”

2

OTHER PRIORITIES

What of life’s other priorities? How do we line them up? In what order? I’d like to propose *be healthy* for some place near the head of the list. This is not always something we control. But we can plan our lives so that we get enough sleep, eat right, and exercise. I swim five days a week. It makes everything else possible. Maybe walking is more to your liking, but plan to do something that cuts through the stress and renews you. Remember to list *relax* along with your

other projects. It feels so good to feel good.

So, I feel good! But how do I accommodate the needs of my friends? (One of my swimming friends told me: “A friend is one who hears the song in my heart and sings it to me when my memory fails.”) What do I do when one of the sisters I visit teach has a terrible family crisis and needs me during my swim time? How do I fit in helping her along with other of my family’s needs?

3

FIRST THINGS FIRST

We make the choices of which things are first by deciding which is *important* and which is merely pressing or *urgent*. I learned about this from Steven Covey in his new book *First Things First*. When we're addicted to urgency and the "do it now" of the computer age, we sometimes finish projects in record time. But did we finish the *right* projects? Someone has said: Anything *not* worth doing is not worth doing well—and I would add or doing fast.

The gospel of Jesus Christ is our only reliable guide to know what the other priorities are.

Just as we need to learn to control technology and not be controlled by it, we can learn to control our daily lives. Just as we are flooded with data that we don't really need like ads in the mail, on the phone, on the fax, on the TV or radio, we can learn not to "Select All" (in the language of my beloved Macintosh) but rather carefully "Select," filling our 24 hours each day with truly important tasks. The wonderful thing about selecting *important* things and giving them first priority is that when the sun goes down you are filled with peace, and it is only the less important that gets put off to another time. What a concept!

Planning starts when the sun comes up.

Pray before finalizing your daily plans. One of the great benefits of personal morning prayer is the opportunity to ask the Lord's help as you plan each day. How do I really know what is important? I often pray, "Please, Lord, help me know the most important things I can do today." Almost all of us have our planners. I suggest that we always use a pencil with an eraser so that changes can be incorporated *after* morning prayer. It sounds too simple, but I know this works.

In our family we have often used the process we called *dovetailing*. How many thousands of times did my children hear me say, "Let's dovetail activities?" It's a family joke. When two priorities collide, sometimes they can be combined. Time alone with your spouse can be combined with visiting your friend in the hospital or with grocery shopping. It all depends on the focus of your conversation and sharing. A brief visit by phone with our son in Washington, D.C., can be combined with asking for some legal advice for the sister with family problems.

Involving our children in helping us to serve others' needs is one of the best things we ever did.

First things first! I haven't always gotten that right. But on our mission in New England we made real progress. We can thank Elder Franklin D. Richards, our regional representative, for that. He directed us to have an inviolate family day each Monday and a date night each Friday evening. Those times spent with our children and alone together are some of the happiest I can remember. And they made it possible for us to take on the tasks of the week refreshed and renewed. We still have a date night each Friday. We chose to spend this one with you.

4

MENDS AND

So what have we Madsens learned about harmony in our homes? I will tell you a few ways that work for us.

WE SING TOGETHER

We always sang in the car. We still do. Tru would teach us our four parts as he drove, and it was such fun to put it all together, to harmonize. Is this is a function of the priesthood: teaching harmony and peace?

Truman furnished our home with glorious music. We planned for it even

before we were married. Our spirits respond to certain chords, melodies, and modulations. We are lifted up or beaten down by music. Joseph Smith

made this elegant statement about man and music:

Man of himself is an instrument of music; and when the chords of which he is composed are touched, and salute the ear, the sounds appeal to his spirit and the sentiment to his understanding. If the strains are harmonious, he endorses and enjoys them with supreme delight; whether the tones are from a human voice or from an instrument, they arrest his attention and absorb his whole being.

A fine LDS musician I know has said:

Words communicate ideas. Music communicates feelings. While words get stuck in the thinking part of our brain, music sails through to reach the innermost corners of our emotional being. . . . This is precisely why music is such a wonderful, dangerous, exciting power. . . .

Let us not ask [how much] evil we can tolerate, but let us find ways of filling our minds with celestial stimuli.

Good music has the power to put us in tune with heaven, as Elder Dallin H. Oaks so eloquently taught us a few weeks ago in general conference. Don't you resonate to the music you hear in our most sacred places?

At our family reunion this year our youngest daughter, Mindy, gave each of us a surprise: a wonderful binder entitled "Peace through Music: A Collection of Madsen Melodies" with a dedication that made us cry, because it was a harvest moment. "This collection is lovingly dedicated to our parents: for the hours and hours they spent singing to us and with us—in cars!" She had found all the sheet music for songs we had sung and had learned by heart together.

WE EAT TOGETHER

There is such an emphasis on good nutrition these days. Do we ever fill our freezers with well-balanced, low-fat, low-cholesterol meals in

individual labeled packets and then run in all directions, left to eat our nutritious meals *all alone*? From nursing baby to white-haired grandmother, we communicate through food, through eating together. It's a time to share. It's a time for loving communion.

We often invited others to join us, especially for Sunday dinner—people from all over the world or strangers we met at church that day.

We *always* had breakfast and dinner together. We juggled schedules to do that. Family meals became the nucleus moments in our day. Truman was a master at finding out how each child's day had gone. Dinner was never quiet at our house. And it still isn't. I love it.

It was then we prayed together in family prayer.

the Lord, asking for strength and forgiveness. We pray for help in keeping covenants, in being led away *from* not *into* temptations. I cherish the spot near our kitchen table where Truman and I kneel together each morning. I love that feeling of oneness, of reaching up together daily. It is a sacred spot. It has been hallowed by our gratitude, our pleadings, and our expressions of love. We can just see the Provo Temple from our kitchen window, but for moments each day, that place of prayer becomes our personal sanctuary.

We have also formally dedicated our homes. There is no question in my mind that that particular prayer, with our married children and grandchildren in attendance, has contributed to the harmony in our present home that I find tangible. It has fortified our home against the darkness all around us.

What of the darkness in movies and videos? Barney's scripture still applies, but we say, "There are only a couple of bad scenes. We can fast-forward it." But does it edify?

"Except for the language it's pretty good." But does it edify? "It was rated PG-13." But does it edify? Explain to me why it's appropriate for me if my 13 year old shouldn't see it?

These influences contribute to the disharmony in a home. Family foundations are weakened. Homes are crashing down all around us—like steel balls have struck them. Let us remember those pioneer women!

There is an inherent harmony in righteous living that is not present when we sin. We can learn to avoid sin in our homes.



WE PRAY TOGETHER

Nothing contributes more to being able to see things clearly than open-hearted, honest prayer. Our prayers have become our sanctuary in space—like a temple. We separate ourselves for a time from the press of life and enjoy the peace of the Lord's Spirit.

I've noticed the tangible difference an opening prayer makes to a class. Students seem eager to pray for help in my Isaiah class! But after the prayer, everything feels different. We are ready to be taught. (Yesterday a quiet boy in class prayed and took my breath away with his tender humility.)

It is not always easy, even in our personal prayers, to be openhearted and honest, naming our sins before

I want to be like those pioneer women who stood at their cabin doors in this valley, fending off anything that would endanger their families. After all, they were building the kingdom of God. Their homes were holy.

What dangers approach our doors? Our son Barney returned from his mission 15 years ago and posted a sign on our TV that read, "That which doth not edify is not of God, and is darkness" (D&C 50:23). Beyond TV we need to know what's inside the books and magazines that are in our homes. We need to stop reading or looking when it's destructive and teach our children to do the same. Gutter language has become part of our spoken language. But we need not speak it. It can be a foreign language, unused in our homes.

WE READ THE SCRIPTURES ALOUD TOGETHER

It was just after dinner that we read the scriptures together. Tru and I now read just after breakfast. Our Indian son learned to read from reading the Book of Mormon and could read Alma and Abinadi before he could read Dick and Jane. Many of our grandchildren have read their first words out of the scriptures.

Our youngest daughter, Mindy, and her husband, Grant, do a simple thing. Each evening they have SS&P—Scripture, Song, and Prayer. It is not a long process. But it happens every single night. It's a portable program that can go with them on trips and vacations.

They used to read aloud to the children, but now Max (8) and Molly (5) help in the reading. They discuss carefully just one or two verses from the Book of Mormon, sometimes with more success than at other times. Each new word is patiently explained. One night we were there and they were reviewing from the night before. Mindy asked, "Do you know what *repent* means?" Molly, age three at the time, offered quickly, "Sure! It means changing from bad to good."

After the brief scripture reading and discussion they sing a Primary song. Then they kneel in family prayer.

WE CELEBRATE

We've always celebrated, but we learned more of how it's done from our Jewish friends in Israel. They celebrate circumcisions, bar mitzvahs, weddings under the canopies, Passover, Succoth, Shavuot, and especially Shabbat/Sabbath. All of these are family-centered feasts. There's lots of cooking!

We celebrate birthdays, baptisms, ordinations, Thanksgiving, Christmas, Valentines, Easter, our day to welcome spring, our day to welcome fall, graduations, and sometimes we just "say yes to life," which in our family means spontaneous celebration at anyone's suggestion. The traditions associated with these times bring back such tender memories.

We celebrate Shabbat/Sunday, always eating with our best tableware and flowers on the table with Rachmaninoff and Tchaikovsky in the background. And what Barney affectionately called "The MOTABCO," which translated means the Mormon Tabernacle Choir. We wanted Sunday to be a real renewal, a genuine change of pace, the harvest of the rest of the week. We hoped to teach our family to rest with the Lord in his way on his day.

We celebrate temple dedications. But Tru will tell you about that.

We have always celebrated general conference on the Sunday evening when the meetings are over. We con-

nect with each other through the miracle of long distance to compare notes and to verify that we all felt the Spirit and cried in the very same places and this year stood, wherever we were, to sustain a gentle prophet of God. How I missed this exchange while we were living in Jerusalem. After we had finished watching the videos of conference there, which was always delayed a few weeks, I longed to phone and celebrate with our children and grandchildren. Last year we tried America On Line with all of us logged on, but it wasn't the same. We didn't get to hear the excitement in each other's voices. So we're doing it the old-fashioned way.

There are always splendiferous banana splits at our home right after the general priesthood session. I loved looking down the dining room table this year watching my 92-year-old

LET US GET OUR
INSTRUMENTS
TIGHTLY STRUNG,
AND OUR MELODIES
SWEETLY SUNG.
LET US NOT DIE
WITH OUR MUSIC
STILL IN US.

—President
Spencer W. Kimball

Uncle Bill sharing his views of the meeting with our five grandsons; their father, Mark; and their grandfather, Truman—four generations of righteous, priesthood bearers sitting at our table, loving each other.

WE HAVE FAMILY MEETINGS

With children at home one can ask, "How will they know unless we teach them?" We have family meetings. As we meet, we try to respect each other's views and balance our needs and desires. We developed a system that we still use: How important is it to you on a scale from 1–10? We found we could negotiate better knowing how weighty a matter was to each family member.

