

Fall 1997

## Clark Memorandum: Fall 1997

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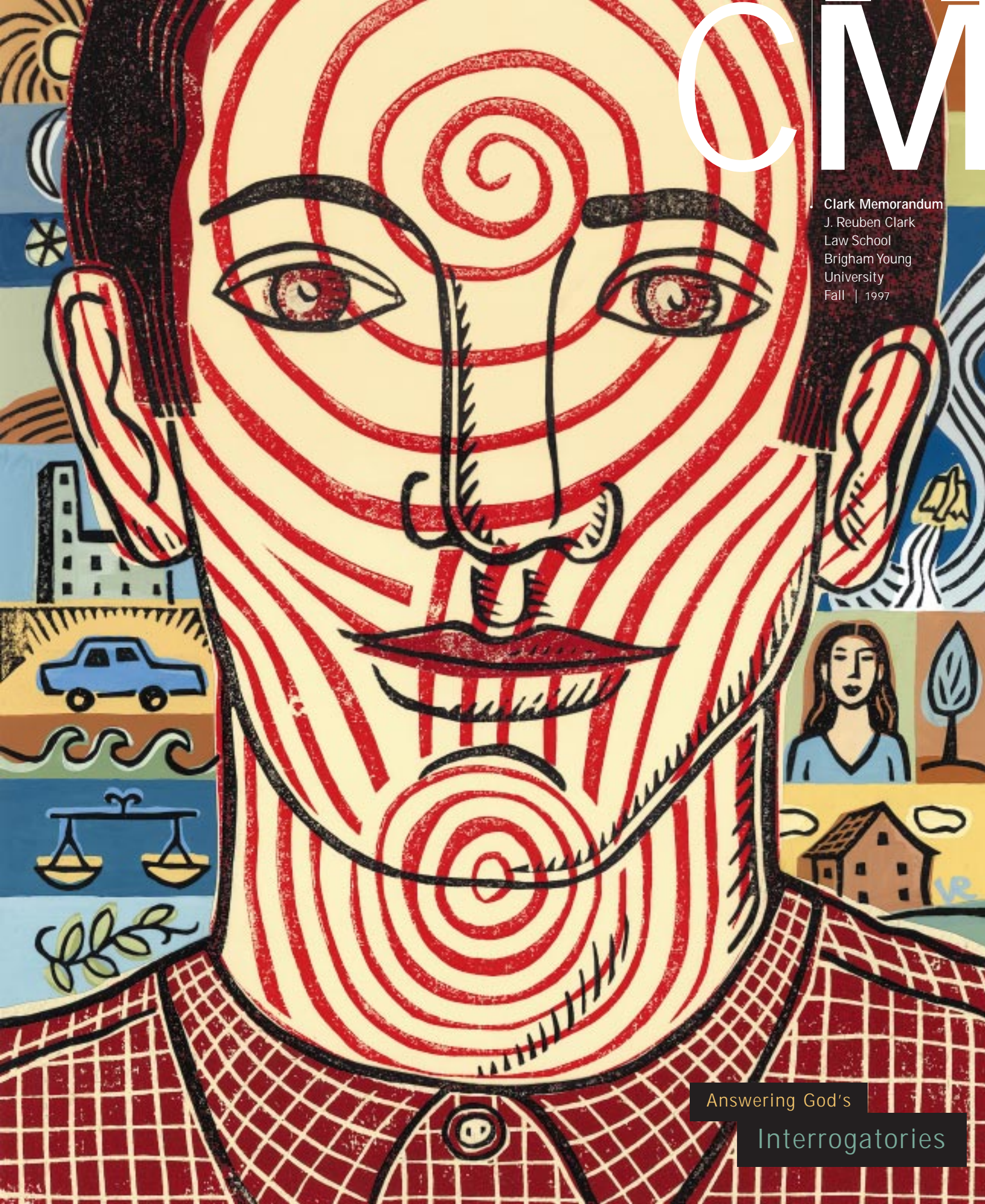
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# CM

Clark Memorandum  
J. Reuben Clark  
Law School  
Brigham Young  
University  
Fall | 1997

Answering God's

Interrogatories

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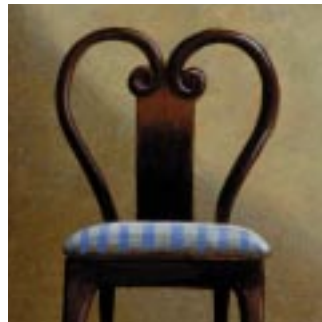


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Where

art

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*Elder Marlin K. Jensen*

ILLUSTRATED BY Vicky Rabinowicz

*Answering God's Interrogatories* Trying to combine both religion and law,

I have bravely entitled my remarks "Answering God's Interrogatories." I'm quite certain I would not know what an interrogatory was if I hadn't gone to law school. For those of you who are uninitiated, I wish to point out that

## Adam, Where Art Thou

interrogatories are questions—usually in writing—that parties to lawsuits ask each other for discovering what the opposing party’s case is all about. More simply, the word *interrogatory* means a question. And for a long time, as I’ve read the scriptures, I’ve been impressed that one way God teaches us is through the questions he asks. We often call these rhetorical questions, which are questions asked for effect—for teaching effect, usually—with no answer expected. It’s obvious that a Heavenly Father who knows all doesn’t have much to discover, but we, his children, certainly do.

It appears that this business of interrogatories began very early as Adam and Eve got into a little difficulty in the Garden of Eden. In calling Adam to account, God asked, “Adam, where art thou?” (Genesis 3:9). I’ve thought a lot about that question, and I don’t think the Lord asked it because he didn’t know where Adam was! He obviously wanted Adam to think about where he was and possibly about where he ought to be.

On this watershed day in your lives, may I ask you graduates to consider for a moment where you are? Is there a better way to determine that than by using gospel reference points—those eternal truths that are constant and sure?

Where are you, for example, concerning faith? Is it stronger and more evident in your life than when you began your legal education? It would be a sad day if what you lost during your law school experience was far more important than what you’ve gained.

Where are you with prayer? Are you like my associate in the Quorums of Seventy who, when the opening hymn was announced in our weekly meeting as “Ere You Left Your Room This Morning, Did

You Think to Pray?” winked at me and jokingly said, “Well, I thought about it!” How would we feel if we thought President Hinckley didn’t say his daily prayers? Aren’t our loved ones entitled to the same expectation on our part?

Where are you concerning the scriptures—God’s word? Does section 76 of the Doctrine and Covenants mean more to you than and is it as well understood as section 501(c)(3) of the Internal Revenue Code? Remember that 25 years from today section 76 will remain unamended and in force. We can hardly offer the same assurances for section 501(c)(3)!

Where are you with reference to your spouse, if you are married, and to your family members? Several years ago I had the experience of interviewing 30 or so men in an effort to call a new stake president in central Utah. Among those interviewed were two brothers serving on the high council. When we asked the first one for three men he could recommend we consider, he told us that when his brother and he had been helping their widowed mother that morning with yard work, the thought occurred to him that his brother was the best man, the kindest man in the stake, and ought to become the new stake president. His brother was his only recommendation! When that brother came in next for his interview, his answer to our question was essentially the same. He recommended the first brother! As I drove home the next day I couldn’t help wondering what my brothers would have said about me in that situation—or what my wife and children might have said.

I think there are many other implications of God asking where we are. One that has meaning for me is best described in Joseph Smith’s History, verse 29. Joseph

records that he retired to bed for the night and then, he says, “I betook myself to prayer and supplication to Almighty God for forgiveness of all my sins and follies.” Then he makes this interesting statement: “And also for a manifestation to me, that I might know of my state and standing before him.” In a sense, isn’t that the question God was posing to Adam? “Where are you, Adam? Where have you been? Where are you going? What is your state and standing before me?” As I’ve thought about it, I don’t know that there is a more profitable question for us to ask, especially in our prayers. If we really are brave, maybe we’d even ask that of our spouse or a close friend. I did that not long ago. I said, “Honey, how am I doing?” Kathy said, “Well, I think you’re nicer than you used to be.” I suppose you’d have to know what a scoundrel I was to appreciate how far I’ve come. Sometimes you can get that kind of feedback from people who really love you.

But getting feedback from God is even more helpful; and could there be a higher purpose for personal revelation than to have God answer our prayers and reveal to us where we lack—where we really are, so to speak? Then we can go to work on ourselves and our deficiencies and really do some good!

*He responded, “My wife and I have made a very conscious decision to live where we live and to share the surplus that we have with those around us who really need it.”*



## What Is Property unto Me

A second helpful interrogatory posed by God is contained in section 117 of the Doctrine and Covenants. This is a verse directed to the Church land agents who were purchasing Church property in Missouri. The Lord says to them, “Let them repent of all their sins, and of all their covetous desires, before me, saith the Lord.” The question is then asked: “For what is property unto me? saith the Lord” (v. 4). What a useful question for those of you poised to become generators of legal fees!

Then, as he often does when he asks these questions—or poses these interrogatories—the Lord provides the answer. He says:

*Have I not the fowls of heaven, and also the fish of the sea, and the beasts of the moun-*

*tains? Have I not made the earth? Do I not hold the destinies of all the armies of the nations of the earth?*

*Therefore, will I not make solitary places to bud and to blossom, and to bring forth in abundance? saith the Lord.*

*Is there not room enough on the mountains of Adam-ondi-Ahman, and on the plains of Olaha Shinehah [that little valley that stretches out in front of Spring Hill], or the land where Adam dwelt, that you should covet that which is but a drop [That’s what property is unto our Lord: a drop!] and neglect the more weighty matters? [Doctrine & Covenants 117:6–8]*

What are the weightier matters? He mentions some of them in the book of Matthew: judgment, mercy, faith. These

are attributes a good lawyer can’t afford to neglect.

Some years ago I was invited to lunch with a young man who was a bishop in a humble area of Salt Lake City. He was also a well-known corporate attorney and had a good job making probably somewhere between \$90,000 and \$100,000 a year. During the luncheon, in a very thoughtless way, I said to him, “When will you and your family be moving from your current home?” He looked at me with a surprised and hurt look on his face and said, “Why do you ask?” I said, “Well, I just assumed that as well as you’re doing, you’d be moving soon to a more prosperous part of our city.” He responded, “On the contrary. My wife and I have made a very conscious decision to live

*The quality of our daily relationships with others  
is the best indication of what we think about Christ.*

## Unto What Were Ye Ordained

where we live and to share the surplus that we have with those around us who really need it.” Boy, did I beat a hasty retreat! Here was someone who really did believe that property doesn’t mean much to the Lord, who was planning his life and acting accordingly.

Isn’t our best answer to God’s interrogatories given by how we live? That would be our best response. So let me pose a hypothetical case or two. If we really felt about property the way the Lord defines it—that it’s but a drop and that there are far more weighty matters—then if we were trying to make a decision about material things, wouldn’t our feelings about this subject influence that decision? For example, let’s say you were fortunate enough to inherit \$25,000 from a grandmother who just passed away and had something to bequeath to you, because she did something you struggle to do—save. If you received such a sum, would you spend the entire amount on the new car you’ve wanted for so long? Or would you buy a reliable used car from your neighbor for \$8,000 and use the excess funds helping those around you who are struggling financially and have many unmet needs? Or let’s say you are making a decision about building a home and would like the very best and finest for your family. Would you build one you could reasonably afford for \$110,000, or would you build a more palatial one for \$225,000 and spend the next 30 years working 12-hour days, possibly requiring the help of a working spouse, to pay for it? This is obviously an interrogatory with very practical implications for our lives.

This next interrogatory comes from section 50 of the Doctrine and Covenants. “Wherefore, I the Lord ask you this question—unto what were ye ordained?” (v. 13). Now you sisters may think this doesn’t apply to you, but it does. In a sense we have all been foreordained. And what was that foreordination? In verse 14 the Lord answers his own question again: “To preach my gospel by the Spirit, even the Comforter which was sent forth to teach the truth.” This brings to mind the Abrahamic covenant. All of us have covenanted with God: As we become partakers of the gospel and receive the wonderful blessings that are part of Abraham’s covenant, we enter into a serious obligation—even a burden—to become an agent people for God. Our covenant is to share the gospel so the families of this earth will come to know about Christ and his plan for our lives.

W. J. Clameron has written beautifully about this idea.

*A man will rise and demand, “By what right does God choose one race of people above another?” I like the form of the question. It is much better than asking by what right God degrades one people beneath another, although that is implied. God’s grading is always upward. If he raises up a nation, it is that other nations may be raised up through its ministry. If he exalts a great man, an apostle of liberty, or science, or faith, it is that He might raise a degraded people to a better condition. The divine selection [of which we are the beneficiaries] is not a prize, a compliment paid to the man or the race—it is a burden imposed. To appoint a chosen people is not a pandering to the racial vanity of a superior people, it is a*

*yoke bound upon the necks of those who are chosen for a special service. [W. J. Cameron, *The Covenant People* (Merrimac, Mass. Destiny Publishers, 1996), p. 8]*

We are such a covenant people, and I think it’s very helpful to constantly ask ourselves the question “Unto what were we ordained?” Can you see the implications this has, for instance, for our duty to spread the gospel?