We have tried many techniques

over the years. Some still work for us. Some worked for a while. Some didn't ever work. Relaxed flexibility is the key. I try to learn that from Truman. It is natural for him.

Truman and I still have a family meeting weekly. We try to be honest and open, not just handling scheduling and the calendar but current relationship concerns as well.

Clair and Dawna Rosza taught us to speak aloud our love as we visited them while they presided over the New England Mission. For about four days we observed them saying, "I love you" each time a child left and their beautiful mother replying, "I love you, too." At first I thought it was a bit too sweet, but there was a pervasive feeling of love in that home. It rubbed off on us. We've been doing it ever since.

Our son Barney said to me on the phone not long ago (he's a major in the Air Force JAG and a graduate from the BYU Law School), "Mom, I'm so glad that we do this." (We had just said "I love you" and were about to hang up.) He continued, "No matter when any of us dies [I knew he meant Tru and me], the last thing we will have said to each other will be 'I love you!'"

The harmony in our homes depends on each of us. Often we pray to be instruments in the hands of the Lord. To do this we must stay in tune with God and practice consistently. President Spencer W. Kimball said it so well: "Let us get our instruments tightly strung and our melodies sweetly sung. Let us not die with our music still in us" (*Miracle of Forgiveness*, p. 17).

I know that we need not be swallowed up in the darkness that surrounds us. I know that the beauty and virtue of our lives can combat the ugliness and sin in our world. I know that our radiant lives can become beacons to our children and to all whose lives we touch.

Our testimonies of Jesus Christ and the reality of his Atonement remain the focus of our family. God lives. His Son is our model. His living prophet sits with us tonight, in the name of Jesus Christ. Amen.

L e a r n i n g

in the

Stunning panoramas of Mount
Timpanogos will be seen from the
library's two levels of full windows.

Photography by John Snyder

The New
BYU Law
Library

Light

Constance K. Lundberg

MISSION OF THE LAW LIBRARY

For the last 120 years the law library has been described as the heart of the law school and the law school's laboratory. Ever since Langdell introduced the case method, law students have used the library, principally the reporters and their digests, to find the law as they learn it, one piece at a time. But legal education has undergone a quiet revolution in the last 20 years. A notable result of this revolution is that the traditional adversarial stance of faculty with students has changed to one of facilitator and director of traffic. Law schools are becoming places where students can learn according to individual styles. On the face of it, the role of the law library in this new law school environment seems to be the same as it has always been—to teach legal research and to give good service to all of the library's user groups. But though the library is still the laboratory, the nature of the experiments being done there has changed. With the addition to the law library, BYU has an opportunity to bring its laboratory up to the demands of the new legal education and launch another generation of growth in legal education and legal research.

TEACHING ROLE OF THE LAW LIBRARY LEGAL RESEARCH

As law librarians, we teach students the basic research tools they will need in their careers, whether in small or large law firms, government, corporate practice, public service, business, or education. Few law graduates actually enter the career field they expected to. Law students who plan for corporate tax practices may well end up in rural county attorneys' offices, and environmentalists out to save the world may find themselves doing labor work for a large corporation. So each student must leave law school with a chest of legal research tools sufficient for whatever unexpected surprises life brings.

What tools would you as attorneys learn to use if you were in law school today? You would still learn to use books—reporters, digests, Shepards, law reviews, loose-leaf services, and government documents. You would also use more microfilm and microfiche since both government and private publishers are turning to these mediums for such things as congressional hearings and reports. These film formats save space and money and are ideal for little-used resources.

We still teach students to use the on-line services WESTLAW and LEXIS, though instruction is more focused on cost-effective research and on how to download information from on-line services and use it in a word processing format.

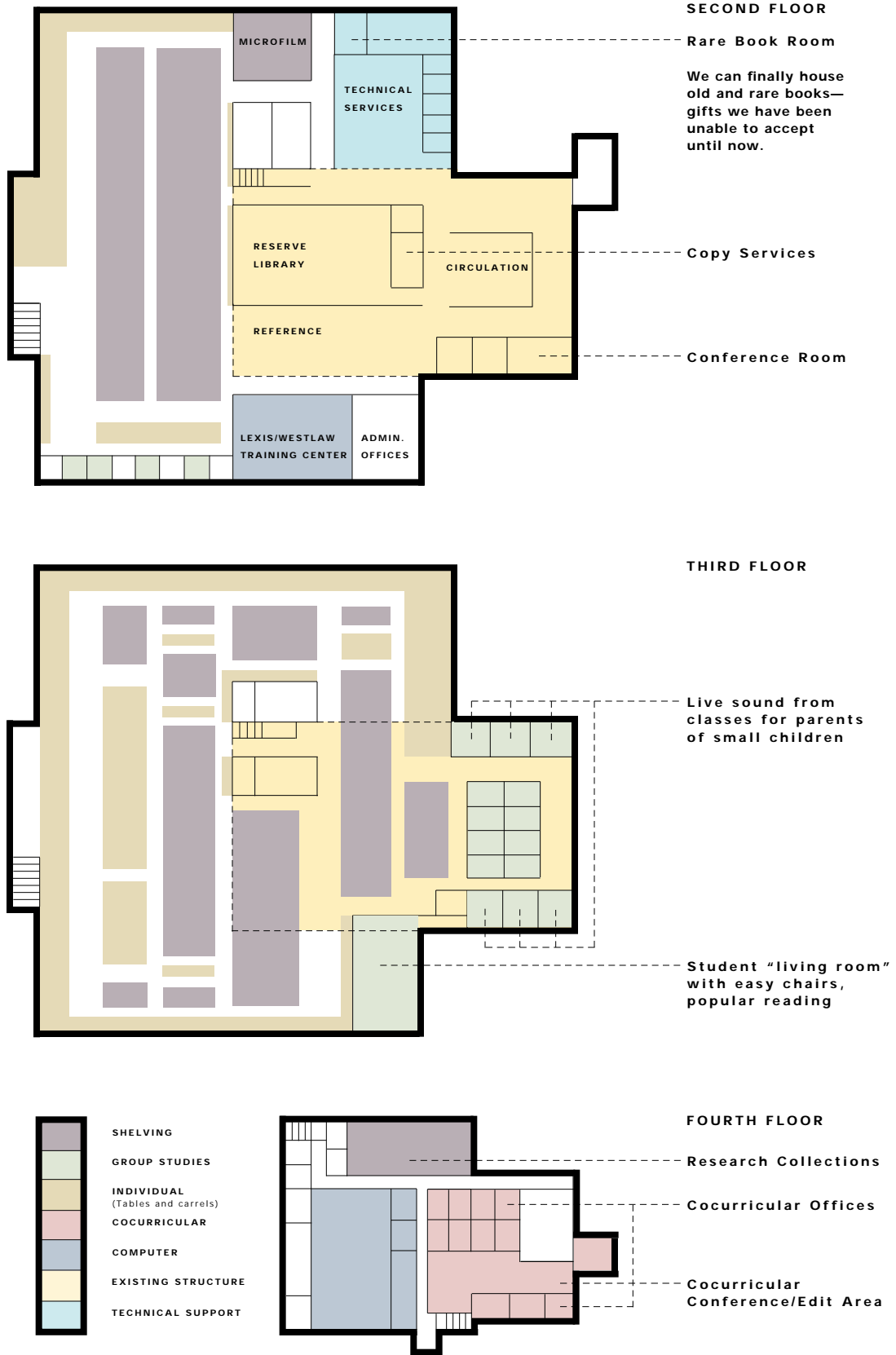
A new and exciting on-line tool is the Internet. The Internet is capable of addressing almost any problem. On the Internet we can read accounts of current events as they occur, written by scholars at the scene. Requests for such information or even the most obscure documents, unat-

tainable in hard copy, are met, often in minutes. There are bulletin boards where information is posted on thousands of subjects. There are list serves, web servers, E-mail, gophers, and telnet facilities by which Internet users can share information, access documents, hold conferences, and otherwise plug into a worldwide legal and academic community. Related to these resources are the shared collections of major research libraries worldwide, accessible at a terminal or PC in the library. At the BYU Law Library, we are just starting to teach students how to use these incredibly powerful tools.

Other computer tools are essential to a 21st-century lawyer. CD-ROM is fast gaining favor in small law offices and even in some large ones. It can be searched like an on-line service, but at a minuscule annual cost as opposed to the minute-by-minute metered time for LEXIS and WESTLAW. The databases must be searched one by one and are smaller than those on-line, but the cost efficiency makes this a tool available to any lawyer. There is a developing business in user tools on CD-ROM that empower lawyers and students—tools to manipulate data, produce documents, charts, graphs, forms, spreadsheets, analyses.

Finally, there are expert systems—computerized versions of the expertise of scholars like Stan Neeleman—that can be used by a lawyer in her office to produce documents for anything from a will to a Blue Sky offering in Georgia to jury instructions for a murder trial in California.

Because of these advancements, the role of the library in legal education at BYU has mushroomed. About 40 different half-day legal research classes are offered by the library faculty each year. Students are required to take eight basic classes during the first week of school and four more



during their first semester. After that students must take an additional 10 research classes to graduate.

The classes are small. No more than 25 students are in any class, and most of them have about 10 students. They are hands-on classes—students learn about a research tool then go into the library on their own to use it. The classes get good reviews from students and from employers who see students use their research skills as summer clerks.

At the present time the library is not a good facility for such teaching. Students learn in uncomfortable, noisy circumstances. Some of you learned WESTLAW and LEXIS sitting at the terminals as they are now, along the west aisle of the main floor of the library, next to the reference area. Not much of a classroom. There are even less adequate resources for other teaching. Many classes are taught in regular classrooms, with the library materials hauled in on book trucks. Then students go back to the library and try to find the same materials in their natural habitat.

SUPPORT CLASSROOM TEACHING

The law library has always acted as a backstop to classroom teaching. That role has increased. The library maintains course and professor reserve collections and provides bibliographic support for every course taught. This support has been expanded with the acquisition of many tutorial videos from our faculty or other experts.

As faculty assume their new role as facilitators, their students are moving into more group projects. Students are negotiating and drafting contracts, drafting statutes, writing client advice letters, constructing litigation strategies, solving labor disputes, and otherwise engaging in a variety of group practice activities. But there is nowhere for these busy students to meet. The group study rooms in the original library have mostly been converted to house computer facilities and cocurricular programs. As a result, students meet in the halls, between the stacks, around carrels, in the lobby, on the stairs. The library should house such group activities, but needs expanded facilities to do so.

Students are learning to use and, more important, to design their own expert practice systems. Commercial practice systems published by such major publishers as Matthew Bender, CCH, CT Corporation, Jurisoft (subsidiary of Mead Data Central), and Shepards are based on the CAPS system designed at the Law School. Many of the system designers are BYU law graduates or faculty. The research-based classes are also without a home. At present they are limited to an enrollment of eight because the only place they can be held is in one of the library computer rooms.

TEACHING IN THE NEW LAW LIBRARY

What a difference you will see in the new library. There will be three separate computer classrooms: one for WESTLAW, one for LEXIS, and one for training students in other types of computer use and research, including practice system design. All three classrooms will be used as student research facilities whenever classes are not being taught. The classrooms will be equipped with master controls that enable instructors to view the work of each student and to project the work at any terminal onto a large screen for viewing by the entire class. There will be 50 computer stations, each connected to the Law School local network as well as to the university computing system and to the Internet.

Every student will still have a carrel (a BYU innovation that has proved a durable and unique part of BYU Law School training), but each carrel will be tied to the Law School, university, and Internet systems. All students will need to do is set up their laptops and plug in. (Most students bring their own laptops to law school, by the way. One of our prelaw school services is counseling prospective students on which systems to purchase.)

In addition to solo study areas, the new library will have 26 group study rooms, as well as tables and

easy chairs scattered throughout the library to accommodate different study styles and needs. Both the study rooms and the spacious, casual seating will contribute to a more peaceful study atmosphere.

The teaching role of the library will be enhanced in other ways as well. There will be a video viewing room, a greatly expanded reference facility, and interactive video stations. Interactive video is the legal version of a flight simulator. A student can introduce evidence, cross-examine a witness, negotiate a contract, get a search warrant, or perform many other legal tasks with a computer to tell him whether he crashed, bobbled, or performed a perfect three-point landing. I remember my first direct examination of a witness. I wish there hadn't been any witnesses to it!

SERVING USER GROUPS

The library's clientele hasn't changed greatly since you were here, but the level of service has deepened and broadened. Law students and law faculty are still our major users. Facilities and collections are still provided in the library for cocurricular programs. As always, the library also provides support and service to the campus as a whole, to Church administrators, and to the community.



The new building will have a two-story window almost the full expanse of the north wall. The outside south walls will also be all glass.

Technology has been a cornerstone to the success of the J. Reuben Clark Law School and Library. The school has enjoyed a reputation for applying cutting-edge technology to legal education and research since its founding in the early 1970s. Prestigious law schools, firms, and companies have sent their representatives to Provo to learn from BYU's success. There is no secret to that success. Hard work, research, dedicated and enthusiastic employees, and the willingness to take a chance or two have developed the BYU Law School into one of the premiere legal research centers in the Intermountain West.

- *Many legal researchers limit their technology to the on-line services of LEXIS and WESTLAW. The BYU Law Library was one of the first to establish student labs and training in these services, but the commitment to computers and technology began long before. Because of that earlier commitment, BYU was chosen to be one of the first sites to gain dedicated student access to LEXIS and WESTLAW. Since then, a steady stream of technological investments has given rise to a first-class legal research facility.*
- *The BYU Law Library was one of the first law libraries to take their catalog on-line, a monumental change. The Law School's technological direction was set.*
- *New technologies continue to develop. Here are some of the computer and electronic resources available at the Law School.*

- LAN** The local area network began replacing the mini-mainframe VAX in 1986.
- E-MAIL** All students and faculty members have their own E-mail accounts. They can send and receive electronic mail to and from each other and to and from any Internet, BITNET, CompuServe, or America On Line address.
- LIST SERVER** A useful tool of an E-mail system is the ability to subscribe to list serves. List serves are discussions carried on by E-mail and are limited by topic or user. There are list serves on many subjects, including specific areas of legal practice and research. The advantage of list serves is that with one E-mail message you can reach hundreds or thousands of experts in your field.
- CD-ROM** Currently the library has about 50 databases on CD-ROM. These databases include the Utah Code, tax forms, environmental law databases, and phone directories. The library will acquire hundreds more in the near future. These CDs will be housed in towers and jukeboxes that will allow researchers access with just a touch of a button.
- GOPHER** Information mounted on remote systems worldwide at other universities, libraries, and commercial entities can be accessed by gopher, either through direct Internet access or through an E-mail system.
- WWW** The World Wide Web is a hypertext system for accessing information on remote systems. It requires special software programs, such as Mosaic, which can be obtained as public domain software directly from the Internet. The www organizes information by topic, location, and type of information.
- FTP** File Transfer Protocol is a method for making files accessible on remote systems. On the information highway you will often read "Anonymous FTP such-and-such file from." This means that this file is available for the asking. You dial up the address and download the file to your own computer. You can then read it, manipulate it, or edit it as you need.

The BYU Law Library found an early on-ramp to the Information Superhighway. Through forward-looking leadership, the library was soon racing down the fast lane. Technology has been the fuel to keep it going ever since.



COCURRICULAR PROGRAMS

The Law School started with two cocurricular programs—law review and moot court. We now have five robust and busy programs, training students in legal research and analysis. The law review and moot court remain. They are doing well, garnering the Law School laurels and commendations throughout the country. The moot court team competes nationally, bringing back trophies each year. There are two additional journals. *The BYU Journal of Public Law* publishes two volumes a year, focusing on questions of public law. Like the *BYU Law Review* it is offered on LEXIS and WESTLAW and is a nationally cited journal. *The BYU Journal of Education and Law* fills a different niche. Published principally by our students seeking joint degrees in law and education administration, the journal has grown from a small newsletter to a nationally distributed service to education administrators and others interested in the increasingly complicated and challenging area of education law. All three journals are published in-house using a desktop publishing program. The trial advocacy program has joined moot court and is beginning to make a name for itself as well.

The five cocurricular programs enroll well over 100 students a year. Their demand on the research collection is so great that they have their own computers, tied into on-line services and the BYU law network, and they need a set of the national reporters to support their work. We have the resources but no place to house them.

Cocurricular programs have absorbed all but one study room on the fourth floor, and we have lined the halls with bookshelves (to the distress of the fire marshal), but to say their quarters are cramped is a great understatement. Six, eight, or even ten students share an 8' by 10' office. We are eager to see what great gains they make when they have more room to work in.

The new cocurricular office complex will include one to four offices for each program (depending upon the size and nature of the program). In addition, there will be a central conference area for all students to use. The cocurricular area will occupy about one-third of the present fourth floor. The remainder of the space will be occupied by a research library (a set of the last series of the national reporter system plus digests and other core research materials) and the computer classroom and student computer lab.

(Mark Twain once said that before you remodel a house it is best to consult the residents. Students from all five programs, plus some alumni of the programs, have participated in the planning of the space.)

STUDENT RESEARCH

Not only are the cocurricular programs booming, student research generally is on the rise. The faculty adopted a substantial writing requirement for graduation where each student writes at least one 30-page research paper with editing and consultation by a faculty member. Student papers can be superb. Next time you interview a student for a job, ask

to see hers. Some are published in BYU or other legal journals. Others are referenced by faculty in their own writing and research. We are excited to be able to support this work with additional work space and computer facilities in the library.

In considering general student study and research space, we have also consulted the residents, past and present. One of their recommendations was to retain the personal carrels. Another was the addition of the aforementioned group study rooms and casual study areas.

MASTER'S OF LAW

In the last few years the Law School has taken on a more international character. In 1987 the Law School launched a master's of comparative law (MCL), now a master's of law (LLM), program for foreign lawyers. The program is enjoying full enrollment (10 students a year) with students representing Europe, Africa, Asia, and North and South America. Our many students returned from foreign missions have enjoyed being a resource for the LLM students. Their studies and research are new facets of legal education at BYU.

The new law library will have sufficient space to provide better facilities for these students and the collections they use.

A RESOURCE FOR THE CHURCH

Like every school, we have obligations to our sponsoring institution. Many of the faculty, students, and alumni have had an opportunity to serve the Church, especially during this period of rapid international growth and multicultural challenge. The law library is no different. Our library—especially its constitutional law, law and ethics, family law, and international collections—supports research by library faculty and other members of the Law School community who are given the opportunity to serve General Authorities or the counsel for the Church. The electronic media are especially valuable. The growth in demand for information is too great to be met by traditional methods of acquisition. We draw on other research libraries with whom we have agreements to share collections. We are drawing even more heavily upon Internet.

Our new building will help greatly, principally in supporting expanded computer tools, providing general research space, and serving as a home for expanded collections in areas of family, international, and moral foundations of law, and other areas of critical Church interest.

SUPPORT FACULTY RESEARCH

The dean is proud of highlighting the scholarly productivity of the Law School faculty. Most years the Law School leads the BYU community in the rate of publication, and our faculty regularly publish in nationally and internationally recognized journals and other forums.

The faculty scholarship is equally notable within the legal academic community. Professor Whitman's service as the

reporter to the *Restatement of the Law of Property—Security Interests* is highly regarded, as are Professor Neeleman's work as a moderator on Legal Counsel Connect (offered as a LEXIS service to corporate and government counsels and their law firms) and Professor Durham's unceasing service to assist emerging democracies in their movement to expand human rights.



Their ever-burgeoning scholarship requires a broader range of materials than any library can house. In supporting their work, the library is moving heavily into cooperative collection agreements with sister libraries, and research and access to national and international networks, gophers, and list serves. The library computer network supports the research. The law library faculty and staff keep the systems running and desperately try to stay current with the availability and use of the resources that expand and change daily.

The new building will provide facilities for increased computerized research tools and enhance off-campus access for our busy faculty. The overtaxed computer facilities will have a place to grow, and the computer staff will be able to function efficiently in a library designed to house this type of sophisticated computer research. Now computer support staff are spread throughout the library, mostly in remodeled study rooms. They communicate by radio in order to keep working. Our computer support team is eagerly looking forward to spending all their time working on Law School needs and not having to spend hours every week just staying coordinated with each other.

SERVICE TO THE COMMUNITY

Unlike many private law school libraries, we have always tried to support the larger community as part of our service. Though law students and faculty are obviously our highest priorities, our greater service community includes the rest of the university, members of the bar, other schools within Utah and in the Rocky Mountains, and residents of the community with legal research needs.

We provide this service on-site, hosting people as they come in with queries. We teach research classes to undergraduate and graduate students at BYU and give more limited library tours and research assistance to students from other colleges and universities within Utah. The practice-oriented parts of our collection are not only used by students in skills courses, but also by lawyers and other concerned people who come to us for help. We provide more services to other academic institutions and to lawyers throughout the West through interlibrary loan and through our document copying and delivery service. Though our service is not as extensive as that offered by some law libraries in major urban areas, our reference staff does fill written and telephone requests from lawyers, particularly in rural areas.

As indicated above, we are actively involved in collection sharing with other research schools. The law library is a member of the Research Libraries Group, with about 40 research law libraries nationally. We also participate in the Utah Academic Library Consortium. Through gateways, researchers throughout the world can search our on-line catalog. We provide 24-hour-turnaround service to researchers at participating institutions. These services require staff and equipment (photocopy, fax, and modem) but enable all the participating libraries to control acquisition costs and reduce growth rates. When you go into another law library and request, and receive, an article or other document, you will probably never know whether that document came from the library you are in, from the BYU Law Library, or from another cooperating library. You should know that the service you receive is greater, at a much lower cost, and days faster than if libraries were operating as solo institutions.