For example, I’ve just been amazed by the experiences I’ve had when flying. I usually sit in an aisle seat and introduce myself to my seatmate. I ask him about himself, hoping that he’ll ask me about myself and that somehow out of that a gospel conversation will ensue. Often, over the past eight years, the Lord has helped me find a way to share the gospel. It’s a rare weekend that I come back not having made a contact that I can follow up on in some way—a referral or sending a book or something. When I’m in those situations, I just have a little prayer in my heart: “Father, I don’t know if this person will be receptive, but I do know that maybe he’ll never have a better chance to meet a Latter-day Saint and to hear a little bit about the gospel. Please help me find a way to share it.”

In the back of my mind I’m thinking that this is my burden, my opportunity, and my obligation as a member of God’s covenant people. That’s what I was ordained to do. This is what all of us are ordained to do. So, again, God’s interrogatory can be very helpful by working itself out in practical ways. I hope considerations such as these have had some impact on your postgraduate planning.



# What Think Ye of Christ

Finally, I share my favorite interrogatory. Christ posed it to the Pharisees in Matthew 22:42. You'll recognize it. He said to them simply, "What think ye of Christ? whose Son is he?" I constantly ask myself, What do I think of him? Am I truly Christian? I've always said to my wife, "I'm the theologian, honey, you're the Christian." Is being a Christian more than just theology? Isn't it really something that has to do with our behavior? Are we Christians? We've all recently read about a young man in Tennessee who was a member of the Federation of Christian Athletes for four years. He was selected to receive a statewide award there and then was denied the award because, as a member of our Church, he was not considered a Christian. Are we Christian? What and who defines that?

In a 1951 conference talk, President McKay said, "What you sincerely in your heart think of Christ will determine what you are, will largely determine what your acts will be." That is a beautiful and sobering thought, relating directly to the interrogatory "What think [we] of Christ?" In our lives, how can we demonstrate what we think of him?

One way would be to repent more continuously. We recently served a mission in New York. One day, in an interview with a missionary, something happened that let me know what he thought of Christ. He had been on his mission 15 months, and that morning during our interview he asked, "Do you have a little extra time?" And I said, "Sure." He said, "Well, I'm going to do something today that I really should have done almost two years ago, but I didn't have the faith in Christ to do it."

Then he poured out his heart about a transgression that occurred long before his mission call. His first premission interview was with his bishop, who also happened to be his father (a complicating factor). He was not able to tell his father what he had done. Adam had that same problem, remember? I think that might be why God asked, "Where art thou?" Well, God knew where Adam was. He was hiding. That's what most of us do when we disobey God. And when that doesn't work, we

often do just what Adam did. We blame someone. "The woman, she . . ." And then Eve's response, "The serpent, he . . ." It is so easy and natural to excuse our weaknesses this way.

But on that morning this young elder was ready to level with the Lord. So, in deep humility he said, "I didn't feel this way two years ago, but I know now that there is no way around what I'm going to do." He quoted the scripture "By this shall ye know if a man hath repented of his sins; behold, he will confess them and forsake them" (Doctrine & Covenants 58:43). Then he said, "There are things more important than finishing my mission, and one of them is to have my sins forgiven. I know I've got to confess to get this started, so here goes." And out it came. Oh, how I loved him. I cried with him, and I knew that his faith in Christ was to the level described by the Book of Mormon as "faith unto repentance" (Alma 34:15). There are levels of faith, and when we've only got a "particle of faith" (Alma 32:27) we don't do what this young missionary did. But when our faith grows to the level of "faith unto repentance," then in our minds and in our hearts we say, "I really believe that the Atonement works and that there is no other way." Then we bring ourselves into compliance and pay the price and claim the blessings.

What did this young missionary think of Christ? It was clear. He knew Christ was his Redeemer. He knew there was no other way, and he was willing to be completely submissive to the processes of repentance.

What else would we do if we really thought the way we should about Christ? I think we would be very charitable in our treatment of others. The quality of our daily relationships with others is the best indication of what we think about Christ. Elder Marvin J. Ashton said once that how we treat others is the best measure of how we're doing in our efforts to come unto Christ. In our quest to come unto him, how we relate daily with our family and with our associates gives best evidence about how we really feel about the Savior.

Can you imagine what a difference it will make if you practice law with Christ and his teachings in your heart and on your mind each day? I actively practiced for 20 years and received some wonderful financial rewards. My most memorable fees, though, are the banana cream pies I used to bill and receive from the widows of our ward for services rendered!

I'll end here, though God has posed many other interrogatories. "Did I not speak peace to your mind concerning the matter? What greater witness can you have than from God?" (Doctrine & Covenants 6:23). "What manner of men ought ye to be?" (3 Nephi 27:27). "Many are called and few are chosen. And why are they not chosen?" (Doctrine & Covenants 121:34). I hope you can value these and many other questions. They merit our contemplation. More than that, they merit our faithful response in the way we live our lives.

The use of such interrogatories by a loving and wise Heavenly Father guides us. The technique enables him to raise relevant issues, to encourage our thoughtful analysis of them, and then to leave us to the exercise of our agency to act. It sounds almost lawyerlike; but I would prefer to describe the process as godlike, because through it we may become more like him. Wouldn't that be a wonderful outcome of a life in the law?

God bless you all to succeed on those terms—his terms! In the name of Jesus Christ. Amen.

*Elder Marlin K. Jensen is a member of the First Quorum of Seventy of The Church of Jesus Christ of Latter-day Saints.*

Photography by John Snyder

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*The Importance of* **RELIGIOUSLY AFFILIATED LAW SCHOOLS<sup>1</sup>** *James D. Gordon III*

WHEN I WAS A FIRST-YEAR LAW STUDENT, PEOPLE used to write announcements on the chalkboards. One day on the chalkboard there was an announcement for the first meeting of a group called “Christians at Boalt.” I went. About 10 to 15 other students also went, and during the next three years we formed a bond that still has meaning for me today. In many of our meetings we discussed the

question whether a person can be a good Christian and a lawyer. Tom Shaffer has written that “[t]his proposal that a Christian be a lawyer hangs in the middle between wariness and prudence. It is a problematic thing, a thing that requires discussion.”<sup>2</sup>

Although we addressed the question many times, we were not able to advance the discussion very far. We did not have faculty members to guide us, to direct us to thoughtful readings, or to be role models, and we were too unfamiliar with the issues to make much headway on our own. Still, the meetings were important; we began thinking about the topic, and we exchanged our views with each other. Perhaps most valuable was simply the reassuring realization that there were other people who cared about the same questions and who shared the same values and concerns.

What we discovered inside ourselves were needs that could be addressed by a religiously affiliated law school. Some students choose to attend church-related law schools precisely because of those needs, and some faculty members choose to teach at those law schools because they want to help students answer those questions. They want to teach in a school

where they can talk openly about religious convictions and relate them to their views of the law and the roles that lawyers play.

For many religious people, being at a school where neither students nor faculty have to check their religious identities at the door can be a liberating experience. It permits them to be a whole person, to seek answers to questions that are off limits at other schools, and to try to address the most challenging and important professional question that they will ever encounter: how can I perform and even excel in my profession and at the same time be faithful to my religious beliefs?

It is difficult to explore these issues at state law schools. State schools typically prohibit the advocacy of religious values by faculty in order to preserve a separation between church and state.<sup>3</sup> Interestingly, this prohibition is hardly ever acknowledged, except when it is violated, and then, to mix a metaphor, that’s when the can of worms hits the fan. That’s when the sacred cows come home to roost with a vengeance.<sup>4</sup>

Secular academics often set up a dichotomy of two kinds of universities. First, there are secular universities, in which academic freedom is absolutely unrestrained. The theory is that the absence of any limitation on individual academic freedom is essential to the very definition of a university and to the pursuit of truth. They contrast this model with that of religious universities, which sometimes prohibit faculty from advocating positions contrary to church doctrine. The first school is free, and therefore a university; the second is unfree, and therefore not a true university.

The truth is that both secular and religious universities have freedoms and limitations. At both kinds of universities I would hope that one could talk *about* almost any topic relevant to the subject matter. However, secular universities prohibit the advocacy of religious viewpoints by faculty members in the classroom, and some religious universities prohibit the advocacy of antireligious viewpoints. Deciding which is

the greater freedom depends on the value the individual faculty member places on the particular views he or she wants to express. That is in part what attracts some faculty members to secular universities and others to religious universities.

But the fact is that every university places some limitations on individual academic freedom in order to protect the institutional mission. George Worgul has observed that “academic freedom’ at any university—whether public, private, church-related or church-sponsored—is never unlimited or absolute. Every university has an identity and a mission to which it must adhere. . . . Freedom is always a situated freedom and a responsible freedom.”

The real issues are: what limitations does the university place on individual academic freedom, and does the amount of academic freedom fall below some threshold deemed necessary for qualification as a university? Most would agree that a large amount of individual academic freedom is necessary, but precisely where does the boundary lie? These are difficult and sensitive issues, and the false dichotomy has the advantage of avoiding questions to which we are unsure of the answers. It also has the advantage of avoiding a discussion about which particular kinds of advocacy a university may exclude and still qualify as a university. When that discussion begins, the antireligious bias of present-day academia might be laid out on the table. To some secular academics, that is a situation worth avoiding. Things can get uncomfortable when tables are turned.

In addition to the official limitations, most secular universities have strong cultural prohibitions against the advocacy of religious values. One political scientist observed that “if a professor proposed to study something from a Catholic or Protestant point of view, it would be treated like proposing something from a Martian point of view.”

By contrast, at religiously affiliated law schools it is possible to talk openly about relevant religious issues in a way that is not possible at other law schools. The existence of these institutions contributes to pluralism in higher education. University of Chicago law professor Michael McConnell has observed that religious universities contribute to our diverse “ethical, cultural, and intellectual life.”

Given that professors at some religious law schools are permitted to bring religious issues into their teaching, do they do it, and if so, how? I suppose that there are as many answers to these questions as there are professors. At one end of the spectrum are professors who do not raise these issues explicitly in their contacts with students, either in or outside the classroom. However, the professors’ religious views inevitably affect what and how the professors teach, how they view the world, and the kind of influence they have on their students.

Moreover, to the extent that the professors are known to be persons of religious conviction, they provide examples to the students of the proposition that intellectual achievement and rigorous analysis are not incompatible with religious faith, and that they can even complement one another. The power of this example cannot be overstated. A faithful faculty member shows her students in a concrete way that the integration of intellect and faith is possible, and she proves it with evidence no less convincing than the power of her own life. Former Notre Dame President Theodore M. Hesburgh said, “The greatest gift a [university or college] president can give his students is the example of his life.”

Some faculty members are quite open about their religious beliefs. I know professors of national stature who have either begun or ended the semester with a declaration of their religious faith. Although students may have forgotten the legal doctrines studied in those classes, they have remembered the professor’s statement of religious belief—even though it was not on the exam.

Others take an approach somewhere in the middle, including religious perspectives occasionally, when it seems natural. For example, one professor of real estate finance teaches that although a mortgage holder has the legal right to foreclose upon default, a charitable or Christian person might give the debtors some time to resolve their difficulties. Another professor correctly teaches students that the common law does not require them to disclose defects when they sell a used car. However, the professor then encourages people to

reverse the roles. If you were the buyer, would you want to know? The Golden Rule offers sound advice: “Therefore all things whatsoever ye would that men should do to you, do ye even so to them.” One might add, from Leviticus, “Thou shalt not defraud thy neighbour, neither rob him.” In contracts we learn that the common law rarely reviews the fairness of a bargain. To help students remember that there is a higher law, I like to quote Mormon pioneer leader Brigham Young. He said, “There are Elders in this Church who would take the widow’s last cow, for five dollars, and then kneel down and thank God for the fine bargain they had made.” In a society that increasingly defines its relationships in terms of legal standards, it is useful to point out that legal duties and moral responsibilities do not necessarily coincide.