A WINDOW ON THE WORLD

The remodeled law library will better respond to the changing ways law is taught and learned. It will provide better service to all of the library's varied clientele. But what almost every alumnus of the Law School wants to know is "Will the new building have windows?" As fond as we all are of the window slots in the current building, you will be glad to know that we have expanded our vision, and that of future users of the library. The new building will have a two-story window almost the full expanse of the north wall. The outside south walls will also be all glass. A large current-periodicals room on the third floor will have two full walls of glass—one looking out at the mall, the other into the building. These windows symbolize the expanded mission of the law library. We are a home to our students, but we look to the mountains, and into the heart of the campus, to see the larger community we and our students serve. We look forward to a new era of ample space, peace, quiet—and light.



THIS ADDRESS WAS GIVEN AT THE
ANNUAL LAW SOCIETY/ALUMNI ASSOCIATION DINNER,
OCTOBER 28, 1994.

Temples

TRUMAN MADSEN

THERE IS A THEME THAT

is most powerful in my life,

and always has been, in keeping balance.

I introduce it with just one comment that came to me secondhand

from the late President J. Reuben Clark, whose name this Law School

honors. After going through the Harvard mania and earning my

degree, I was in a position,

PHOTOGRAPHY BY JOHN SNYDER

through a strange set of circumstances, to earn a second PhD by investing only one more year. (I had already been at it for four.) I raised the issue with Elder Harold B. Lee during a stake conference. I asked for a nudge.

He said, “President Clark just returned from being released as a director of Union Pacific Railroad. He chatted with me on the way west. He said to me in effect: ‘Now that I am 80 plus, all of the distinctions that I achieved, all else that deals with getting through life has paled alongside only one real question: How have I lived in relation to the gospel, and what about my family?’” Then Brother Lee said, “Spend more time with your family! Life is for living!” Good counsel to me at the time.

Where does one find a balance staff? The balance staff is the temple. This is something I’ve addressed before. My few remarks will be slightly skewed

this time toward some insights gained through living and breathing and feeling the Jewish tradition about the centrality of the temple.

The Midrash says five things were missing from the second temple compared to the first.

First, the sacred fire. In Solomon’s temple and at its dedication, there was an outpouring they call the *shekhinah*, the Glory of God, like fire. That did not happen at the second temple. In the first temple they had the gift of prophecy, but not in the second. In the first temple they had a holy anointing, but not in the second temple. The first temple had the Urim and Thummim, an instrument for somehow discerning the will of God. That was not in the second temple. Finally, they had the Ark of the Covenant in the first temple. The Ark was most significant because it contained the tables of the law given to Moses.

At the dedication of the Kirtland Temple, all five of those things were present. (This preparatory temple made way for the eventual complete temple, of which the most magnificent example is here in Salt Lake City.) There was an outpouring so real it was like fire. Neighbors, not of the faith, came running, thinking it was fire. Father Joseph Smith stood up and asked, “Is the building on fire?” His son Joseph said, “No, Father, our prayer has been answered. We asked that it would be as on the days of Pentecost, as encircling tongues of fire. It has happened.” In the Kirtland Temple there was a Urim and Thummim in an upstairs room. In that temple all experienced the gift of prophecy, an unprecedented outpouring in the Church up to that point. It was rich and powerful. There was a holy anointing under divine direction. Upstairs in Joseph’s translation room were books—being translated from Moses and Abraham—and other sacred scripture that had not been made known to the world for generations. And there was a prophet of God.

Incredible that we should have inherited in this generation what was so long lost. But that is only the beginning. Brothers and sisters, when as a mere fledgling 19-year-old missionary I had the privilege of receiving the blessings of the temple, one thing was clear to me. Within that set of walls, I felt something almost as tangible as light and the warmth and peace of a warm blanket, heavier than air. I felt it. I didn’t want to leave it. I now think I understand the line in the Prophet’s Kirtland prayer that all who enter might be “constrained to acknowledge . . . that it is [his] house, a place of [his] holiness” (D&C 109:13). We don’t believe in compulsion in this Church. What does constraint mean? It means the very weight and power of the Spirit that we cannot deny is there. It is there, waiting for us. We are invited to come to this sacred sanctuary, in the spirit of dedication, for more.



The very weight and power of the Spirit that we cannot deny is there. It is there, waiting for us. We are invited to come to this sacred sanctuary, in the spirit of dedication, for more.

Hugh Nibley, in his book on the Egyptian papyri, speaks of the Egyptian temple. Though he sees all kinds of parallels, he simply summarizes by saying the temple is a powerhouse. It is both filled with power and is a generator of power. *Endowment* means, among other things, the surrounding and then permeating of the power of God: “endowed with power from on high” (D&C 105:11). That is what we are called to go back and back again for. We can then concentrate, receive, and carry this power into our own minitemples, which are our homes.

Ann and I had a temple courtship. We were idealistic; the temple was to us the symbol of everything glorious in marriage and promise. We can now rejoice that our family, our children, have taken hold of this. In five successive home evenings, we prepared our children for the Provo Temple dedication. Though the children were small, they could understand about a sanctuary, a sacred place, a house of prayer, a place where all dress in beautiful symbolic white, and so on. We went to the dedication fasting. Some of you may remember the gathering in the Marriott Center with the huge screen. All of our family, even the youngest, felt and gained a temple testimony. God’s power is there.

The Jews now go not to the remnant of the temple, or even of the foundation of the temple, or even of the platform on which the temple stood (all are destroyed), but to a remnant of the retaining wall that provided the stonework, or buttress, for the superstructure. Annually, on *Tishbe-av* (the ninth of the month of Av), they weep and cry out in mourning for the loss of the temple. The most orthodox have faith that there will be a new one.

The temple is the culminating place of kinship and love. As if it were a magnifying glass that catches the light of the sun (*S-o-n* as well as *s-u-n*), the temple somehow enables us to see and feel and be filled with divine love. We often talk about the family unit as one set of parents and children. This is a recent 20th-century idea. *Family*

I pray that in the moments of anguish and stress and burden that will come to all of us, we will recognize that God has given us a balance staff, which, as the Prophet Joseph once said, “holds the storm.” That is the temple.



in earlier centuries meant at least four generations. Family is the *whole* family. We speak, I think misleadingly, about going through the temple when what we should say is that the temple goes through us. We speak of doing “work for the dead” when, in fact, we only work for the living, and the living in the spirit world may be more alive than we. The power that comes from the assurance of that kinship and the sense that we are serving unselfishly creates a return wave of love that is real. Guidance, protection, loving influence—all these the house of God makes possible for us.

Now, a word of testimony. While we were in the Jerusalem Center, the numbers of visitors increased. First the curious came, and then many others followed, wanting to see. How many?

A hundred thousand last year. We encouraged them to write, in a guest book, their impressions. Is the Jerusalem Center a temple? No, it isn’t. It is a house of learning; but it feels like a temple. We have Jewish friends who have used that exact language. Often those who write say, in Hebrew or sometimes in Arabic, “I feel shalom” or “salaam.” What is that? Peace. We heard a little child, maybe five, pulling on her mother’s skirts, “Imma, Imma (that means “mother”), can we live here?” Why?

President Hunter gave a dedicatory prayer. We were privileged to hear it. He asked that everyone who entered, whether to learn or to teach or for any other purpose, would feel the Spirit of the Lord. That blessing is tangible. Perhaps the world would not understand the difference such a dedication has made to that glorious structure. God’s power now resides in that building, and we had the privilege day after day of basking in a tangible peace.

I testify that this is even more true of our sacred sanctuaries, the temples of the Lord. The temple is a template to help us find and recover our bearings. Twice a month Ann and I go to the temple. We gain something each time. I hear people say, “But it’s the same thing. How can you stand sheer repetition?” For the same reason that Hugh Nibley and his wife do. I’ve watched him. He concentrates; he focuses. It is never “just the same thing.” This week there is greater depth of understanding; this week there is more of putting things together. In the temple Hugh Nibley is like a child on Christmas morning. So can we be.

I pray that in the moments of anguish and stress and burden that will come to all of us, we will recognize that God has given us a balance staff, which, as the Prophet Joseph once said, “holds the storm.” That is the temple. It is the Lord’s house. He is there through his Spirit, and he has promised to manifest himself in mercy unto his children throughout their lives, in the name of Jesus Christ. Amen.

PORTRAITS

Photography by John Snyder

GARY HILL

LEGAL LIBRARIAN EXTRAORDINAIRE

*I*n the spring of 1984, Gary was just finishing one of the most difficult and yet growing periods of his life as a faculty member at the University of Texas, Tarlton Law Library. With both a JD and a master of law librarianship to his credit, Gary had accepted the position three years earlier. He was attracted to the job at Texas by the opportunity to learn from one of the most prominent figures in the law library profession, Mr. Roy Mersky. “Mr. Mersky told me if I would give him three years he’d get me a job in either Utah or Alabama, where he knew I wanted to be. So, I went to Texas.”

Though enthusiastic about working with someone as knowledgeable and influential as Roy Mersky, he had no idea how demanding it would be. Gary explains that frequently he would just get started on a project when Mr. Mersky would assign him two or three more. “It was extremely difficult,” relates Gary. “Often it was a day-to-day survival, and I didn’t appreciate what he was trying to do—until I left.” Gary tells of the dread he often felt while at Texas when he would find a note from Mr. Mersky in his mailbox stating simply “See me, R.M.M.” Looking back Gary now muses, “If I have any worthwhile work ethic in me, he’s to blame. I learned I could do more than I ever expected, and since leaving Texas I’ve learned to truly love and appreciate the man.”

At the end of the three-year period, Gary had earned his right of passage and, just as Mr. Mersky promised, had employment offers in both Utah (at BYU) and Alabama (at the University of Alabama). With two job offers on the table, the decision of which job to take was now up to his wife, Rebecca. “All of Rebecca’s family was in Alabama,” explains Gary, “and, because I knew I would be in an office all day, the decision was up to her.” Having family in Alabama was not Rebecca’s only attraction to that part of the country. Alabama was also the place where she had grown up and where she and Gary had first met.

It was in 1973 that Gary, originally from Riverton, Utah, was a first-year law student at Cumberland Law School in Birmingham. Though busy with school and work, Gary always made time for the Church and was then serving as the Young Adult leader in the Birmingham area. He and Rebecca were introduced one Sunday evening at a Young Adult function. The couple began dating in 1974 and a little over a year later were married. Gary and Rebecca continued to live in Alabama until he finished law school in 1976.

With so many ties and memories in Alabama, Rebecca could have easily chosen to make her home there. Nevertheless, having a strong belief in the Church and desiring a wholesome environment for raising their family, Rebecca encouraged Gary to accept the BYU job.

Gary Hill began his legacy at the BYU Law Library in April 1984. Since then, he has held several positions, including circulation librarian and reference librarian. He currently holds the position of associate law librarian, “second in command,” so to speak, and is in charge of the daily operations of the law library.

Despite the tremendous administrative load Gary carries, he refuses to give up his scheduled time on the reference desk. "I really enjoy helping people find answers to their questions. In my mind, that is the best part of the job." He is a firm believer that "if you give a person a fish he will feed himself for a day, but if you teach a person to fish he can feed himself for a lifetime." "My greatest joy in this job," says Gary, "is when I realize that people are learning."