Explicit references to religious views in the classroom generally appear only intermittently, when it seems appropriate. The study of law is largely the study of secular systems. James E. Faust, one of the General Authorities of The Church of Jesus Christ of Latter-day Saints, advised our students,

*Do not expect your professor . . . to concentrate his lessons out of the scriptures, although occasionally he may wish to do so. His obligation is to teach you the secular rules of civil and criminal law and matters that relate to them, such as procedures. Your obligation is to learn the rules of law and related matters. The whisperings of the Holy Spirit will no doubt help you, but you must learn the rules of law, using Churchill’s phrase, by ‘blood, sweat, and tears.’ . . . Just having a good heart does not get the job done.”*

Religiously affiliated law schools can also play a role in teaching professional values. The MacCrate Report says that law schools should teach students the values of the profession.<sup>5</sup> It identifies the values of competent representation: striving to promote justice, fairness, and morality; striving to improve the profession; and professional self-development.<sup>6</sup> It states that “a lawyer should embrace ‘those qualities of truth-speaking, of a high sense of honor, of granite discretion, of the strictest observance of fiduciary responsibility that

THIS STRENGTHENS THEM SO THEY DON'T GET SWEEPED BY THE TIDES OF AN INCREASINGLY IRRELIGIOUS CULTURE.

have, throughout the centuries, been compendiously described as “moral character.”<sup>5</sup> One might add other important values, such as self-discipline, work, perseverance, tolerance and love, courage, selflessness, service, faith, compassion, humility, and being a peacemaker. Of course, religious people have no monopoly on these values; the law professor who taught me the most about these issues is a person whom I believe to be an agnostic. However, religiously affiliated law schools can emphasize these values and relate them to the students’ religious beliefs and moral traditions. This can help prepare tomorrow’s lawyers, many of whom will also be tomorrow’s leaders.

This message does not stop with the students. They will influence others, and the ripples in the pond can eventually reach large numbers of family members, friends, associates, clients, and others. In addition, when a religiously affiliated law school attains a reputation for excellence, it sends a message to other law schools and to society that it is possible to be academically excellent and solidly grounded in religious faith.

The message is also disseminated through the scholarship that the faculty produces. This is true not only because of the quality of the scholarship, but also because of its content. When a faculty includes a number of people who take religious belief seriously, they are likely to discuss religious and moral perspectives among themselves and to nurture one another in their scholarly efforts in those directions.

There is always the question of how religious a religiously affiliated law school should be. That is a question for each law school, together with its constituencies, to decide for itself. But I believe that to whatever degree a law school chooses to be religious, it should be religious without apology, confident in the knowledge that it will make a contribution that is both legitimate and important. One elderly alumnus, reminiscing about his

experiences at the University of Notre Dame, said that perhaps his deepest feelings for the place were a reverence for what it represents.<sup>6</sup>

If a religiously affiliated law school can create an environment supportive of certain values, the flip side is that students might not be well exposed to contrary viewpoints. This is a criticism sometimes made of religious universities. I believe that this situation can be ameliorated by several factors: these schools can be diverse in ways other than religion, they can have some faculty and students who are not members of the sponsoring religion, and they can expose students to contrary ideas through teaching, discussion, and readings, and by bringing in outside speakers, panels, and visitors.

Moreover, most students are exposed to contrary ideas almost daily in the wider culture, both before, during, and after law school. The students’ experiences in religious schools may be islands in a contrary sea, in which the currents of public culture are often hostile to their religious beliefs—and in which the students rarely hear thoughtful and informed views defending their religious positions on the issues of the day. Throughout their lives they feel the strong forces of the prevailing currents of the larger society; this is a brief opportunity to strengthen them so that they don’t get swept along by the tides of an increasingly irreligious culture.

The counterargument is that law school must prepare students to function in the larger society. However, religiously affiliated law schools do that. In most states, a law school will not survive unless it succeeds in preparing its students for the legal profession—unless its students learn the

law, pass the bar exam, and have skills that are attractive to employers and clients. The issue is not so much whether religiously affiliated law schools will prepare students to function in the broader society, but whether they will prepare them to function as religious persons in that society. On that issue, religious schools have a unique contribution to make.

A survey of religiously affiliated law schools showed that only a few of the schools responding to the survey had given any explicit consideration to whether the curriculum should draw on religious values.<sup>7</sup> Most schools appeared to leave consideration of religion to the individual professor.<sup>8</sup> However, most left some room in the curriculum for reflection on religious teachings and the moral foundations of law, especially in courses such as ethics, jurisprudence, and family law, which lend themselves quite naturally to the consideration of religious issues.<sup>9</sup> Most deans thought that their religious affiliation had a positive effect on the human relationships among the students and faculty.<sup>10</sup>

The survey asked whether in the deans’ views the schools were drawing too much, too little, or just about right from their religious backgrounds. Different answers were given, “[b]ut the dominant answer was that these schools can and should draw more on their religious roots than they do now, especially by instilling



greater commitment to ethical principles in the lawyers they turn out.”<sup>21</sup> Most felt that “allowing greater vent to religious teachings would enhance the quality of the law school educational experience.”<sup>22</sup> One dean wrote, “The world is a more interesting place when people have beliefs, convictions, and a song to sing.”<sup>23</sup>

Legal education is more complete when it educates not only the mind but also the heart.<sup>24</sup> In Chaim Potok’s novel *The Chosen*,<sup>25</sup> Reb Saunders, a Hasidic rabbi, had a brilliant son named Danny. Danny had “a mind like a jewel,” “like a pearl.” Reb Saunders explained:

[W]hen my Daniel was four years old, I saw him reading a story from a book. And I was frightened. He did not read the story, he swallowed it, as one swallows food or water. . . . It was a story in a Yiddish book about a poor Jew and his struggles. . . . Ah, how that man suffered! And my Daniel enjoyed the story, he enjoyed the last terrible page, because when he finished it he realized for the first time what a memory he had. He looked at me proudly and told me back the story from memory, and I cried inside my heart. . . . “A mind like this I need for a son? A heart I need for a son, a soul I need for a son, compassion I want from my son, righteousness, mercy, strength to suffer and carry pain, that I want from my son, not a mind without a soul.”<sup>26</sup>

Reb Saunders feared that Danny would have a cold mind, a cruel mind—proud, haughty, impatient with less brilliant minds, unable to understand pain, indifferent to suffering. Therefore, he imposed upon his son a regimen of silence—he didn’t speak to his son—so that Danny could learn of pain and understand the pain of others. In this manner, Reb Saunders hoped to teach Danny to suffer for his people, to take their pain from them, and to carry it on his own shoulders.

Good lawyers must have the skills required for professional competence. But this is not enough. They must know how to carry the burdens of other people on their shoulders.<sup>27</sup> They must know of pain and how to help heal it. Lawyers can be healers. Like physicians, ministers, and other healers, lawyers are persons to whom people open up their innermost

secrets when they have suffered or are threatened with serious injury.<sup>28</sup> People go to them to be healed, to be made whole, and to be protected from harm.<sup>29</sup> These are large and important tasks, and they require all that lawyers have to offer. They require both good minds and good hearts—not only mental acuity and professional skill, but also compassion, righteousness, mercy, and strength to suffer and carry pain. That is what it takes to be a truly good lawyer. The world desperately needs truly good lawyers—and truly good law schools to teach them.

#### Notes

1. This essay was presented at the University of Notre Dame on September 16, 1994, at a conference to honor the 125th anniversary of Notre Dame Law School and was published in 37 CATH. LAW. 183 (1996). Portions of the essay previously appeared in James D. Gordon III, *The Profession Everyone Loves to Hate*, CLARK MEMO., Fall 1995, at 10; James D. Gordon III, *Law School: A Survivor’s Guide* (HarperPerennial 1994); and James D. Gordon III, *Law Review and the Modern Mind*, 33 ARIZ. L. REV. 265 (1991). I am grateful for the comments of Fred Gedicks, Reese Hansen, John Tanner, and Dale Whitman.
2. Thomas L. Shaffer, *Why Does the Church Have Law Schools?* 78 MARQ. L. REV. 401, 405 (1995).
3. See, e.g., Bishop v. Aronov, 926 F. 2d 1066 (11th Cir. 1991) (upholding University of Alabama’s prohibition of professor’s religious statements in class), cert. denied, 505 U.S. 1218 (1992).
4. See Gyles Brandreth, *The Joy of Lex* 227 (1980).
5. George S. Worgul, Jr., “Editor’s Preface,” in *Issues in Academic Freedom*, viii–ix (George S. Worgul, Jr., ed., Duquesne Univ. Press, 1992).
6. George Marsden, *Pluralism, Yes. Religion, No!* 22 Planning for Higher Ed. 58, 58 (1994) (quoting newspaper article criticizing speech given by author at gathering of American Academy of Religion).
7. Michael W. McConnell, *Academic Freedom in Religious Colleges and Universities*, 53 LAW & CONTEMP. PROBS. 302, 312 (1990) [McConnell is now presidential professor of law at the University of Utah]; see also David Rabban, *A Functional Analysis of “Individual” and “Institutional” Academic Freedom under the First Amendment*, 53 LAW & CONTEMP. PROBS. 227, 268–69 (1990). David Rabban argues that the greater latitude given to private universities under the Establishment Clause can improve our democracy as a whole because “[t]he resulting pluralism within the academic world . . . may provide

more tolerance for diverse and unpopular views than a rule that would subject all universities to the commitment to diversity of thought that the First Amendment imposes on public ones.”

8. Theodore M. Hesburgh, Speech at the 59th Annual Meeting of the American Council on Education, New Orleans, Louisiana (Oct. 7, 1976).
9. *Matt.* 7:12.
10. *Lev.* 19:13.
11. Brigham Young, 17 *Journal of Discourses* 41 (1967).
12. James E. Faust, *The Study and Practice of the Laws of Men in Light of the Laws of God*, CLARK MEMO., Fall 1988, at 16, 18–19.
13. The Task Force on Law Schools and the Profession: Narrowing the Gap, *Legal Education and Professional Development—An Educational Continuum* 135 (1992).
14. *Id.* at 140–41.
15. *Id.* at 213 (quoting *Schwartz v. Board of Bar Examiners*, 353 U.S. 232, 247 (1957) (Frankfurter, J., concurring)).
16. Edward Fischer, *Hooked on a Feeling*, NOTRE DAME MAG., Sum. 1989, at 11.
17. Rex E. Lee, *The Role of the Religious Law School*, 30 VILL. L. REV. 1177–78 (1985). For a survey regarding prayer rooms at religiously affiliated law schools, see David L. Gregory, *Where to Pray? A Survey Regarding Prayer Rooms in A.B.A. Accredited, Religiously Affiliated Law Schools*, 1993 BYU L. REV. 1287.
18. Lee, *supra* note 17, at 1178.
19. *Id.*
20. *Id.* at 1179.
21. *Id.* at 1180.
22. *Id.*
23. *Id.* (quoting Dean Davis of the University of Dayton School of Law).
24. For a discussion Catholic legal education benefits, see Randy Lee, *Catholic Legal Education at the Edge of a New Millennium: Do We Still Have the Spirit to Send Forth Saints?* 31 GONZ. L. REV. 605 (1996).
25. Chaim Potok, *The Chosen* (1967).
26. *Id.* at 264–65.
27. Notre Dame Law School conducted an experiment establishing that students are better prepared to practice law when they are trained ethically as well as legally. Thomas L. Shaffer, *On Teaching Legal Ethics in the Law Office*, 71 NOTRE DAME L. REV. 605 (1996).
28. Bruce C. Hafen, “To Beginning Law Students on ‘Professionalism’” 5 (unpublished manuscript).
29. See *id.*

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P. Crawford



H. REESE HANSEN, DEAN

*This Brigham Young University devotional*

*address was given April 8, 1997.*

*Illustrated by Robert Crawford*

We  
are  
to  
Love

God and

Our

Neighbors

I appreciated the opening prayer offered by Matt Jensen. I'm going to let you in on a little secret—Matt had a special reason this morning to pray for the Spirit to be here today. You see, Matt did much of the research for my remarks. And so he is really hoping that this will go well. A couple of days ago, I asked Vice President Jim Gordon for some advice on giving this talk. This morning as I came into the Marriott Center, he handed me this folded note on which he had provided important advice. On the front of the note, as you can see if you are close enough, is written one word: *Socrates*. When I opened the note I read his sound counsel: "Socrates gave long speeches. Socrates was poisoned by his friends."

I will try not to overstay my welcome at the podium today, although I will admit that the attorney in me regrets there is no one to whom I can bill this time!

I feel a burden of responsibility this morning to speak of things that will be useful to you. I am aware that this is the last devotional of the semester. By now many students are in the beginning stages of the awful realization that there is more to be done than can possibly be accomplished by the end of the semester. So I understand that you may be a bit distracted just now. But for the next few minutes I hope we can focus together on our Savior; on his profound love for, and unending patience with, each one of us; and on how his teachings and example of love should guide our individual lives.

Whenever I think of the Savior, I think of the scripture recorded in the Gospel of John:

*As the Father hath loved me, so have I loved you: continue ye in my love. . . .*

*These things have I spoken unto you, that my joy might remain in you, and that your joy might be full.*

*This is my commandment, That ye love one another, as I have loved you.*

*Greater love hath no man than this, that a man lay down his life for his friends.* [John 15:9–13]

The promise of this commandment is that by loving others our joy might be full. What a profound insight. When you truly love another person, both you and the loved one are blessed.

Actually, we know from our own experience that this promise is a reality.