Nearly everyone associated with the J. Reuben Clark Law School who has been helped or influenced by Gary Hill received that direction at the reference desk, a place

the library staff to follow. He is a great example of what a truly service-oriented reference librarian should be.

Many law students who have long since graduated and moved on to promising careers in the legal profession have had a hard time leaving Gary behind. Year after year telephone calls from all over the country continue to come in with pleas for Gary's expertise and personalized research assistance. Faculty members, university presidents, and General Authorities alike are all repeat customers of this knowledgeable man who seems to know the law library as well as he knows the five-minute route from his house to the Law School.



where he seems to have been a permanent fixture for the past ten and a half years. Members of the reference staff insist that one encounter with Gary and a patron is spoiled for good. After that, patrons simply refuse to believe their problem can't be solved unless they hear it from Gary. It isn't at all unusual for patrons to bypass the reference desk completely (on those rare occasions when he is not there) and go straight to his office. Gary's vast knowledge of the library and its holdings, coupled with his ability to deal with people, makes him a hard act for other members of

Gary Hill feels reference-desk work is "the best part of the job."

Gary's coworkers explain that his dedication to the law library goes well beyond what would be required of him in a normal work week. According to them, he often comes in evenings and on Saturdays just to see how things are going. And it usually takes a direct order from Dean Lundberg to get him to go home when he's sick.

Gary Hill has done much over the years to help BYU law students prepare for practice in the real world. In 1988, for example, he began meeting unofficially with a small group of students weekly to help improve their legal research skills. No credit was awarded to the students for work done that year. The next year, however, Advanced Legal Research was added to the Law School's course schedule as an official class, with Gary Hill as instructor. He has been teaching Advanced Legal Research at BYU now for five years, and the more recent graduates are better equipped to do legal research because of it.

When questioned about the future, Gary expressed concern over the phenomenal growth of legal information and the many new formats now available. "The volume of legal materials, including books, is going to continue to grow," he says. "Our challenge will be in our ability to adapt." Adapting, according to Gary, includes not only deciding formats of legal information to purchase, but making time for mastering and teaching them. "My main concern is having a staff that is already taxed to the limit and an abundance of new technology to become familiar with and make accessible."

Gary feels "the staff is the heart of the law library. They are what make it live. I certainly hope we can find more human resources to help with the influx of new material resources. But our staff will continue to do whatever we can to give first-rate service to the patron." And, no doubt, Gary Hill will untiringly and enthusiastically lead the way.

—Kory D. Staheli

CONSTANCE K. LUNDBERG

ACCIDENTAL CAREER

From the time I was eleven, I wanted to be a professor of English and folklore," Constance K. Lundberg, seated in her dangerously cluttered office, reveals. "That's when I heard Alfred Deller sing for the first time." For Constance, Deller and other folk singers like him exemplified simplicity, clarity, purity of music, not the commercial kind of folk singing popular through the 60s. "The songs they sang survived for generations because they addressed the most immediate needs of human beings." Constance's fascination with folklore continued into her undergraduate days at the University of Arizona where she met and studied with Byrd Granger, a deceptively diminutive woman who trained fighter pilots during the Second World War when women pilots were not allowed to fly war missions. On one of her training runs Granger landed in the Appalachians and discovered a whole town, not yet

infected by radio or television, that spoke Elizabethan English. This was the beginning of Granger's fascination with language and folklore, and she was the furthering and intensifying of Constance's.

As folklore continued to be Constance's passion, it also became her livelihood. In the evenings and weekends she sang and played her guitar in shabby bars, coffee houses, and pizza parlors. "I wasn't very good," she admits, "but it took me a while to discover it." Though she doesn't view herself as a great vocalist, she still sings with groups in church and, not long ago, in a van loaded with captive family members, she sang nonstop for three hours without once repeating a single song.

When she was finishing her undergraduate degree, Constance applied and was accepted for graduate study at UCLA in folklore. Unfortunately the Vietnam war was escalating at the time and the government withdrew funding grants for many humanities programs, including Constance's at UCLA. She halfheartedly entered a master's program in English at Arizona State University and took a job in the humanities section of the university library. She liked working in the library (despite her supervisor, whose attitude was that it was too bad anyone was ever allowed to touch the books), but English just wasn't right. By then she was already taking an active interest in environmental and civil rights issues and eagerly airing her views. If folklore was out of the question, where did these other leanings place her? Law school seemed a valid choice. She was accepted to the University of Utah, one of only five women students there.

Estate planning and pro bono work were her choices for a profession once she graduated but, though she sent out 200 applications, she was not offered a job. She was unprepared for so much rejection. Her father had been a social worker and had raised the family in an academic environment where women were often the professionals. "But in law, women were not being hired in those days," she explains for those who didn't live through the 70s. However, a partner at the Salt Lake firm of Parsons Behle & Latimer, one of the places she'd applied, took up her cause. The other partners put aside their prejudices when they realized Constance had strengths in environmental law that they lacked. "Environmental law had not yet emerged as a field of study, but people were beginning to look for expertise in the area." She had found a place against terrible odds, and she intended to stay.

Then her career took a turn she had not anticipated. The Council on Environmental Quality under the Office of the President contacted her about working in Washington. "Working for the Feds was the last thing I was considering." She agreed to go for a year, however, taking a leave from Parsons Behle & Latimer. Constance loved Washington, where she could indulge her love of music and the arts any day of the week. She extended for a second year after which she returned to Salt Lake a better environmental lawyer and happy to be back.

"About that time I ran into Reese at the BYU Law Library where I was doing research." Constance and Dean Hansen were old friends from law school. He asked if she had ever considered teaching. Of course that had been her goal in the folklore days. Since then she had taught part-time for both the University of Utah and Utah State. BYU needed someone to teach environmental and natural resources law full-time. It wasn't an easy decision, but Constance had read a study showing that the attorneys happiest with their jobs are not the members of megafirms

without its stressful times, of course. As dean she has dealt with everything from honor code infringements to anemic book budgets and done so competently.

In fact she seems to gravitate toward daunting challenges. Before becoming dean she was part of a project that was to become one of her "greatest accomplishments as a lawyer and environmentalist"—the purchase and reopening of Geneva Steel. Joe Cannon, Robert Grow, and several others, none of whom had ever produced steel before, with a 100 percent leveraged buyout man-



Constance K. Lundberg and her husband, Boyd Erickson, enjoy a moment with their son Philip after his school concert.

but public service lawyers and professors of law. "I have found that to be true," she says after 12 years of full-time teaching. As one of the first female faculty members, she has served unofficially as mentor of several hundred women students and has seen their numbers grow from 20 to 35 percent of the Law School student body. Her life as a professor, particularly after she became associate dean in charge of admissions and the library in 1989, has not been

aged to purchase the derelict, sprawling buildings blotching the shore of Utah Lake. The plant, once the mainstay of the economy in Utah Valley, had been winding down for years and had officially closed its doors the year before. Within two months of the purchase, the plant had turned a profit. Now considered one of the most ecologically sound operations in the United States, it competes successfully worldwide.

During the start-up year of the plant, Constance took a leave from the Law School. She returned to become associate dean. No sooner was she settled into the deanship, however, than a new challenge presented itself. The

director of the law library wanted to move into full-time teaching and research. As Dean Hansen and Constance discussed possible candidates for the position, Constance admits thinking, "Let me do it." Apparently Reese was thinking the same because he finally said, "I don't want to offend you, but would you like to be the law librarian?" Ever since working in the library at Arizona State University, she had enjoyed library work and, of course, libraries had always been a place where she spent a great deal of her time. Not without trepidation, she stepped into yet another role. Materials prices were increasing as much as 10 times the annual increase in library budget. A new building was on the horizon. She was joining a professional library faculty, all of whom had master's degrees in library information science and half of whom held law degrees. She had never designed a library. She didn't have a library degree, a requirement nationwide. Would the staff accept her? Could she build a building?

During her first two years as law librarian, Constance completed her library science degree. She designed aspects of an ideal library to fulfill requirements in several classes. Many details of those early designs have been integrated into the finished architectural remodeling plans, which she regards as "a physical manifestation" of her values, embodying as it does "the power to enhance education." She finished her master of library information science just as lights were going out in the BYU library program.

One area in which she needed no additional training or degrees was fund raising. She was already working with Dean Hansen to raise funds and had raised funds for Geneva. Now she is now doing it for the library. Since Constance became librarian, the university administration has awarded additional funds for the law library totaling well over half a million dollars. Constance has also helped bring in library funding from local businesses and grants. Yet she considers neither the building plan nor the improved funding to be the best thing she has done for the library. "The library faculty and staff have greater respect for themselves and more willingness to stretch. They have become a more proactive part of the community, teaching classes, researching, and writing. That's what makes me most happy about my years in the library."

And what does she consider to be her greatest accomplishment in life? Environmentalist? Fed? Librarian? None of these. Erstwhile folklorist? Not even that. "My greatest accomplishment," she chokes, grabbing Kleenex in anticipation, "is Philip." She hastens to add, "Really all of the top four or five are family related." Philip was not a serendipitous accident like so much of her career. "Philip was a miracle. He shouldn't have been." At 33 Constance had despaired of marriage, of ever finding anyone she could live with or who could live with her, of having the sort of close family she had grown up in. Yet her life was happy and full of activity and commitment.

The last thing she had time for was to be sick. But the pain in her abdomen forced her into the doctor's office. An ultrasound revealed what looked very much like ovarian cancer, a large mass that almost obscured the uterus. The doctor ordered her into surgery. She resisted; she didn't have time. Friends united to force her to do what she was told. She insisted that if cancer was not found, the surgeon clean up the diseased area and leave the uterus. That was her last command before she went under the anesthetic. Constance did not have cancer, but the doctor wasn't happy with what he saw. In any other case he wouldn't have hesitated to do a hysterectomy, but he honored his patient's wishes. Part of the uterus was diseased, and he removed that portion and an ovary. He hadn't the least hope that Constance would ever have children.

Some time later she married widower and long-time colleague and friend Boyd Erickson—"saint, facilitator, patriarch," Constance's greatest fan. Constance wholeheartedly accepted his children as her own. The marriage, which Constance calls "the smartest thing" she ever did, was not universally applauded by Boyd's five children at first. Characteristically Constance was undaunted. "We decided never to divide or subtract in our love of family—only to add and multiply." As the blending of the family began to feel good, she and Boyd talked about how wonderful it would be to have a child to even further bind the family together. To everyone's amazement, Philip came. When Constance ran into her surgeon when Philip was two-years-old, he still insisted that it was impossible.

Impossible or not, "Philip is a marvel. He has been from the moment he was born." Constance waxes eloquent over her child: "I loved to bring him into the Law School when he was an infant. He opened up to everyone." Like Constance, he loves music. "I first noticed his fixation with music when he was three months old. Haydn was his favorite." She adds, "At nine months he could perfectly replicate a pitch."

Now nine years old, Philip passionately plays the piano and the cello and composes his own music, for, he says, "My head is always full of notes."

"He's outstripped me on the piano," confesses Constance, "though I am allowed to accompany him when he plays the cello." But does he like folk songs? Yes, even those.