Loving others, then, is much more than a suggestion. It is not given to us as an option. The heart and soul of the gospel of Jesus Christ is love—love of God and love of mankind. I worry that we treat this commandment as one of those that must have been meant for someone else to heed—someone, for example, like an enemy.

The well-known commandment to love one another speaks to and challenges all of us. And it is learning to love—both God and one another—that

ought to take the central place in our efforts to follow the Savior. Those who would truly follow Christ must learn to love in the way Christ intended us to love. “By this,” he said, “shall all men know that ye are my disciples, if ye have love one to another” (John 13:35).

It is through learning to love others that we not only keep the commandment but build the foundation upon which obedience to every other of God’s commandments is fundamentally rooted, and love is the cornerstone around which every other virtue in our lives is built.

It is a relatively easy thing, of course, to love those who love us, who are kind to us, and who are like us. This familiar scripture teaches that the commandment to love one another comes with no such limitation: “For if ye love them which love you, what reward have ye? do not even the publicans the same?” (Matthew 5:46).

Elder David B. Haight taught:

*Besides loving God, we are commanded to do what to many is a more difficult commandment—to love all, even enemies, and to go beyond the barriers of race or class or family relationships. . . .*

*. . . Are we not commanded to cultivate genuine fellowship and even a kinship with every human being on earth? Whom would you bar from your circle? We might deny ourselves a nearness to our Savior because of our prejudices of neighborhood or possessions or race—attitudes that Christ would surely condemn. Love has no boundary, no limitation of good will. [“Love All,” *Ensign*, November 1982, pp. 10–11]*

God does not love us because we are particularly lovable; he does not love us only if we keep his commandments; he does not love us because we are just like him. Our Father in Heaven loves us in spite of our weaknesses, our sins, and our failures to be kind to one another. In spite of who we are or what we have done, I believe that for our Heavenly Father, even those among us who are viewed as unlovable are loved by him. God wants to pour out his love on us. And in fact he has done so by providing for us the Savior, whose ultimate sacri-

fice made possible the opportunity for every person to return to the celestial home and to be with him for all eternity: “For God so loved the world, that he gave his only begotten Son, that whosoever believeth in him should not perish, but have everlasting life” (John 3:16).

Having a Christlike love requires more than a pleasant response to those who enter into our lives. God’s love requires reaching out to others and enfolding them in our hearts and lives.

Mother Teresa, the Catholic nun who has spent her life in the slums of Calcutta helping the poorest of the poor—the lepers and abandoned children—said, “Love each other with a clean heart. . . . [The poor] are not hungry for bread; they are hungry for love” (“Grads Hear Noted Nun,” *Salt Lake Tribune*, 31 May 1982, p. A-4, quoted in Haight, “Love All,” p. 12).

I recently learned of a student at BYU who came to Provo from an eastern European country to work on a second graduate degree. He had been a student at one of the most prestigious universities in Europe. That university had provided a scholarship to cover his costs while he studied here. But he was not like a typical BYU student. He dressed somewhat differently—at least by our standards. He is not a member of the Church. He speaks fluent and beautiful English with a discernible accent that our linguists could trace to his home country. Two weeks ago this student was asked by a fellow student how he felt about his stay at BYU.

He said, “For the most part, I have hated it! For the entire three months of my stay I have been lonely. I have felt depressed and homesick—like a loner. I have made no friends.”

How can this be? I wondered. Especially here at BYU, where we are committed followers of the Savior. A majority of us have experienced living in other lands and know the loneliness one can feel in that situation. I wondered what could have been done to make his stay here more enjoyable. I wondered, too, what report he will give about BYU, our church, and our lifestyle when he returns to his homeland. I admit that I wondered if any classmate had done

anything to make him feel accepted, valued, and loved. I wondered how many of us who had come into contact with this student from a foreign land had remembered the Savior's direction:

*But the stranger that dwelleth with you shall be unto you as one born among you, and thou shalt love him as thyself; for ye were strangers in the land of Egypt: I am the Lord your God. [Leviticus 19:34]*

Living with godlike love demands that we come to really feel that all people are within our circle of loved ones and that we feel a responsibility toward them.

This principle was taught by the Savior in an excellent example of the Socratic teaching method in common use in law schools today. A certain lawyer asked the Savior what he should do to inherit eternal life. The Savior answered with a question:

*What is written in the law? how readest thou?*

*And he [the lawyer] answering said, Thou shalt love the Lord thy God with all thy heart, and with all thy soul, and with all thy strength, and with all thy mind; and thy neighbour as thyself.*

*And he [Jesus] said unto him, Thou hast answered right: this do, and thou shalt live. [Luke 10:25–28]*

The follow-up question from the lawyer was, "And who is my neighbour?" (v. 29).

The Savior responded with the parable of the Good Samaritan. The Samaritans were looked down upon by the Jews. The priest and the Levite—both of whom were Jews—should have come to the aid of the unfortunate man but did not. It was the despised Samaritan who braved the social barriers of that day and showed when he cared for the stricken man the love Christ was expecting. After telling the story, Christ then gave this command: "Go, and do thou likewise" (Luke 10:37).

I fear there are too many among us whose behaviors toward others reveal that, in their own way, they (like the lawyer in Jesus' day) are still asking: "Who is my neighbor?" A good lawyer

would object to a witness being asked the same question again and again in a trial by saying, "Asked and answered." Indeed, the question has been asked and answered. But, unfortunately, even some members of the Church who clearly ought to know better have not incorporated this important teaching into their personal, everyday lives.

As in Christ's time, the message of the gospel is there for all people. Despite the passage of centuries the gospel message has not changed. It was offered then, just like it is now, to anyone who was willing to listen. As the apostle Peter said, "I perceive that God is no respecter of persons: But in every nation he that feareth him, and worketh righteousness, is accepted with him" (Acts 10:34–35).

This statement by Peter is the essence of the gospel we preach and ought to live—namely, the inclusion of all people. The teachings and blessings of Christ are not limited to certain groups or nationalities.

Despite this regular declaration of our beliefs, the Church and its members are too often criticized for their overall intolerance of other faiths, or lifestyles, and an attitude of exclusion and superiority. In a 1992 press release the Church acknowledged its concern over this matter. The statement said:

*We reaffirm the longstanding concern of The Church of Jesus Christ of Latter-day Saints for the well-being and intrinsic worth of all people. Latter-day Saints believe that "God is no respecter of persons: But in every nation he that feareth him, and worketh righteousness, is accepted with him." (Acts 10:34–35.)*

*All men and women are children of God. It is morally wrong for any person or group to deny anyone his or her inalienable dignity on the tragic and abhorrent theory of racial or cultural superiority.*

*We call upon all people everywhere to recommit themselves to the time-honored ideals of tolerance and mutual respect. We sincerely believe that as we acknowledge one another with consideration and compassion we will discover that we can peacefully coexist despite our deepest differences. ["Church Exhorts Ethnic, Religious*

Tolerance," *Church News*, 24 October 1992, p. 4]

Our obligation to love requires us to distinguish the sin from the sinner and to love all men. Jesus made this clear when he taught the Nephites after his resurrection:

*Nevertheless, ye shall not cast him out of your synagogues, or your places of worship, for unto such shall ye continue to minister; for ye know not but what they will return and repent, and come unto me with full purpose of heart, and I shall heal them; and ye shall be the means of bringing salvation unto them. [3 Nephi 18:32]*

I remember vividly, even today, a scene I witnessed nearly 20 years ago in the foyer of the church where I was the bishop. In those days we had a large group of young adults in the ward. This was before our resident stakes had single-adult wards. It was a Sunday before sacrament meeting. A dozen or so of our young adults were gathered in the foyer visiting about an outing they had scheduled for the following week. Their enthusiasm for the event was evident from the animated way they were talking about their plans. Everyone was deeply involved in the discussion. Then a young woman, about the age of those in the group, came rather timidly into the foyer. Although a member of the ward, she was not a regular attender—in fact, she rarely came. She was not blessed with gifts and graces that made her fit easily anywhere. Most of the time she seemed hostile and unpleasant. Although she was known to the group, she had no friends. She lived a lifestyle that was different and, in many respects, contrary to the commandments. And everyone knew it—or thought they knew it. Then it happened. One of the young men, who was a natural and charismatic leader, saw her come in. He excused himself from the group, walked over to the young lady, put an arm around her, and exclaimed how glad he was to see her. Would she sit with him in the meeting, and would she go with the group on their exciting excursion that week? She replied

There  
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unappreciated,  
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yes, and yes. A new friendship was begun. It would have been easy—even natural—for him to ignore her or to offer only a polite nod or hello. But he did what all of us should do. He extended himself to her in an offering of friendship.

Elder David B. Haight observed the truth that “God accomplishes His purposes heart to heart” (“Love All,” p. 12).

Unfortunately, feelings of loneliness are not peculiar to the young man from eastern Europe I spoke of, nor are feelings of alienation limited to an occasional person like the young woman in my ward who just didn’t fit in. Campus Church leaders are constantly trying to help students who are depressed, homesick, or lonely. Here, among us, there should be welcome for everyone.

The message of the Messiah was a message of inclusion. There should be no reason for people here to feel left out, lonely, unappreciated, or unloved.

In one of his first public statements after becoming the prophet and president of the Church, President Howard W. Hunter said:

*I would invite all members of the Church to live with ever more attention to the life and example of the Lord Jesus Christ, especially the love and hope and compassion He displayed.*

*I pray that we might treat each other with more kindness, more courtesy, more humility and patience and forgiveness.* [Press conference of 6 June 1994, in Jay M. Todd, “President Howard W. Hunter,” *Ensign*, July 1994, p. 4]

What a powerful invitation—and reminder! About two weeks ago, our third son, who recently moved to Chicago for employment, was diagnosed with a seri-

ous illness. Although he is doing well now, and the prognosis is good, I can tell you that the distance between Chicago and Provo never seemed so great as it did in those first several days while our family came to grips with the reality and implications of this unwelcome situation. This event reminded me forcefully of the common experience of all people who have loved ones in distant places. I dare to speculate that every person here at some time, now or in the past, has or has had a loved one in special need. It might be a concern about health or family or perhaps about one who is not being faithful to covenants and is wandering from the gospel. It might be a brother or sister, a parent or child or other loved one somewhere in the Church—perhaps in the East or in a western state—for whom you have prayed that kind of pleading prayer that seeks for a miraculous intervention or for special attention from someone. And we pray that a roommate, priesthood leader, home teacher, visiting teacher, or neighbor—or anyone there where our loved one is—will see in them the nobility and worth that we see. We pray that there is someone who will care enough to love them with a special attentive and healing love. I'm confident most of you have had such an experience.

And just as you pray or have prayed for your loved one somewhere in the Church today, a parent or brother or sister or child prays that their loved one who lives here among us will be recognized for the potential and nobility that they possess. They pray that someone here will love them and assist in a gentle way to nurture the Spirit of our Heavenly Father in their loved one's life. My dear brothers and sisters, I believe that you and I have got to try harder to be the answers to the prayers of thousands of parents that their son or daughter, who is away from home and is here among us, will be accepted, looked out for, and loved.

Yes, we are our brother's keeper. We have been called to love all of God's children. Let us pledge anew our commitment to our Savior and to his

flock. Let us help our Heavenly Father by being the instrument through which the prayers for loved ones are answered.

*Remember the worth of souls is great in the sight of God;*

*For, behold, the Lord your Redeemer suffered death in the flesh; wherefore he suffered the pain of all men, that all men might repent and come unto him. [D&C 18:10–11]*

There are three principle elements that need to find places in our hearts and in our acts if we are to become successful in loving others with a Christlike love. These three keys, if learned and applied, will open the door to your heart and to the hearts of others. They are not new. They are found in the familiar words of our Savior, whose love was a perfect love. The three keys are: *judge not, forgive freely, and serve generously.*

First, *judge not.* Because you and I can never really know all there is to know of others' life experiences and circumstances, and because we do not have a perfect scale of judgment with which to weigh others' acts, habits, reactions, or behavior, it is inappropriate for us to make judgments about others. It is impossible for any person who has faults to presume to be in a position to judge others. The Savior taught this lesson many times—once in the familiar account of the woman taken in adultery: "He that is without sin among you, let him first cast a stone at her" (John 8:7).

A second teaching of this principle is given in the Sermon on the Mount.

*For with what judgment ye judge, ye shall be judged: and with what measure ye mete, it shall be measured to you again.*

*And why beholdest thou the mote that is in thy brother's eye, but considerest not the beam that is in thine own eye? [Matthew 7:2–3]*

I can't resist telling a story many of you will quickly be able to relate to, which perhaps helps make the point. It seems a son was not measuring up to his father's expectations for him. There were the constant problems of the messy bed-

room, too much television, and not enough study being done. The son's grades were not as good as the father wanted them to be. And besides, household chores were often undone or poorly done. The father was disappointed, and, of course—like most of us—he wanted to deliver the kind of message to his son that would *make* him change. Finally, in exasperation the father said, "Son, do you have any idea what Abraham Lincoln was doing at your age?"

The son thought for only a moment and then replied, "No, Dad, I don't know what Abraham Lincoln was doing at my age, but I do know what he was doing at your age."

Another reason why we should not judge others, I believe, is because many of the differences among people are the result of the fact that our Heavenly Father did not equip us equally with gifts and graces before sending us off to our earth life.

In the Doctrine and Covenants we are told:

*For all have not every gift given unto them; for there are many gifts, and to every man is given a gift by the Spirit of God.*

*To some is given one, and to some is given another, that all may be profited thereby. [D&C 46:11–12]*

It is well for each of us to remember this scripture. It clearly teaches that Heavenly Father intentionally made us individually unique so that *all* could be blessed by *each*. That we are each different in our abilities and interests and development obviously cannot justify a determination that one is superior or inferior to another. That we are different, but neither superior nor inferior, tells us something about the way we ought to appreciate each other. The fact is, it is precisely because we are each different that there is so much that is good and interesting and wonderful about others for us to discover and then to appreciate and eventually become personally enriched and blessed. If we do not seek to learn from others, we are missing much that is good and wonderful.

When I set apart a missionary, especially those going to foreign lands or into different cultures and races, often I am moved to advise the missionary that he or she is going on a mission to learn as well as to teach. By learning about the culture, history, and ways of the people the missionary meets, the missionary will be richly blessed personally and will come to love the people more quickly and more completely—and the Spirit will then be more likely to be received by those the missionary comes into contact with.

Learning to appreciate rather than judge others, especially those who are different from ourselves, is often difficult because of a tendency in many of us to believe that our ways are the “right” ways. Because of a perceived advantage of gender, race, culture, religion, education, physical stature, appearance, or mental quickness, we may feel we are superior to others.

That some people have a perception of their superiority over others reminds me of the children’s story of *The Sneetches*, written by Dr. Seuss. You may recall the simple story of the Star-Belly Sneetches who, because of the stars on their bellies, felt far superior to those who did not carry this obvious mark of distinction. In Dr. Seuss’ words:

*Because they had stars, all the Star-Belly Sneetches*

*Would brag, “We’re the best kind of Sneetch on the beaches.”*

*With their snoots in the air, they would sniff and they’d snort*

*“We’ll have nothing to do with the Plain-Belly sort!”*

*And whenever they met some, when they were out walking,*

*They’d hike right on past them without even talking.*

Such treatment, as you can imagine, was not enjoyed by those with plain bellies. After hearing about the plight of the Plain-Belly bunch, Sylvester McMonkey McBean, the so-called “Fix-it-Up Chappie,” came into town with a machine that would give Plain-Belly Sneetches a star upon their stomachs. Of course this did not sit well with those

who had previously enjoyed having the exclusive star. In fact, this same businessman, after giving everyone a star, began to operate a machine that would remove stars, thus maintaining the shallow distinction. It was not too long before it was impossible to tell if a Sneetch had been star-bellied or plain-bellied to begin with. At this point the two groups could no longer afford to continue their attempt to keep themselves separated from the others. In addition, a change began to come over them. In fact, they realized how ridiculous their actions had been. Again using the words of Dr. Seuss:

*I’m quite happy to say*

*That the Sneetches got really quite smart on that day,*

*The day they decided that Sneetches are Sneetches*

*And no kind of Sneetch is the best on the beaches.*

*That day, all the Sneetches forgot about stars*

*And whether they had one, or not, upon thars.*

[Dr. Seuss, *The Sneetches and Other Stories* (New York: Random House, 1961), pp. 2–25]

This story has a message for each of us. As we come to BYU from all over the world, we each bring our own stars or items we think are “in vogue” or somehow especially desirable. This is fine, but we must remember that our roommates, classmates, and every other person has his or her own stars as well. I hope each of us will learn to look past the external characteristics that so often are used to justify our classification of people. In other words, we need to take the time to get to know some plain-bellied types. As you become more loving and tolerant of others, your circle of friends will grow, you will expand your horizon, and you will change your perspective of the world along the way. You will be greatly blessed, and so will your new friends.

There is a passage in the Book of Mormon, in 3 Nephi, that I want to draw special attention to this morning because I have felt particularly vulnera-

ble to the warning taught in the account. Within a few years after the Savior’s birth, all of the people living among the Nephites, which included many Lamanites, came to know that Christ had come. They repented of their sins, preached the gospel to the prisoners they had taken in the war against the Gadianton robbers, and set free those prisoners who covenanted to keep the peace. The Nephite leaders, Gidgiddoni and Lachoneus, had brought great peace in the land. The scripture tells us, “There was nothing in all the land to hinder the people from prospering continually, except they should fall into transgression” (3 Nephi 6:5). And they did prosper. But within a very short time “there began to be some disputings among the people” (3 Nephi 6:10).

*And the people began to be distinguished by ranks, according to their riches and their chances for learning; yea, some were ignorant because of their poverty, and others did receive great learning because of their riches. [3 Nephi 6:12; emphasis added]*

I believe this account is a warning to those of us who have been blessed to have received an education. We ought never to suppose that our “learning” entitles us to special rank or privilege.

The second key to learning to live with Christlike love is to *forgive freely*. The principle of forgiveness and its relation to love was clearly taught by the Savior in the familiar passages from the Sermon on the Mount found in Matthew. I suggest you take a close look at the sermon again and consider how much of it is devoted to teaching about the principle of forgiveness. Ask yourself why this is so. My estimate is that nearly one-half of that great sermon speaks of some element of forgiveness.

*Resist not evil: but whosoever shall smite thee on thy right cheek, turn to him the other also.*

*And if any man will sue thee at the law, and take away thy coat, let him have thy cloke also.*

*And whosoever shall compel thee to go a mile, go with him twain. . . .*

*Ye have heard that it hath been said, Thou shalt love thy neighbour, and hate thine enemy.*

*But I say unto you, Love your enemies, bless them that curse you, do good to them that hate you, and pray for them which despitefully use you, and persecute you. [Matthew 5:39-41, 43-44]*

The apostle Peter asked the Savior how often he should forgive one who sinned against him: "Till seven times?"

The Savior replied: "I say not unto thee, Until seven times: but, Until seventy times seven" (Matthew 18:21-22).

Learning to forgive those who have offended or in some manner caused injury may be the most important key to living with real Christlike love: "Then said Jesus, Father, forgive them; for they know not what they do" (Luke 23:34).

The final key is to *serve generously*. I believe we learn best to love by serving. C. S. Lewis, in his book *Mere Christianity*, provides an insight to this key:

*Do not waste time bothering whether you "love" your neighbour; act as if you did. As soon as we do this we find one of the great secrets. When you are behaving as if you loved someone, you will presently come to love him. If you injure someone you dislike, you will find yourself disliking him more. If you do him a good turn, you will find yourself disliking him less. . . . But whenever we do good to another self, just because it is a self, made (like us) by God, and desiring its own happiness as we desire ours, we shall have learned to love it a little more or, at least, to dislike it less. [C. S. Lewis, *Mere Christianity* (New York: Macmillan Publishing Company, 1952), pp. 116-17]*

Any returned missionary can testify that their love for the people they worked with on their mission was primarily the product of serving them. Elder Marvin J. Ashton taught, "What we serve we learn to love" ("We Serve That Which We Love," *Ensign*, May 1981, p. 24). And to quote once again from Elder David B. Haight:

*Love is a gift of God, and as we obey His laws and genuinely learn to serve others, we develop God's love in our lives. . . .*

*Someone has written, "Love is a verb." It requires doing—not just saying and thinking. The test is in what one does, how one acts, for love is conveyed in word and deed. ["Love All," p. 12]*

I will conclude with the profound teachings of the prophets Moroni and Mormon:

*And again, behold I say unto you that he cannot have faith and hope, save he shall be meek, and lowly of heart.*

*If so, his faith and hope is vain, for none is acceptable before God, save the meek and lowly in heart; and if a man be meek and lowly in heart, and confesses by the power of the Holy Ghost that Jesus is the Christ, he must needs have charity; for if he have not charity he is nothing: wherefore he must needs have charity.*

*And charity suffereth long, and is kind, and envieth not, and is not puffed up, seeketh not her own, is not easily provoked, thinketh no evil, and rejoiceth not in iniquity but rejoiceth in the truth, beareth all things, believeth all things, hopeth all things, endureth all things.*

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**B**rett Scharffs is a talented and energetic man whose life has been filled with academic excellence and cultural exchange. Brett has spent time in Japan, China, England, and the Netherlands both serving others and educating himself. His experiences there continue to influence his life today in many ways. ~ Brett grew up in Salt Lake City and was edu-

cated in the local public schools. This is where he first came to, in his words, “benefit from the care and tough love of several great teachers.” Because education is such an integral part of Brett’s life, it is no wonder that “many of my heroes, including

**AN** my father and mother, have been teachers. As a law professor my goal is to have an influence on others that somehow reflects this fortunate inheritance.” ~ His academic promise was recognized early by his teachers, and his outstanding high school years

# OCCIDENTAL LIFESTYLE WITH AN ORIENTAL FLAVOR

culminated in being selected as Skyline High School’s 1981 general scholarship sterling scholar. The Walt Disney Foundation also recognized Brett’s promise and awarded him their prestigious Junior

Achievement Scholarship, given to only one high school student in the nation each year. It provides a four-year, full-tuition scholarship to any university in the United States.

So, after graduating from high school, Brett chose to enroll at Georgetown University to seek his undergraduate degree. While living in DC, Brett began a brief career working at the U.S. Senate—as a parking attendant. After his freshman

year, Brett left Georgetown to serve a mission for the Church in Japan (1982–84). When he left for his mission, it was unclear whether the Disney Foundation would honor his scholarship after a two-year absence, but Brett felt he should not postpone



his mission, and upon his return from Japan, he learned that the university had intervened on his behalf and the Disney Foundation support continued for the next three years.

After returning to Georgetown, Brett continued his study of Japanese. He also spent a summer at the East China (Jiao Tong) University in Shanghai, China, for intensive Chinese language study. At this time, many people thought China, not the Soviet Union, would open up politically and economically. But Brett said he “developed a real sense of uneasiness about the political climate in China.” He felt “China was so uncertain, even in this summer of optimism, that I did not want to hitch my wagon to this star.”

Nevertheless, Brett had begun to develop a deep respect for Asian cultures and traditions as well as a real appreciation for Japanese cooking, an interest he still actively pursues. The combination of the taste of the food and the simplicity of its preparation evokes for him many fond memories.

During his junior and senior years he worked in the university president’s office as a student assistant for federal relations. During that time he also met Deirdre Mason Crane, whom he would later marry. On the same day in 1986, Brett and Deirdre graduated from Georgetown—Brett with a BSBA (magna cum laude) in international management and a minor in theology and Deirdre with a BA in history. A year later, Brett was awarded a master of arts degree in philosophy from Georgetown, graduating summa cum laude (4.0 grade point average).

Brett remembers with great fondness his time at Georgetown. He was one of few Mormons enrolled. It was ironic, then, that he came under the influence of Jesuit priests. Of this interaction, Brett says he “benefited enormously from their ideal of living a life of action and religious commitment.” That is one reason he accepted a teaching position at BYU. “I believe there is a very important place within the pantheon of universities for religiously distinct universities such as BYU. BYU also plays a crucial role for the Church. Although I have never been a student at BYU, in a very real way I feel as if I am coming home.”

Only a few men and women experience the thrill and challenge of being awarded a Rhodes Scholarship. From 1987–89, Brett enjoyed the opportunity to study at Oxford University as a Rhodes scholar. His studies focused on moral and political philosophy and Aristotle. His thesis topic is illustrative of his erudition: “Interpretation in Adjudication: Some Philosophical Aspects of a Current Debate.” In 1989 he received a bachelor’s in philosophy. During his second year at Oxford, Brett and Deirdre were married in the Washington, DC, Temple, and Deirdre joined Brett at Oxford, where she worked at the Oxford Museum of Modern Art.

Yale. His teaching assignment in the fall was two weekly sections for Professor Jean Shrodel (“Introduction to American Government”), followed by one weekly section for Professor Phil Klinkner in the spring (“Political Parties and Elections”). Simultaneously, he interned in the New Haven Office of State’s Attorney. During the summer of 1990, he was an associate with VanCott, Bagley, Cornwall & McCarthy in Salt Lake City. Finally, in 1990, he began a three-year stint as research assistant to Professor Anthony Kronman, who was writing *The Lost Lawyer*, a book on character and practical wisdom in the legal profession. “My interaction with Professor



*After a full day sizing up the housing market, Deirdre and Brett Scharffs break for a photograph with three-year-old Elliot and Sophie, born last March.*

After finishing his Oxford degree, Brett felt ready to study law. As is readily apparent, he was not the typical first-year student entering Yale Law School. In Brett’s first year, 1989–90, he was named lead editor of the *Yale Journal of Law and the Humanities*. In 1990 he was a teaching fellow in the Political Science Department at

Kronman was easily the highlight of my time at Yale,” said Brett.