Environmentalist, fed, professor, dean, librarian, wife, mother. "I don't know how people can plan their lives," she marvels. "I agree with Peter Drucker, who said something like 'If you figure out *who* you are, the *what* will work itself out.'" The *what* is embodied in the disparate decor of her office—a collage of her interests and many commitments. An ecological doorbell—crushed Coke cans in a plastic grocery bag—jangles on the doorknob. Books, both literature and law, vie with classic videos, an aerial photograph of Geneva, and other memorabilia on the shelves; two architectural drawings of the library addition rest against a file cabinet; an antique oak rolltop desk and massive antique oak chairs dwarf a modern

computer table and the computer's ever-blinking screen. Framed pictures of Boyd, Philip, and environmentalist hero William O. Douglas top the file cabinets and desk. Everywhere projects in progress jostle for space. All part of Constance K. Lundberg, closet folklorist.

—Lovisa Lyman

HEINZ PETER MUELLER

CLOSING THE CIRCLE

Heinze Peter Mueller, Law School information systems and business manager, pecks at the keyboard. A full-color map of Chicago appears on the screen. He moves the cursor to a spot in the middle of the city. A blowup of that section, including all street names, replaces the larger area map. He clicks on a menu and a list of important places to see in that sector fills one corner. He selects a museum and a soothing female voice briefly describes its important holdings. "I picked this up at COMDEX," Peter explains. "Right now I'm trying to decide if we should put it on the system." Next he shows how the CD-ROM database can provide and print maps of the route between any two cities in the United States. "Law students might find it useful when they're going out to interview or thinking of places to apply."

This incident is a microcosm of the attributes that characterize Peter best: fearlessness in the face of change, fascination with automation, endless creativity, concern for applications and solutions rather than problems—in short, innovation *par excellence*. All these traits date back to a very early time in his life.

It was fall in Weimar, East Germany, known as the home of the German language when Goethe and Schiller and like-minded artists gathered there to write, philosophize, experiment, and lead the world of literature in the late 18th century. But in 1950 Weimar was no longer the host of new thought and advancement but a sullen, frightening city. Peter was six then, his sister Monika barely two, and their parents were secretly planning to escape to the West. Peter's father had fought in World War II and finished the war as a prisoner in Louisiana and Missouri, but he was no longer willing to support the regime he had risked his life for. If they could reach West Berlin, essentially an island in East Germany, they hoped to be transferred to a West German refugee camp. Others were doing it successfully and the Muellers felt it was worth the risk. One night, the children said goodbye to their grandparents for the last time and boarded a train for Berlin with their mother. As an ex-soldier, their father knew he would not be allowed to make a trip to Berlin, so he hid in the wheel well under one of the train cars for

the four-hour trip. Once in East Berlin, the family reunited, stealthily climbed down into the sewer pipes and walked to the western section of the city.

They spent the next year in a refugee camp in West Berlin awaiting their chance to go to West Germany. Accommodations were cement bunkers left over from the war. The bunkers, mounted on rollers, were ideal for withstanding bomb blasts but inhospitable as housing. The family claimed a small section of one building and hung a blanket for privacy. It was in this camp that the Muellers first heard about the Mormon Church from the missionaries. Peter, his sister, and his mother were Catholic; his father Protestant. Later they would be reminded of the new church.

Their turn finally came to leave for West Germany, but they could not travel together. The limited space on the airplane was allotted to adult refugees because ground travel was too perilous. The Mueller children, Peter (then seven) and his sister (three), had to travel alone by train. They were frightened but glad their parents weren't with them when the train was stopped and searched. They witnessed several refugees who were pulled out of the cars and shot to death.

When the children arrived at their new camp in Worms, famed for Martin Luther, their parents weren't there. No one seemed to know where they were. The Red Cross and the Catholic relief organizations were alerted and began to search the various towns and cities where refugees were situated, but for the next four months the two children had to fend for themselves. It was there that Peter's career as an innovator began. Every day he had to find food for himself and his sister. He had to find shelter and warmth when all they had were the worn-out clothes on their backs. And neither had identification papers. Other refugees helped. At times Peter sneaked food from kitchens. When he discovered that Frenchmen stationed in Worms liked snails, he and his sister began to search out the slimy creatures and load them in a bucket to sell. He collected scraps of brass shrapnel to sell as well. He also earned pocket change by helping set up shelves in the local bookstore/library—his first library job. Survival was day to day.

Finally the family was reunited, and soon afterward the Mormon missionaries found them again. In November 1952 Peter and his parents were baptized just before they were relocated to a small town called Frankenthal.

In Frankenthal Peter began school. Until then he had had no formal education, but because he could count to 100, he was placed in fourth grade. After parts of two years in an elementary school classroom that accommodated several grades at once, he went to high school. There he discovered he had a hard time learning languages. He failed final examinations in both English and French, which disqualified him for university attendance, so in 1960 he went to technical college to be trained as a professional glassblower. Then began a string of unique jobs:

- designing and repairing laboratory equipment
- fashioning artificial limbs
- fabricating audio tapes
- laying carpet and installing tile (unique because he was blown out of a third-story window onto the lawn below when gas fumes from the glue exploded)
- growing mushrooms in the cellar of an old sugar factory.

job, and no place to live. At that precise moment, a former missionary from Heidelberg walked past and recognized them. When he discovered their plight, he took them home to spend the night. The next day Peter took a driving test and got a job driving a truck. Soon they were established in an apartment, and a letter came addressed to Peter. He took it to a neighbor who spoke English and German. She read the letter and announced, “I’m so



All before he was 19.

At 19 he was drafted into the German army. His father managed to get him deferred, and in May 1963, the family sold all of their belongings and, with the sponsorship of a former German missionary, emigrated to the United States by ship. None of them could speak English. In New York officials boarded the ship and asked Peter to sign a stack of papers. Peter didn’t hesitate. He could see the welcoming figure of the Statue of Liberty, the towering Empire State Building, and lines of shining cars, and could feel something he identified as freedom. He wanted to get off the boat.

From New York the family rode Continental Trailways bus to Salt Lake City. They exited the bus depot, then located across from Temple Square, with no money, no

Peter Mueller has a fascination for the latest technologies.

proud of you. You volunteered for three years’ active duty in the military.” The papers he had signed on the boat had been induction papers, and he was already late for basic training. The next day the MPs arrived and escorted him to Fort Ord, California. He still didn’t speak English and had to refer to a dictionary every time he received an order. The military trained him in demolition until his superiors realized he was an alien. He was then sent to Orleans, France, and from 1964 to 1967 he was a sergeant in charge of the motor pool. Somehow the German boy had learned to speak English and French well enough for the military.

One evening the Orleans LDS group leader and his wife invited Peter to dinner. They also invited Marjorie Farnsworth, the base librarian, a Mormon girl from Pima, Arizona. After dinner the group leader's wife feigned anger that her husband had forgotten the dessert and sent Peter and Marjorie to the PX to get some ice cream. On the way they had a chance to get acquainted. They brought back vanilla ice cream and, strangely enough, the hostess served chocolate. The matchmaking ploy worked, however. Peter and Marjorie were married in the Mesa Temple a year later and then returned to France to continue Peter's tour of duty. Their first daughter was born the following year, three months premature and weighing a mere two pounds. For only \$116 the military took excellent care of the little one and she survived—one of many blessings Peter credits to the military. (In ensuing years, the Muellers added five more children.)

In 1967 Peter was discharged and the couple went to live in Pima, Arizona. Peter got a job at a lingerie company, in charge of roses, straps, and cups. It was then that he began to consider further education. In the military he had had some training at the University of Maryland but still did not have his high school certificate. He passed the GED and was admitted to BYU in fall 1967. Just three years later he graduated with a BA in German literature. In one more year he finished the two-year master of library science program and began work as a cataloger at the Lee Library in charge of Russian and German titles.

During this time he also joined the Utah National Guard on a dare. His background qualified him for counterintelligence and military intelligence since he spoke all dialects of German. He has continued in that capacity and is now a chief warrant officer.

No sooner was he settled at the Lee Library than rumors began to fly about a law school. Peter discovered that it was more than a rumor when, in 1971, President Wilkinson and Bruce Hafen asked him to work on preliminary planning for the law library. To discover how a law library functioned, Peter was sent to the Tarlton Law Library in Austin, Texas, to be trained by Roy Mersky, one of the most prominent law librarians in the country. (Years later Roy Mersky and representatives from other major law schools would come to BYU to learn from Peter how to automate a law library.)

In 1972, still an employee of the Lee Library, Peter began ordering books for the law library to be housed in St. Francis School. Crews worked day and night to order, unload, and process materials. Books came in by the semitrailer load. Observes Peter, "The remodeling of the law library for the next couple of years will be inconvenient, but nothing compared with those days at St. Francis. Offices were in confessionals. Students were tense and apprehensive. They weren't sure the school was going to make it." While the new building was being built, staff and student body beat a path across the street

to Stan's Drive-In for food and Diet Coke and hoped for the best.

Before long Peter was transferred permanently from the Lee Library and for the next four years worked cataloging law books. But his varied skills found him ever more involved with the details of the new library's facilities and administration. In 1976, to prepare for further management positions, which in major law libraries requires a law degree in addition to a library degree, he was invited to attend law school on a trial basis. He continued to attend, largely part-time, until he graduated in 1983. Since then he has had several titles in the library administration: assistant law librarian, associate law librarian for technical services, associate law librarian in charge of operations, and deputy law librarian (he jokingly wore a badge during that period). In 1990 he withdrew from the library to become information systems and business manager, a position that includes overseeing everything from computer hardware, technology, and support staff to operational budgets. He also stays on the cutting edge of new technology and software, like the mapping CD-ROM he's reviewing now.

Truth to tell, one reason that particular database fascinates him so is that he loves to travel. He frequently attends automation, law school, and law library meetings all over the United States, bringing back information for all areas of the Law School. He also travels internationally with the National Guard, which includes trips to Japan, Korea, France, Belgium, Germany, and Italy. (Travel to West Germany and Italy corresponded with two of his children's missions there. A third child served a mission to the Ukraine.)

But few of his trips have been as impressive as the one he took last year when he returned to Berlin for the first time since the wall came down. Military officials picked him up at the old airport in what was West Berlin and drove him to the site of the refugee camp where he and his parents had stayed in cement bunkers, now long gone. Later he drove into what had been East Germany. He yearned to find relatives there but had to satisfy himself with seeing the countryside because his parents had talked very little about the family they left behind. It was too painful for them to remember.

A few months ago, however, when Peter's mother passed away (his father had died three years earlier), Peter and his sister discovered a tape their mother had made. On it she spoke about her 13 brothers and sisters, giving names and details her children had never heard. Peter is already planning his next trip—too bad there is not yet a CD to do it for him—when he will return again to the area where he was born. This time he hopes to find living relatives and the information needed to do vicarious work for those who have died. The Freiberg Temple, located close to his childhood home, will be the ideal place to complete the circle.