Deirdre spent Brett’s first law school year working at the Yale Center for British Art. She then entered the Yale School of Management to pursue a master’s in public and private management (MPP), where she was able to combine her

interest in art history with her interest in museum administration.

Brett continued his display of intellectual achievement. In 1991–92 he was named senior editor of the *Yale Law Journal*, served as the student representative on the Campus Curriculum Committee, and continued teaching. He was a visiting lecturer at Yale and a visiting fellow at Saybrook College, one of the undergraduate colleges at Yale. At Saybrook he co-taught the undergraduate seminar “Legal Formalism and Its Critics.” He also taught by himself an undergraduate seminar titled “Theories of Adjudication.” At about the same time, he assisted Professor Joseph Hamburger in teaching a course about “Conservatism and Its Critics.”

Summer work continued at the same breakneck pace for Brett. In 1991 he was an associate with Jones, Day, Reavis and Pogue in Washington, DC. He also worked with Davis, Polk & Wardwell in their New York, Tokyo, and Washington, DC, offices. “My summer was split between four different offices, an approach I do not recommend, although there was an advantage to not being expected to know more than how to find the copier and the restroom.” The next summer Brett worked as an intern in the Office of Legal Counsel at the United States Department of Justice (Washington, DC).

While studying at Yale, Brett also somehow found time to take up golf. He felt it provided an excellent opportunity to, as Asian philosophers might say, “cleanse your mind and become one with nature.” He enjoys the blue sky and the green grass. As he puts it, “I’m a sufficiently poor golfer that I can enjoy the exercise without becoming too exercised.”

On a beautiful May day in 1992, Brett and Deirdre once again graduated together, Brett with his JD and Deirdre with a master’s in private and public management. After receiving his juris doctor, Brett became a law clerk for the Honorable David B. Sentelle of the United States Court of Appeals for the District of Columbia Circuit and the next year served as legal assistant to Judge George H. Aldrich at The Hague.

While living in the Netherlands, he pursued sculpting, an interest he has had

for many years. “The law deals with abstraction,” said Brett, “sculpture and sculpting is materiality.” For him, sculpting “taps a part of your soul that is very different.” His goal in sculpting is “to create a sense of movement in an inert object.” He continues to enjoy this avocation.

From 1994 to 1997 Brett was an associate with Sullivan & Cromwell in Washington, DC, where he worked in securities transactions including IPOs and registered and unregistered debt and equity offerings. He also did some investment company work. For example, Brett helped to establish a foreign securities index fund. Brett also continued to teach. In spring 1997 the George Washington University Law School named him associate professorial lecturer in law, and he taught an advanced international business transactions seminar. Meanwhile, Deirdre worked part-

time for Paul Mellon with his personal collection of art and rare books.

Brett’s teaching and research interests include corporate law, private and public international law, and philosophy of law.

One major reason he will be teaching at BYU is because he believes the “law school has an opportunity to reach out to BYU’s natural constituency around the world.”

Brett and Deirdre are the parents of two children. Elliot will be three years old in September, and Sophie was born in April of this year. Brett enjoys reading and writing poetry and children’s literature. He also skis. And if you are lucky, he may invite you over for a taste of sukiyaki, his favorite Japanese dish.

Though Brett Scharffs seems something of a Renaissance man in the European tradition, he still has a yen for the Orient.

**T**om Lee is one of those rare individuals who can be accurately characterized as being indefatigable. Even as a youngster, he was always “running without being weary.” This has proved to be a tremendous asset in his life. He was blessed to be born in a family that provided a legacy of greatness. Tom describes his father Rex as “the person I admire most in the world.” Now that Tom

# RUNNING

# ON

# FULL

has learned the nuances of the law, his respect for his father is even greater. This admiration for Rex Lee did not, however, originally evidence itself in a desire by Tom to pursue a career in law.

He admits that in high school he was determined to “do anything but follow in my father’s footsteps.” This attitude persisted during his freshman and sophomore years at Timpview High School in Provo. When his father was named solicitor general of the United States, Tom moved with his

family to McLean, Virginia, where he attended Langley High School, which is, as Tom says, “a stone’s throw from CIA headquarters, though I wouldn’t advise testing the description with an actual rock.” This proved to be a difficult move for Tom. He experienced culture shock and found the lifestyle of Washington, DC, intimidating.

While attending Langley High, Tom enrolled in a government course as a senior. It was while participating in a project in that class that he fell in love with the law. His favorite assignment was a mock trial project, for which he eventually made an appellate argument to the Virginia Supreme Court. He was hooked.

Tom was awarded a Trustee’s Scholarship by Brigham Young University in 1983, and he returned to the safe environs of Provo. After completing a year at BYU, Tom was called to serve a mission for the Church in Monterrey, Mexico.

His mission showed him the poverty and misfortune of others and taught him the marvelous ability of the human spirit to endure. He met many wonderful people who demonstrated the ability to find joy in the simple pleasures of life. Serving in small cities and in Mexico’s center of heavy industry, Tom enjoyed associating and speaking with the Mexican Saints and learning about their language and culture.

As his mission was coming to an end, Tom wrote a letter to his sister Wendy, suggesting she find someone for him to date when he returned home. This had been Wendy’s “job” for some time, and she was happy to oblige. Not seeing any need to look farther than her own apartment, she lined Tom up with Kimberly, her roommate.

Tom and Kimberly married during Tom’s senior year at BYU. They now have three children: Jordan, a vivacious young woman of eight; Jacob Rex, an active youngster of six; Benjamin Thomas, a bright boy of two. A fourth child is expected to arrive in early 1998.

In Tom’s final year at BYU, he received the Edwin S. Hinckley Scholarship and then graduated in economics, *summa cum laude*, in 1988. At this point he knew he wanted to go to law school, but, again, he was determined to not follow in his father’s footsteps to the University of Chicago.



*Expecting a fourth child in a few months, Tom and Kim Lee choose firm ground while Jordan, eight, and Jacob Rex, six, display their aerobic skills. Two-year-old Benjamin had gone with his grandmother to Boise.*

His first choice was the University of Virginia, where he was on a waiting list. Meanwhile, he was accepted for admission at the University of Chicago. After visiting the campus and sitting in on some classes, Tom decided to stay in Chicago. (In the meantime, he was accepted by the University of Virginia.) One reason he decided to seek a degree at Chicago was because he wanted to study the law “through the lens of economics.”

Early in his life, Rex Lee encouraged Tom to take up running. This practice has served Tom well over the years, and, as his life has shown, one has to run to keep up with him and his achievements. Tom feels running helps him clear his mind and relax, both of which were necessary to succeed at the University of Chicago. So, Tom and Kimberly arrived in 1988 to study law in Chicago.

Tom joined the Law Review Managing Editorial Board, where he served as the topics and comments editor during the 1990–91 year. After his second year, he was awarded the John M. Olin Fellowship in law and economics. In his first year he won the Joseph Henry Beale prize for outstanding work in first-year legal research and writing. Honors at graduation in 1991 included the John M. Olin Prize, awarded to the outstanding graduate in law and economics, induction into the Order of the Coif, and a juris doctor degree with high honors.

Following graduation, Tom clerked for the Honorable J. Harvie Wilkinson III, judge of the United States Court of Appeals for the Fourth Circuit, in Charlottesville, Virginia. This one-year position had a positive, lasting influence on Tom, who describes Wilkinson as a “good

boss to work for” because he taught his clerks much about writing. Tom remembers spending many hours in Wilkinson’s office carefully editing and refining decisions.

Curiously, Wilkinson liked to, as Tom puts it, “drag his law clerks out every day to run.” Tom, of course, was more than willing to oblige. During these runs, conversation covered many diverse topics, including, but not limited to, politics, sports, and ACC basketball. The disconcerting part of this daily exercise was Judge Wilkinson’s routine of going directly from running to eating lunch at a Charlottesville gathering place. Tom was embarrassed, considering his sweaty condition, but he learned to adapt.

When asked if he recalls any particular case, Tom responds quickly about a trademark violation case involving an enterprising college student. It seems this student produced T-shirts based on a parody of the Budweiser beer advertising campaign featuring the slogan “Budweiser, King of Beers.” The student sold shirts emblazoned with the motif of Myrtle Beach, “King of Beaches.” Budweiser sued for trademark infringement. A jury found the student not liable. The judge overruled the jury.

Of added interest in this case, retired United States Supreme Court Justice Lewis Powell was one of the three-member panel that heard the case. (Coincidentally, Wilkinson had been Powell’s first law clerk at the U.S. Supreme Court.) Justice Powell disagreed with Wilkinson and the other judge. Tom Lee was asked to help draft a majority decision that would not be offensive to Justice Powell. The majority decision was a validation of the jury’s original verdict.

In 1992 Tom became an associate with the Salt Lake City firm of Kimball, Parr, Waddoups, Brown & Gee, where he worked in intellectual property and employment litigation for two years. Then, in 1994, Tom accepted the rare opportunity to clerk for the Honorable Clarence Thomas, associate justice of the United States Supreme Court. He described this experience as the “most fun I have ever had at work,” and he characterized Justice Thomas as “the

best boss I have ever had. Unfortunately, very few people have an opportunity to know and appreciate his immense talents and his great intellectual and human qualities. His public image has taken a beating at the hands of the press, but the man I worked for is truly one of the finest human beings I have ever known.”

After spending many hours helping Thomas with his opinions, Tom nostalgically recalled how interesting the U.S. Supreme Court’s docket was and suggested there was never an easy case.

Tom was given the opportunity for a great deal of interaction, both professionally and personally, with Justice Thomas because Tom was chosen lead clerk. This meant that he and Thomas met each day to coordinate assignments among the four clerks and make sure the work was completed.

Justice Thomas is a man with whom Tom shares many interests. For example, it was common practice for Justice Thomas to throw a football to Tom on his front lawn or play basketball at the Supreme

Tom enjoys recounting Justice Thomas’s unique variation on a common game in the Supreme Court gym—instead of H-O-R-S-E, Thomas and Tom often combated in lengthy games of H-A-B-E-A-S C-O-R-P-U-S. These games grew increasingly competitive until Justice Thomas eventually dislocated his shoulder while attempting a half-court shot. Justice Thomas also frequently cooked for his clerks.

Court gym. Tom enjoys recounting Justice Thomas’s unique variation on a common game in the Supreme Court gym—instead of H-O-R-S-E, Thomas and Tom often combated in lengthy games of H-A-B-E-A-S C-O-R-P-U-S. These games grew increasingly competitive until Justice Thomas eventually dislocated his shoulder while attempting a half-court shot. Justice Thomas also frequently cooked for his clerks. Because of their friendship, Tom often seeks Thomas’s advice. Justice Thomas was among the first Tom called for an opinion on whether he should seek a teaching position at the BYU Law School.

In 1995 Tom returned to Kimball, Parr, Waddoups, Brown & Gee as a shareholder. One of his favorite assignments in the field of trademark enforcement litigation was representing the Porsche automobile company in the United States. Although their United States corporate headquarters are located in Reno, Nevada, Tom traveled from California to Virginia to represent their interests.

As a legal scholar, Tom has produced two outstanding articles. The first was “The Standing of Qui Tam Realtors Under the False Claims Act” (57 *University of Chicago Law Review*, 543). The second is a recent article (February 1997) for the *BYU Law Review*, “Pleading and Proof: The Economics of Legal Burdens.” He looks forward to doing more writing as well as teaching.

The BYU Law School seems to be a perfect fit for Tom. Dean Hansen is a longtime friend who was Tom’s basketball coach in his youth. Stan Neeleman helped Tom earn his Eagle Scout award,

and Tom and Richard Wilkins have kept in contact for years. Tom refers to the BYU Law School as “a great place,” and teaching is “what I want to do with my life.” His initial assignments will include teaching civil procedure and remedies.

Tom and his family are building a new home in Lindon. He is anxious to spend as much time as he can with his wife and children. He also hopes to play a little golf and tennis, relax some, and, of course, there will always be time for running.

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*Glenn V. Bird is a freelance writer from Springville, Utah.*

**T**he first pioneers who reached the Salt Lake Valley 150 years ago were people of faith and commitment. Today, modern-day pioneers need not leave home, travel in a covered wagon, or push a handcart. Those with courage to chart new paths and have fresh vision could be called pioneers. Since its beginnings less than 25 years ago, the Law School has had many pioneer graduates. They have built the school's national reputation, paving the way for others to follow. The tradition continues as today's students forge new paths as judicial law clerks.

**Blazing a Trail** | From its inception, BYU law students have enjoyed successful clerkships in judges' chambers. Continuing the steady increase of students receiving judicial clerkships, this fall there will be at least 22 graduates at all court levels across the nation. Many of these students will work for judges hiring their first BYU clerks.

Fall of 1998 looks even better. As of June 1997, nine students and one graduate had received and accepted clerkships, an increase from the same time last year. During the school year, many more students will receive clerkship offers for fall 1998.

Since judicial clerkships are such valuable experiences, the Law School makes every effort to secure such positions for the students. Those efforts are paying off.

One resource that aids students is Career Service's *The Judicial Clerkship Job Hunt Book*, which is distributed to all students each fall. This guide contains faculty letters encouraging students to apply for judicial clerkships, information about the jurisdiction and function of various courts, lists of faculty and Law Society members who have worked as judicial law clerks, and information about specific judicial clerkship and externship opportunities.

In an excerpt from *The Judicial Clerkship Job Hunt Book*, Jim Gordon, associate academic vice president, explains the importance of a clerkship:

*A clerkship is like a year of postgraduate study. You will be a fisher for the rest of your life; a clerkship lets you know what it feels like to be a fish. It helps you understand the forms and methods of argument that are most likely to appeal to judges, and it improves your judgment about legal issues. It provides an opportunity to do careful research and writing and to enhance your analytical abilities.*

*A clerkship can also be extremely enjoyable. As a law clerk you are directly involved in bringing about just results. You do not represent a particular client, and you influence the decision-making process in important ways. You also have the opportunity to develop a close working relationship with the judge and the other clerks and to discuss and debate issues with them. It is an especially enjoyable experience if your judge is a bright,*

*friendly, and open person who likes to discuss the cases and broader societal issues.*

More students have applied for judicial clerkships since the initial publication of *The Judicial Clerkship Job Hunt Book*.

Under the direction of Professor Douglas Floyd, the faculty judicial-clerkship committee takes proactive steps to help students locate judicial clerkships. Each fall, committee members counsel students about opportunities and help students polish résumés and improve interviewing skills. Committee members also compile and distribute a list of all judicial clerkship candidates to the entire faculty. They encourage their colleagues to write letters of recommendation for the students they know and to personally discuss a candidate's merits when appropriate.

Often, clerkships come from judicial externships. That is why Professor James Backman and Susan Griffith, who direct the Law School's externship programs, have exerted much effort locating judicial externship opportunities. They meet regularly with students, encouraging them to consider externships and explaining how to arrange one. They instruct students that externships will provide them with working knowledge of the court system and help them decide whether to apply for post-graduate clerkships.

Other Law School faculty and administrative personnel organize symposia, conferences, and moot court competitions where judges participate. These events give students an additional opportunity to interact with judges and learn about the function of a judicial law clerk.

**Legendary Judicial Law Clerks** | Of course, the Law School places many in judicial clerkships because the graduates have excellent reputations. And that excellence looks to continue. Each of our newest clerks is poised and ready to add distinction to the legal profession. Let's take a moment to meet these legends in the making.

by Vicki M. Huebner

## James Ahlstrom

ARIZONA SUPREME COURT

James Ahlstrom brings years of writing experience to his clerkship. James received his BA from BYU in journalism. As an undergraduate he worked for the *Daily Universe*, BYU's campus newspaper, as editor-in-chief, city editor, associate copy chief, and wire editor. Before attending law school, James was the city editor for a small daily newspaper in Northern California, the *Turlock Journal*. James's writing ability is serving him well as he functions as editor-in-chief of the *BYU Law Review*.

After he graduates in April 1998, James will clerk for Justice Charles "Bud" Jones of the Arizona Supreme Court. Eager to begin his legal career, James wasn't always certain that a judicial clerkship was what he wanted. However, after much thought, he decided that a judicial clerkship would jump-start his career by providing the best "hands-on" training and experience he could find.

James met Justice Jones in March 1997, when he visited the Law School to judge the National Moot Court Competition. From his interview James could tell that Justice Jones would be a wonderful mentor. James is looking forward to his clerkship and the opportunity to live in Phoenix.

## Richard Blake

UTAH SUPREME COURT

Although he was raised in the San Francisco Bay area and the Mid-Atlantic region, Richard Blake has decided to stay in Utah for another year. A 1998 candidate for graduation, Richard will begin a judicial clerkship for Justice I. Daniel

Stewart of the Utah Supreme Court next fall.

Richard chose to attend the BYU Law School after he was engaged to Jennie Holman. Both Richard and Jennie wanted to attend law school. After reviewing materials sent from various schools, they elected to attend BYU because of its high quality education and wonderful setting. Jennie will graduate from the Law School in 1999, one year after Richard. They are both enjoying their law school experience and living in Utah.

This past summer Richard worked for Wilson, Sonsini, Goodrich & Rosati in Palo Alto, California. He thoroughly enjoyed his experience there and would be interested in returning to the Bay Area. Before he enters law firm practice, Richard would like to pursue a second judicial clerkship on the federal level. Jennie has also set a goal to work as a judicial law clerk. She has already informed Richard that he will need to find his second clerkship in the same city where she'll be clerking!

## David Blood

U.S. COURT OF APPEALS  
NINTH CIRCUIT

Ever since he can remember, David Blood wanted to be an attorney. Growing up, he also developed a deep interest in business. As a BYU undergraduate majoring in economics, he admits he was also enticed to pursue a career in business—or perhaps a joint JD/MBA degree. However, he decided he would like to practice corporate law.

During his second year of law school, David worked as the torts teaching assistant for Professor James Rasband, who encouraged David to apply for a

judicial clerkship. After graduation David will be clerking for Chief Judge Clifford Wallace of the U.S. Court of Appeals, Ninth Circuit, in San Diego (the judge Professor Rasband clerked for in 1989). David is glad to have the opportunity to work with such a well-respected jurist. After completing his clerkship, David would like to practice corporate law in Southern California.

## Matt Cook

U.S. COURT OF APPEALS  
FIFTH CIRCUIT

Ever since Matt Cook entered law school, he wanted to be a judicial law clerk at the U.S. Circuit Court level. After he graduates next April, he will work for Judge Edith H. Jones of the U.S. Court of Appeals, Fifth Circuit, in Houston, Texas.

Matt feels that this clerkship will give him the opportunity to work closely with someone who is shaping the law, will improve his writing skills, and will provide him with good training if he decides to do appellate work as a career.

This past summer Matt enjoyed working at Vinson & Elkins' Houston office and the U.S. Senate General Counsel's Office in Washington, DC. Matt is particularly excited about clerking for Judge Jones. Not only is she a premier jurist, but the site of his clerkship is especially meaningful to Matt since he was raised in Houston.

## Paul Kohler

U.S. DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN

Speaking of meaningful locations, Paul Kohler decided to begin his career in a very important location to him:

Michigan. Paul served as a missionary for The Church of Jesus Christ of Latter-day Saints in Detroit, Michigan. Now he'll be returning as a judicial law clerk for Judge Robert H. Cleland at the U.S. District Court, Eastern District of Michigan.

Paul especially enjoys writing, which is one reason he pursued a judicial clerkship. Raised in Provo, Utah, Paul graduated from BYU in English. He continues to showcase his writing abilities as the note-and-comment editor for the *BYU Law Review*.

Although Paul had several career options available, he decided to pursue a judicial clerkship because of its strong mentoring and training components. He is interested in prosecution and welcomes the opportunity to observe federal prosecutors at work. Additionally, as a former prosecutor, Judge Cleland will be an excellent mentor. Paul anticipates that his clerkship will give him a practical knowledge of federal litigation and courtroom procedure.

## Jeremiah Morgan

U.S. COURT OF APPEALS  
EIGHTH CIRCUIT

After beginning law school, Jeremiah decided to pursue a judicial clerkship, realizing it is "one of those once-in-a-lifetime things." In fall 1998 Jeremiah will begin his clerkship for Judge Clarence Arlen Beam of the U.S. Court of Appeals, Eighth Circuit, in Lincoln, Nebraska. Jeremiah is the first BYU Law School student to clerk for the Eighth Circuit and hopes to blaze a trail for others to follow.

Jeremiah was raised in Independence, Missouri, and hopes

to practice in the Midwest, so he is especially pleased with the opportunity to work for Judge Beam. Before attending the *BYU* Law School, Jeremiah attended Central Missouri State University, where he played football and was in the orchestra. This past summer he worked in St. Louis and Kansas City for Bryan Cave and Shook Hardy & Bacon, respectively.

Jeremiah feels that participation in cocurricular activities builds the strength and prestige of *BYU*. He hopes to do his part this year as a *BYU Law Review* lead-articles editor.

**David Mortensen**

U.S. COURT OF APPEALS  
NINTH CIRCUIT

Everyone who is acquainted with David Mortensen knows that he belongs in the courtroom. David decided to become a lawyer in high school when, as a Sterling scholar in debate, he competed in regional and national tournaments.

David began his college career at the University of Utah. At a debate scholarship dinner, a publisher from the *Salt Lake Tribune* asked him what career he had chosen. David replied, "I want to become a lawyer." The publisher advised him to major in English to improve his writing skills. After completing his mission to Japan, David transferred to *BYU*, where he followed that advice. He brings excellent writing skills to his work as a managing editor for the *BYU Law Review* and the Trial Advocacy Program.

During his first few weeks of law school, David attended a lecture by Professor Michael Goldsmith about judicial clerkships and was persuaded to apply for one. During fall 1998

David will clerk for Judge Stephen Trott of the u.s. Court of Appeals, Ninth Circuit, in Boise, Idaho. Judge Trott is known for his dedication to the law and his meaningful interpersonal relationships with his clerks. Since finalizing the offer, Judge Trott has sent David every opinion he has issued.

**Jonathan Schofield**

U.S. DISTRICT COURT  
DISTRICT OF UTAH

The latest 1998 graduate to receive a clerkship is Jonathan Schofield. Jon will be clerking for Judge Dee Benson, u.s. District Court, District of Utah, for whom he had previously externed. Jon enjoyed his externship so much that he applied for a judicial clerkship.

As a first-year student, Jon was a finalist in the Trial Advocacy Competition and was later appointed to the board. He is also mastering advocacy skills through scholarly research. Besides being a member of the Trial Advocacy Board, Jon is also a lead-articles editor for the *BYU Law Review*. His article about the admissibility of expert testimony in federal court ("*Compton v. Subaru of America: Misapplication of Duabert—Opening the Gate for Unreliable and Irrelevant Expert Testimony*") will be published in the next issue of the *BYU Law Review*.

After completing his clerkship, Jon wants to return to the

courtroom as a trial attorney. He is convinced that he will be a better litigator by clerking for Judge Benson, observing him manage his courtroom, watching experienced attorneys, and listening to the judge's opinions about different trial techniques and strategies.

**Marc Turman**

ARIZONA COURT OF APPEALS  
DIVISION ONE

After graduating next April, Marc Turman will move to Phoenix, Arizona, where he will clerk for Judge Sheldon H. Weisberg of the Arizona Court of Appeals, Division One. As an undergraduate, Marc worked for the Utah Administrative Office of the Courts. In this role he had the opportunity to travel to most of the courts in Utah and met

with many judges and their clerks. He was impressed with their attitude toward their work. They seemed to genuinely care about the cases on which they were working and the people's lives they were influencing. He wanted to be like those people.

Marc solidified his decision to work as a judicial law clerk in the Arizona appellate court after he met Judge Weisberg. He realizes he can significantly improve his appellate skills as he observes oral arguments and works closely with the judge.

After his clerkship Marc would like to settle in the Phoenix area. He spent this past summer working as a law clerk there at Roshka, Heyman & DeWulf, learning business litigation and regulatory law. Marc credits his success in finding a judicial clerkship to the support of the Law School's faculty and administration.

**David Zimmerman**  
U.S. COURT OF FEDERAL  
CLAIMS



Often, clerkships come from judicial externships. That is why Professor James Backman and Susan Griffith have exerted much effort locating judicial externship opportunities.

David Zimmerman, a 1996 Law School graduate, has had a significant amount of experience in the judicial arena. David's entrance into law was probably a surprise to everyone who knew him. As an undergraduate he planned to attend medical or dental school and scored in the top 10 percent on the MCAT and the top 1 percent on the DAT. However, during his senior year he reconsidered and decided to study law.

During law school, David completed two judicial externships. Then, after graduation, he clerked for Magistrate Roger L. Hunt, U.S. District Court, District of Nevada. He is currently clerking for Judge Ronald M. Holdaway of the U.S. Court of Veterans

Appeals, and in fall 1998 he will begin clerking for Judge Moody R. Tidwell III of the U.S. Court of Federal Claims.

David has decided to pursue three judicial clerkships because of the satisfying nature of the work and the subject matter jurisdiction of the courts where he will work. His experience at the U.S. Court of Veterans Appeals and the U.S. Court of Federal Claims will give him a firsthand understanding of substantive and procedural laws governing two Article One courts in which few attorneys choose to practice. After completing his clerkships, David plans to develop a federal practice in Washington, DC, or Raleigh, North Carolina.