—*Lovisa Lyman*

A l u m n i c o m e t o t h e f o r e ,

V E N E

s e e t h e n e e d s , a n d s c o r e

V I D I

i m p r e s s i v e p o l i t i c a l v i c t o r i e s

V I C I

Four years ago when Bill Orton first ran for the Third Congressional District in Utah, people were skeptical. Some laughed. For a Democrat to attempt a political victory in the most Republican district in the United States seemed at best a stretch. But when the last vote had been counted, an astonished constituency and an equally amazed Orton were looking at a healthy 20 percent lead, a feat repeated in the 1992 election. Now an incumbent settled in his third term, Orton, it seems, has the last laugh.

"We continue to flabbergast everyone in Utah County and in Utah that a Democrat keeps winning," he says. "This campaign was no different than the last two. I campaigned on substantive issues. I just tried to outline for the people the problems as I saw them and what I thought the solutions ought to be. And I tried to avoid partisanship and to focus on issues that I saw and on what I thought should be done to solve problems."

"The last campaign and this campaign were virtually identical in that I had Republican opponents who, rather than trying to discuss or debate issues with me, simply tried to rewrite my voting record or history the way they wanted it written and then attacked me without substance or merit. I guess that's similar to the first campaign in that they attacked me for not being married. Their attacks all seemed to be nonsubstantive; they were not attacks on issues."

Although he faces a Republican majority in the 104th U.S. Congress, Orton is not scared by the Democrats' recent loss of power in the House of Representatives. Reappointed to the Budget Committee and the Banking

and Financial Services Committee his third term, he has made progress on the issues that initially prompted him to run for Congress: the federal budget deficit and government waste. Since his first election, he notes, the deficit has dropped 40 percent in real dollars.

"I think the most significant thing I achieved in the last year was freezing federal spending on nonentitlement expenditures for the next five years," Orton says. "I'm the one in the Budget Committee who proposed the freeze; it was passed as part of the budget, and the president adopt-



Bill Orton kisses a pig as part of a local-school fund raiser.

ed it. In fact, many of the economists are now saying that we need to extend the five-year hard freeze for another two to five years. By the way, the Congressional Budget Office scored the freeze as saving about \$78 billion over the next five years. That probably pays my salary."

Orton's knowledge of government finance has grown since his teenage years. While a high school student in Ogden, Utah, working part-time for the Internal Revenue

Service, he decided he wanted to be a tax attorney. Gaining some broad experience along the way, he served a Church mission in Oregon and finished a degree in anthropology and archaeology at BYU. He returned to the IRS and to Oregon, worked four more years, and came back to BYU to attend law school.

Knowing what he'd be doing when he graduated, Orton was more concerned about the end than the means. "My first year in law school I didn't even check my grades," he relates. He took every class offered in tax and business and graduated in the top third of his class.

Committed to education as well as to law, he conducted continuing education programs for real estate professionals, attorneys, and CPAs. More than 15,000 individuals have attended over 200 of his courses in 45 cities throughout the country. In 1986 he taught real estate tax planning and the 1986 Tax Act as an adjunct law professor at the J. Reuben Clark Law School. Before starting his first term as a state representative, Orton said, "When I leave Congress, I'd very much like to talk to the BYU Law School and have a more direct teaching relationship with them. I love teaching law."

Since his first election, a few things in his life have changed. Regarded at age 45 as one of the most eligible bachelors in Congress, Orton changed his marital status last July when he married Jacquelyn Elaine Massey, a professional lobbyist from Alabama. His wife attributes their union to destiny, saying, "In my line of work, you avoid romantic entanglements with congressional members like the plague." They now commute between their homes in Sundance, Utah, and Washington, D.C., and are expecting their first child this year.

"So far, being married hasn't affected my political career at all. If it does have an effect on it, it will be to shorten it," he laughs. On the other hand, he adds, "I refuse to allow my political life to impact my marriage and family life. If it gets to the point that it negatively impacts it, I'm leaving political life—that's it."

And being reelected twice hasn't shifted Orton's career path. "My plans haven't really changed at all," he says. "I only planned on staying in Congress as long as several things continued: First, the voters would have to continue electing me. At whatever point they think that someone else would do a better job, then that's fine with me. I'm ready to leave. But second, I will stay there only as long as I believe I have something more to contribute. There are a lot of issues that I'm in the middle of working on. I still see that I have a lot to give and a lot that we can accomplish."

"When one of three things wears out—either my patience and energy with politics, or the public's patience with me, or I run out of ideas and things to accomplish—when any of those things occur, then I'm leaving. I don't expect to have a whole lifetime career in politics. When I leave I plan on returning to the practice of law. And I would still love to teach law. I think the most enjoyable job I've ever had—and I've had many—is teaching. It's far more fun than being in Congress."

ENID GREENE WALDHOLTZ

Just the Beginning

When Enid Greene Waldholtz won on her second try for the U.S. Congress in November 1994, even her opponent praised her debating skills. Her 10 percent lead over the one-term Democratic representative, after a marginal loss in the 1992 race, confirmed Waldholtz's ability to defend her convictions.

The 1983 graduate of the J. Reuben Clark Law School polished her talents as a tough, agile debater before an impressed group of peers while at BYU. During her first year in law school, she was chosen Outstanding Oral Advocate in the moot court competition. President of the Women's Law Forum, she was comments-and-notes editor for the *Brigham Young University Law Review* for two years. Dean Constance Lundberg remembers Waldholtz as a particularly bright student: "What stands out in my mind is that she was always politically active. Enid's heart was always in politics. And she got along really well with people."

"I know she enjoyed law school," reflects her brother-in-law, attorney Jim Parkinson. "Over the years we talked about the cases that she was working on." Classmate Michelle Mitchell recalls, "We had some great debates about political and legal issues back then."

During the 1994 campaign, "Waldholtz's dominance of 18 debates impressed audiences with her ability to think on her feet and articulate her positions clearly," said her press secretary, Michael Levy. This performance, plus solid television ads and a direct-mail effort (by campaign manager David Harmer, a 1988 graduate of the Law School), captured for Republicans what many had thought was a safe seat after nearly a decade in Democrat hands. Despite trailing until the final week, Waldholtz held to a positive message of less government, improved law and order, lower taxes, and Congressional reform—all while skillfully handling her opponents' (Karen Shepherd and Merrill Cook) assaults.

Waldholtz's genuine interest in and ability to discuss the law began early, fueling an energetic career. The daughter of Utahns, she was raised in San Francisco during the 1960s, a time when waves of protest and violence shook the city. "I remember going to Golden Gate Park and watching the hippies dance around," she tells. "My parents tried to shelter us as much as they could, but when the schools turned violent, they decided to move back to Salt Lake City."

She is uncertain whether the civil unrest of the 1960s planted the seed of political interest in her but agrees that her interest began at a young age. "I was a very studious child—a nerd," she admits. "When my sister was hanging pictures of Andy Gibb on the wall, I was reading *U.S. News and World Report*. I was involved in debate and yearbook, Girls State, and Girls Nation and was very concerned about the issues."

As a teenager she began walking Salt Lake precincts for her cousin, who was campaigning for the city council. "I was always fascinated by issues and the many different solutions that were not always compatible with each other—and the process of deciding who chooses which solution," she says. "I knew from the time I was in junior high school that I wanted to be a lawyer, though there were no lawyers in my family."

After graduating from East High School, Waldholtz went on to Brigham Young University in 1976 and joined the Young Republicans, the youth arm of the party, by early 1977. At the age of 18, she was elected state chair of the Young Republicans, defeating three older male candidates. She is still convinced she can "outwork and outorganize anybody."

Participating in campaigns to elect Senators Orrin Hatch and Jake Garn, Waldholtz also worked as a campaign staffer for Dan Marriott. After a couple of years at BYU, she transferred to the University of Utah, where she completed a degree in political science. Returning to BYU, she enrolled at the J. Reuben Clark Law School and assumed a regional position with the Young Republicans. Of her law school days, she recounts, "Besides learning to cope with sleep deprivation, I learned to assimilate a great deal of information quickly and to focus on the heart of a concern."

After graduation, the new attorney joined the law firm of Ray, Quinney & Nebeker, specializing in commercial litigation. Reflecting on the experience she gained during her seven years with the firm, she says, "At our best, lawyers become problem solvers people turn to when they need help and whose judgment, discretion, and commitment they can

rely on. We need those qualities in Congress. As a trial attorney, I learned how to articulate my views—and the importance of thorough preparation and understanding my position." In 1984 she was named coexecutive director of the Reagan-Bush campaign in Utah with Jon Huntsman Jr.

In 1990 she got a phone call from Bud Scruggs, then chief of staff for Governor Norm Bangerter. He was looking for possible applicants for judgeships. At the close of the conversation, Scruggs said, "You're probably not interested, but I'm looking for a chief deputy."

"I was," she said. "I saw it was a great chance to work on issues, things like human services and ethnic and women's issues. I loved it. It was a chance to actually solve problems."

The following year Waldholtz was elected national president of Young Republicans, a volunteer position she held for two years. She resigned from the governor's office and, at the age of 34, announced her congressional candidacy after the 1992 legislature.

"Ever since she was a little girl, I knew she was destined to hold elected office," says Parkinson. "She had an enormous interest in politics. When she started her legal career, I would have been surprised if you had told me she would retire as a practicing attorney. I knew she would run for elected office."

When asked what motivated her to run for public office, she responded, "I feel very strongly that the federal government has been robbing individuals, communities, and states of the opportunity to control their own destinies. Whether by spending too much money, imposing too many regulations, or perpetuating a welfare program that traps people

in poverty, the federal government has become an obstacle instead of a positive force. It's time to change that."

Waldholtz is sensitive to the "tough woman" stigma. "People say I'm too stern," she says, "but I can't talk gently and sweetly about problems that are destroying our country. I believe passionately in what I'm doing." As one political analyst describing Waldholtz reasoned, "A woman candidate has a fine line to walk. On the one hand, she has to appear



SALT LAKE TRIBUNE

After her successful campaign, Enid Waldholtz accepts a congratulatory hug from former Utah State Governor Norman Bangerter.

tough enough to take on the old-boy political network; on the other hand, no female candidate wants to appear too difficult or overbearing.”

As it happened, gender was not an issue in Waldholtz’s campaigns since both times one opponent was also a woman. However, though her beliefs were firm and her experience strong, Waldholtz found that her young age (as well as her singleness in the 1992 campaign) *was* an issue—at least with her contenders. When confronted, she responded, “Wayne Owens was 35 when he was first elected to Congress. No one seemed concerned about his youth.”

Despite age and marital issues, Enid remained confident in her capabilities. Those who knew her best believed in her, too. “One of the things that I am most grateful for is the tremendous support I have had from my family and friends in all of my pursuits,” she says. Backing her statement, Parkinson says, “As a family we are enormously proud of her election results. But even more we are proud of what she stands for. I predict Enid will have a long tenure of service for the United States.”