## | The Trek Continues |

**A**s another school year approaches, the Law School will be reenergized by entering and returning students. Several more third-year students will receive offers for fall 1998, and second-year students will continue their hunt for fall 1999 judicial clerkships. As the trek toward increasing the number of judicial clerkships continues, we hope to open new roads by showing the judiciary and bar the solid legal foundation BYU students receive. We hope that in this way these valuable work experiences will become available for more students, who, because of the values of a BYU education, can contribute significantly to the legal community.

Vicki Huebner is the assistant director of Career Services. She is a Law School graduate and former judicial law clerk for Judge Ronald M. Holdaway, U.S. Court of Veterans Appeals.

## Richard G. Wilkins *Still Fiddling a Sweet Tune*

by Charles Cranney

Continuing his work with the Habitat II agenda (see "A Fiddler on the U.N. Roof," *Clark Memorandum*, Spring 1997), Richard Wilkins joined BYU faculty member Cory Leonard and three students at the United Nations Commission of Human Settlements in Nairobi, Kenya, April 28 through May 8, 1997. As with his earlier experience in Istanbul, Wilkins and the team faced myriad obstacles while trying to accomplish three important tasks.

First, the team wanted to ensure the democratic operation of the U.N. Commission on Human Settlements (UNCHS) by preventing the commission's expansion to include 12 private organizations hostile to family and religious values. They also wanted to prevent formal recognition of the seven-member Huairou Commission, an antitraditional family and openly prohomosexual rights group. Finally, the team wanted to ensure that the profamily language in the Istanbul Habitat mandate remained intact in the "implementation resolutions."

"Accomplishing any one of these results," says Wilkins, "would be remarkable." The fact that all three were accomplished was, again, "the legal equivalent of the parting of the Red Sea."

Fighting severe illness, exhaustion, and several antifamily groups, the battle often went into the early morning hours. Cory Leonard, director of student programs for the David M. Kennedy Center (and instructor of the Model U.N. Program), joined Wilkins as a member of NGO Family Voice, a registered nongovernmental U.N. organization created jointly by the J. Reuben Clark Law School and the Kennedy Center. Mike Lee and Carrie Taylor, Law School students, and William Perry, a BYU international relations major, rounded out the team.

Beyond their immediate success at the conference, several more constructive alliances were initiated. For example, the Romanian ambassador (who was a key in ensuring the success of Family Voice goals) invited Wilkins to discuss cooperation between Family Voice and the Romanian government with the president of Romania. The Iranian ambassador, referring to Family Voice, said that "your organization is different from the others" and then asked if it was merely "political posturing" or "based on a deeper spiritual foundation."

This "different from others" feeling came about because most others from the western European nations and the United States



# Urgent Fax

To: Senator Robert F. Bennett (CARD; CP JAN BENNETT)  
From: Professor Richard G. Wilkins, J. Bruchon Clark Law School, Brigham Young University—Sending Fax from Nairobi, Kenya while attending the United Nations Commission on Human Settlements (HABITAT) meeting.  
Fax: (801) 324-5730 / email: senator\_bennett@bennett.senate.gov  
Pages: 4 including this cover sheet.  
Date: May 2, 1997  
Dear Senator,

I am writing to advise you of a matter of critical importance that I have encountered at the meeting of the United Nations Commission on Human Settlements in Nairobi, Kenya. I have been sent here (on behalf of the David M. Kennedy Center for International Studies and Brigham Young University) to observe the meetings and lobby on behalf of the traditional family.

Prior to that change, I have been cautiously monitoring the proposals brought before the delegates, paying special attention to any proposals that threaten the existence of the traditional family, and offering suggestions to delegates who wish to advocate pro-family positions.

The G-77 (Africa and certain Latin American countries) and China have proposed a family-friendly amendment to an otherwise family-threatening resolution (dealing with the rights of the child) that was proposed by the delegation from the Netherlands. The amendment simply states that the United Nations should avoid any policy that could threaten the existence of the family or its essential status as the fundamental unit of society. It not only excoriates the potentially dangerous language from the original resolution from the Netherlands, it actually transforms the resolution into a valuable tool to protect the existence of the family.

I was dismayed to learn (just over one hour ago) that our own delegation from the United States objects to the amendment. When I inquired of the source of the opposition, one member of the US delegation informed me that the US would oppose the amendment because it "did not adequately provide for homosexual families." I found this response remarkable for two reasons.

From the desk of...

Richard G. Wilkins  
J. Bruchon Clark Law School, Brigham Young University

First, the US delegation's reasoning flies directly in the face of the document that this United Nations body passed less than one year ago. The document, known as the Habitat Agenda, states (in paragraph 31) that

The family is the basic unit of society and as such should be strengthened. It is entitled to receive comprehensive protection and support. In different cultural, political and social systems, various forms of the family exist. Marriage must be entered into with the free consent of the intending spouses, and husband and wife should be equal partners. The rights, capabilities and responsibilities of family members must be respected. Human settlements planning should take into account the constructive role of the family in the design, development and management of such settlements. Society should facilitate, as appropriate, all necessary conditions for its integration, revitalization, preservation, improvement, and protection within adequate shelter and with access to basic services and a sustainable livelihood.

United Nations, The Inhabited Declaration on Human Settlements (HABITAT Agenda), ¶ 31 (1996) (emphasis added).

Second, the US delegation's position is flatly inconsistent with President Clinton's statements on gay marriage and his signature of the Defense of Marriage Act. See also attached page from Congressional Record regarding passage of the Foreign Relations Authorization Act of 1995, Senate Bill Number 908, amendment 2013 (directing US delegation to the UN Conference in Beijing to support the traditional family). I am deeply the US delegates to United Nations conferences have the authority unilaterally to ignore acts of Congress that have been signed into law by the President.

Attached to this FAX is a copy of the proposed Resolution on the Rights of the Child and the amendment proposed by G-77, China and the League of Arab States. I would appreciate your prompt consideration and response regarding this matter. The amendment will be considered in Committee tomorrow, and it is crucial that, if the US delegation is acting outside its authority and/or contrary to US policy, their action be corrected. Although time is short, the actual, formal vote on the Resolution probably will not take place until Tuesday morning.

You may contact me by telephone at any time between now and midnight tonight (Friday May 2, 1997, EDT) at 254-2-802-380 (room 230), and by FAX at 254-2-802-322. Those not both numbers at the Windsor Hotel, so any calls or FAX transmissions should be directed to Richard G. Wilkins in Room 230 (we are eight hours ahead of you here—you can reach me here at any time during the next five days between roughly noon and midnight, Washington time). David Hale, the head of the US Delegation from USAID, is staying at the same hotel and can be reached at the same phone numbers (although I do not know his room number).

I appreciate your help in this matter, and hope to hear from you soon.

Above: Wilkins letter faxed to Utah senators Bob Bennett and Orrin Hatch. Below right: The senators' facsimile response.

virulently opposed any mention of the family in the implementation document. Faced with a recalcitrant U.S. delegation, Family Voice contacted Senators Bennett and Hatch, who in return faxed a corrective letter to the U.S. delegates, which helped to quell further U.S. public support of homosexual rights. (The U.S. delegates continued their opposition to profamily language, however.)

The foundation of Family Voice has been "The Family: A Proclamation to the World" from the First Presidency and Council of the Twelve Apostles of The Church of Jesus Christ of Latter-day Saints. Often in times of overwhelming odds, that statement has invigorated the Family Voice delegation, giving them strokes of intelligence and the strength to see the process through.

And at center stage of this drama has been Richard Wilkins. He always did have a flare for drama and has taken his love for the acting stage to the world political stage. Wilkins could well be nominated "best supporting actor" for his untiring and spirited role defending the family.

44-38861-700 05-02-97 FAX

UNITED STATES SENATE  
WASHINGTON, DC 20518

May 2, 1997

TO: RICHARD WILKINS  
Room 230  
Fax: 254-2-802-322

~~Mr. David Hale  
Head of U.S. Delegation to UNCHS #10  
Room 230  
Fax: 254-2-802-322~~

Dear Mr. Wilkins:

It has come to our attention that the G-77 and China, together with the League of Arab States, has sponsored an amendment to a resolution regarding the rights of the child that the U.S. Delegation is reported to be in favor of opposing. The amendment in question merely clarifies, in language fully consistent with paragraph 31 of the Inhabited Declaration on Human Settlements (the Habitat Agenda), 1996, that the family should be fostered and sustained. As you are undoubtedly aware, the U.S. Senate has previously refused to ratify the Convention on the Rights of the Child, in part because of concerns that it does not recognize or protect parental and familial rights.

As you also know, we share with many other members of the U.S. Senate ongoing concerns about the usefulness and value of such conferences as the one currently taking place in Nairobi. Indications that conference language being debated does not sufficiently support U.S. values, as expressed in numerous pieces of legislation and policy, only take our concerns.

Please let us know about the final determination of the amendment in question, and what the U.S. delegation agrees to do.

Sincerely,

Robert F. Bennett  
United States Senator

Orrin Hatch  
United States Senator



Richard W. Jones '82  
and his wife, Jean,  
called to Atlanta, Georgia

Richard W. Jones, age 42, Kaysville 20th Ward, Kaysville Utah Crestwood Stake; stake Young Adult advisor; former high councilor, bishop, elders quorum president, Young Men president, Sunday School president and teacher, and missionary in the Washington DC Mission; attorney; received bachelor's degree in economics and law degree from BYU; born in Columbus, Ohio, to Milton Bennion and Grace Elaine Guymon Jones; married Jean Knudsen, five children. She is stake Young Adult advisor; former Young Women president's counselor, Relief Society president's counselor, Relief Society homemaking leader and teacher, activities committee chairman, and missionary in Osaka, Japan; received degree as a registered nurse from BYU; born in Salt Lake City to Jesse Deroide and Marjorie Lorraine Ludlow Knudsen.



Arlen D. Woffinden '77  
and his wife, Debi,  
called to Belo Horizonte, Brazil

Arlen D. Woffinden, age 47; Santa Margarita Ward, Santa Margarita Stake; ward mission leader; former high councilor, stake Young Men president, bishop, ward Young Men president, and missionary in the Brazil North Mission; attorney, partner in law firm; received bachelor's degree in English and economics and juris doctorate from BYU; born in Honolulu, Hawaii, to Charles Maurice and Ruth Jane Rynearson Woffinden; married Debi Nielsen, five children. She is Laurel advisor; former member of stake Young Women board, ward Young Women president, Primary president, Relief Society teacher, ward children's choir director, and ward music chairman; received associate degree in business from BYU; born in Portland, Oregon, to Delmar and Marjorie Avery Nielsen.

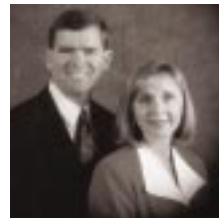
FOUR ALUMNI CALLED TO SERVE AS MISSION PRESIDENTS

Four law grads left the Missionary Training Center in June to preside over missions in both North and South America. Now 13 Law School alumni have received such callings. They have been called by the First Presidency to these volunteer positions for the next three years. Sensing both the blessings and the burdens that attend this full-time service, on behalf of the members of the J. Reuben Clark Law Society, the *Clark Memorandum* wishes each of them and their families good health and happiness.



Robert G. Dyer '77  
and his wife, Lynda,  
called to McAllen, Texas

Robert G. Dyer, age 50; Cardiff First Ward, Del Mar California Stake; stake president; former high councilor, bishop's counselor, branch president, Young Men president, high priests group leader, Sunday School teacher, and missionary in the Cordoba Argentina Mission; attorney; received bachelor's degree in chemistry and juris doctorate from BYU; born in Washington, DC, to James Glenn and Nona Richards Dyer; married Lynda Hancock, 10 children. She is a Sunday School teacher; former Primary president, Young Women president's counselor, Primary chorister, and Laurel advisor; received bachelor's degree in elementary education from BYU; born in La Jolla, California, to Lynn Young and Ada Bell Gifford Hiner Hancock.



Kevin E. Monson '79  
and his wife, Barbara,  
called to Montevideo, Uruguay

Kevin E. Monson, age 42; Fountain Valley 1st Ward, Huntington Beach California Stake; bishop; former high councilor, stake Young Men president, bishop's counselor, high priests group leader, and missionary in Brazil, Paraguay, Uruguay, and Texas; attorney; received bachelor's degree in political science and juris doctorate from BYU; born in Culver City, California, to Eldon Eugene and L. Jeanne Ellett Parks Monson; married Barbara Sue Condie, four children. She is a ward Relief Society president counselor; former stake Primary president's counselor, ward Young Women president, activities committee member, and Cub Scout leader; received bachelor's degree in home and family education from BYU; born in Pomona, California, to James and June Palmer Condie.

**Clark Memorandum**

J. Reuben Clark Law Society

J. Reuben Clark Law School

Brigham Young University