Like fellow Congress electee Bill Orton, Waldholtz married for the first time during this past term. Noting the trade-offs between single and married life, she observes, “Political campaigns are inherently selfish pursuits at one level. You are constantly in the public arena, with more requests for your time than you could ever hope to meet. When I was single, I didn’t feel that the time away from home was as much a sacrifice. But my husband, Joe, has been incredibly supportive, and although I sometimes wish for more time with him, I am better able to do my job because of the strength he gives me.” When she went to Washington in December she decided to drop her maiden name, because “Enid Greene Waldholtz is a mouthful.”

She notes with amusement the stereotyping that comes with marriage. Only the third woman ever elected to Congress from Utah, Waldholtz finds that many people think her husband is the new member of the House. One mix-up happened when a government vendor was lending laptop computers to new members to try out. “The lady kept saying, ‘When your husband comes and signs for them, we’ll let you have them.’ It finally dawned on me that she thought he was the new member. I told her I was the member-elect, and her face turned a dozen shades of red,” she relates. “Representative Barbara Vucanovich heard us talking and told us to get used to it because it will happen all the time.”

As Waldholtz exercises the ability that won her a House seat, the element of amazement is shifting from her being a woman in an influential *position* to her being an influential *woman*. Before Congress convened in early January, Waldholtz was named to the House Rules Committee, the first Republican freshman on the legislation-shaping committee in 80 years and the first Utah member in decades. Those who know Waldholtz believe her when she said, responding to the appointment, “This is just the beginning.”

CHRISTINE FOX

Keeping the House in Order

If Christine Fox’s constitutional law professor asks her what she thinks about state government in a federalist system, he doesn’t ask because he needs a volunteer or to cause her undue embarrassment.

He asks because he really wants to know.

That’s because Christine Fox leads a triple life.

She is a second-year law student at BYU’s J. Reuben Clark Law School, the majority leader of the Utah State House of Representatives, and a mother of six. So beyond preparing class outlines, writing briefs, and studying for finals in the first semester of her second year of law school, Christine also took care of two teenage daughters, ran her fourth successful campaign for the House of Representatives, and mounted a victorious battle to become majority leader.

Most students have a hard enough time juggling the pressures of law school without the added responsibility of a constituency. Christine has a unique coping philosophy that helps her through the invariable crises and obligations. “I take care of whichever ox is in the mire.”

“But my family comes first,” she says. For example, in the spring of her first year in law school, Christine spent every weekend on the high school rodeo circuit with her daughter, who was performing. “I also study at home, which is a little harder. Sometimes I don’t get started until after 10:00 at night.”

Hectic schedules are nothing new to Christine. She and her husband, Merrill, operated a dairy farm and a trucking company until 1987, when Merrill was killed in a farming accident. Merrill had been a member of the House and Christine filled his seat. Not content to remain a new kid on the block, in 1990 she was elected House assistant majority whip; in 1992 she was chosen to be the majority whip.

“I had a hard time concentrating this year during the election for majority leader. There was so much pressure, and I just kept thinking about the race.” Because the election resulted in victory, Christine has two years ahead of her to regulate the majority party’s agenda, meet with the minority party, the governor, and the Senate, and oversee the action on the House floor. It seems as if the pressure will never end.

Christine graduated from the University of Utah in 1993, where she majored in political science. “I went back to school in 1984. My teenage daughters don’t know anything different. Mom has always studied.” Sometimes, however, it’s most important to be just Mom. “My children are very supportive, but I just learn to organize and budget my time

and make sure we spend quality time together as a family.”

The facets of Christine’s triple life do overlap. Being a legislator is helpful in Constitutional Law, she says, because it has given her an understanding of the balance of partisan politics and how it affects and is affected by the Constitution. Law school has helped her understand the effect the legislature’s actions have on the community.

Christine began law school envisioning a career in environmental law but has since decided she would rather see inside a court room and be a contract litigator. She hopes to go into a general practice firm with several attorneys and, someday, become a judge.

Until then, Christine will be keeping the House in order, taking finals, or writing papers—and being Mom.

DOUGLAS SHORT

A Team Approach

When Republican party leaders first approached Doug Short a year ago to recruit him to run for Salt Lake County attorney, he graciously declined. “At first, I was not particularly interested in running,” admits Short. “I had just moved to a new job

and had decided to cut back on my political activities to build my practice.” But they persisted. Short finally promised to run if the party could not find anyone else. They could not; he did run, with great results.

Another reason Short had been reluctant to run was his age. It had only been six years since he graduated from the J. Reuben Clark Law School with honors. (There is only one attorney in the office with fewer years of practice.) “No doubt there were many who thought I was too young to run an office where most of the attorneys have been there more than 15 years. I wrestled with that question myself, but decided that if I would just be smart enough to admit that I don’t know everything and listen to those in the office who do, I could do the job.”

Despite his professional youth, Short is an experienced politician and campaigner. Since graduating, he has been active in politics, serving as cochair of Sandy City Mayor Tom Dolan’s transition team, a member of the board of adjustments, general counsel to the Salt Lake County Republican Party, and coordinator of his father’s legislative races. Consequently, Doug had a strong political base from which to launch his own political career. He commented, “I ultimately decided to run because of my campaign experi-

ence and my grassroots network. I have done just about every possible job in a campaign, from planning campaign strategies and writing literature to stuffing envelopes and taking out the garbage.”

That hands-on campaign experience allowed Short to put together an extremely effective grassroots campaign. He is quick to point out that a campaign is not a one-man band. “I have to give credit where credit is due, and that is to my supporters, especially my wife, Christine, and my children, Lindsay, Jordan, Amanda, and Ryan. Most people do not realize the incredible sacrifices made by a candidate’s family during a campaign. They hand out flyers, put up signs, and surrender any semblance of normal family life. Of course, it helped to promise them a trip to Disneyland if we won!”

Short also appreciates his many volunteers and financial contributors. “It is overwhelming to have your family and friends show their faith in you by committing the great amount of time and financial resources necessary to win a campaign of this size. Of necessity, it really becomes a team effort and a team win.”

It is that same team effort that Short hopes to take with him to the county attorney’s office. On January 1, when Short begins his term, the office will for the first time in several decades be divided into two separate elected offices: a county attorney to handle civil matters and a district attorney to handle criminal prosecutions. Short sees this as a great opportunity for change.

Much of Short’s interest in public law came from his stint as the lead article editor for the *BYU Journal of Public Law* and from being an officer with the BYU Government and Politics Legal Society. “I did not come to law school intend-



Salt Lake Tribune

Douglas Short was
elected Salt Lake
County attorney just
six years after Law
School graduation.

ing to enter public law, but the programs were so interesting that my involvement grew until I found myself immersed. That involvement has now led me down a path I never anticipated but fully enjoy. I look forward to actively supporting the Law School’s public law program during my term.”

Despite the large task ahead as one of the youngest elected county attorneys in the state, Short keeps things in perspective. “The best benefit is that I will have more time to spend with my family now that I don’t need to worry about billable hours. My main goal for the next year is to coach my three-year-old’s soccer team, if I can keep up with them!” Given Short’s competitive performance so far, no doubt he can.

Michael Goldsmith Joins
U.S. Sentencing
Commission

Professor Michael Goldsmith thought he had beat all the odds when he fully recovered from a ruptured aneurysm less than a year and a half ago (see *Clark Memorandum*, fall 1994). But when his nomination to the United States Sentencing Commission was confirmed by the Senate in October 1994, he observed that perhaps he had been wrong: "Eighteen months ago I was near death, and now I'm going to be living and working in D.C.!"

The Sentencing Commission was established seven years ago as part of the Sentencing Reform Act. Its purpose is to set uniform sentences for convicted defendants. Goldsmith believes this is a great opportunity for a professor of criminal law. "It puts me at the heart of the criminal justice system during a crucial period," he said.

Goldsmith applied for the position upon the suggestion of several ABA members. However, he soon heard that the panel had already been selected. Upon the suggestion of Judge Dee Benson, Goldsmith decided to follow up anyway. "I figured I didn't have anything to lose. It would at least let them know of my interest for future selections," he said.

In a twist of fate, the entire first slate fell through. New names needed to be selected. Enter Senator Orrin Hatch from Utah. "Although we have had public differences, Senator Hatch went to bat for me,"

Goldsmith said. "He didn't take our philosophical differences personally." With added support from Senator Patrick Leahy of Virginia, Goldsmith clearly had good bipartisan backing.

The final step of the appointment process was a "lengthy" interview with Attorney General Janet Reno. During that interview, Reno reassured Goldsmith that she knew he had good credentials and stressed to him the importance of having a commission whose members could work together collegially. "Terrific," Goldsmith quipped. "If I don't get the job this means that she thinks I'm an anti-social jerk!"

Goldsmith looks forward to this exceptional opportunity. He hopes that his experience in both prosecution and defense, combined with his current work as a law professor, gives him a more objective view of criminal law, something important for this position.

Los Angeles Chapter Still
Moving—and Shaking

Though southern California still shakes with aftershocks from the Northridge quake, the Los Angeles Chapter of the J. Reuben Clark Law Society continues moving in its commitment to excellence in law and chapter activities.

Nancy Van Slooten, a member of the national J. Reuben Clark Law Society Committee and leader of the LA Chapter, reports the LA Chapter is very active in pro bono work and successful in hosting an annual dinner. Chapter members are now also emphasizing

additional activities.

"We aren't the strongest in the nation on activities, so we'll be working on that," Nancy told the *Clark Memorandum*. The chapter recently switched to the committee system, which will encourage increased chapter activities, including educational endeavors and projects for placing law students and graduates.

The chapter's great success with pro bono work stems from two sources: an excellent pro bono chair and a meaningful area for pro bono service. Canthi Lange, an immigration law specialist with the firm of Fragomen Del Rey & Bernsen in Los Angeles, is the committee chair. Lange is also an adjunct professor of immigration law at Southwestern Law School.

Lange notes that immigration law is ideal for pro bono activity. Generally, there are quick resolutions and few ethical dilemmas. "The mix of immigrants and attorneys is also unique," she said. "Most of the people we work with have been in the United States for years. Often they are joining the LDS Church and want to get their papers in order."

"We also work with those newly immigrated and have some very interesting asylum cases," Lange said.

She feels the chapter has excelled at question triage and responding to those questions. "We can put people in the right direction and come up with immigration strategies," she said. "We do, though, fall short at times in having sufficient lawyer power to implement those strategies." To support its pro bono work, the chap-

ter offers training in immigration law, which includes CLE credit.

Outgoing chapter Chair Don Pearson noted that having a dynamic speaker is a big key to a successful annual dinner. "It is also good to avoid conflicts with stake conferences," he said. "At the dinners we have also honored some very outstanding attorneys." The chapter recently named its Outstanding Lawyer Award in honor of Howard W. Hunter. The Outstanding Young Lawyer Award is also presented at the annual dinner.

As part of the chapter's new emphasis on increased activities, Elder Lance B. Wickman, a member of the Second Quorum of the Seventy and partner of Latham & Watkins in San Diego, spoke at a well-attended October fireside.

"We want to be the best chapter in the nation," Van Slooten said. Beyond the current activities, the chapter plans to develop several new areas this year, and membership, education, placement and recruiting, and fund-raising committees have been formed.

—Miriam A. Smith

Clark Memorandum on
the Web

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